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## A BILL FOR AN ACT

RELATING TO EVIDENCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that criminals frequently  
2 target tourists for property crimes, as tourists are less likely  
3 to testify in a criminal case because they live elsewhere.  
4 Thieves target vacation rental homes and rental cars, and  
5 reports of crimes committed against tourists significantly  
6 damage Hawaii's visitor industry.

7           The legislature further finds that the fundamental  
8 constitutional right of criminal defendants is the opportunity  
9 to confront and cross-examine witnesses against them. The  
10 legislature finds that this right may be satisfied absent a  
11 physical, face-to-face confrontation at trial where denial of  
12 such confrontation is necessary to further an important public  
13 policy of ensuring public safety for visitors and residents and  
14 where the reliability of the testimony is otherwise assured as  
15 held in *Maryland v. Craig*, 497 U.S. 836 (1990) by the United  
16 States Supreme Court.



1           The purpose of this Act is to authorize a court to allow  
2 live video testimony of a victim of property crime if:

- 3           (1) The alleged crime is a felony;
- 4           (2) The victim was a nonresident of this State at the time  
5           the crime was committed and remains a nonresident at  
6           the time of providing testimony;
- 7           (3) The testimony is limited to identification and  
8           ownership of the property taken, the value of the  
9           property, lack of consent to take the property, and  
10           identification of the person or persons who took the  
11           property;
- 12           (4) The victim testifies under oath;
- 13           (5) The requisite video connection is two-way, so that the  
14           victim can see the defendant and the trier of fact can  
15           see the victim; and
- 16           (6) The defendant and the State have the right to have  
17           legal counsel physically present with the victim  
18           during the provision of testimony.

19           SECTION 2. Chapter 626, Hawaii Revised Statutes, is  
20 amended by adding a new rule to article VI of the Hawaii Rules



1 of Evidence to be appropriately designated and to read as  
2 follows:

3 "Rule Video testimony of nonresident in a felony  
4 property offense. In any prosecution of a felony property  
5 offense alleged to have been committed in this State against a  
6 person who is a nonresident of this State, the court may order  
7 that the testimony of the nonresident be taken under oath  
8 through a live two-way video connection to be viewed by the  
9 court, the accused, and the trier of fact; provided that:

10 (1) The witness remains a nonresident at the time the  
11 testimony is to be given; and

12 (2) The testimony is given only for the purpose of  
13 establishing:

14 (A) Identification and ownership of the property  
15 taken;

16 (B) The value of the property;

17 (C) Lack of consent to take the property; and

18 (D) Identification of the person or persons who took  
19 the property.

20 During the entire course of the procedure, the attorneys for the  
21 defendant and for the State shall have the right to be



1 physically present with the nonresident and full direct cross-  
2 examination shall be available as a matter of right."

3 SECTION 3. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

[Signature]

JAN 23 2017



# H.B. NO. 953

**Report Title:**

Rules of Evidence; Nonresident Property Crime Victims; Video Testimony by Witnesses

**Description:**

Amends the Hawaii Rules of Evidence to authorize nonresident property crime victims to testify in criminal proceedings by a live two-way video connection.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

