
HOUSE CONCURRENT RESOLUTION

REQUESTING PROSECUTORS FROM THE VARIOUS COUNTIES AND THE
ATTORNEY GENERAL TO REPORT TO THE LEGISLATURE AS TO THEIR
VICTIM PROTOCOLS.

1 WHEREAS, the State Legislature enacted the Victims and
2 Witnesses Bill of Rights in chapter 801D, Hawaii Revised
3 Statutes, in 1988; and
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5 WHEREAS, some victims of and witnesses to crimes feel that
6 their rights under chapter 801D, Hawaii Revised Statutes, are
7 being ignored, especially when it comes to delays or repeated
8 continuances in the court proceedings; and
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10 WHEREAS, certain victims of and witnesses to particular
11 types of crimes, including children, the elderly, and survivors
12 of sexual assault and domestic violence, are especially
13 vulnerable with respect to the stress and trauma of having to
14 repeatedly appear in court, only to learn that trial in their
15 case is being delayed yet again; and
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17 WHEREAS, there are many reasons that crimes are not
18 prosecuted timely enough for victims and witnesses such as lack
19 of sufficient credible evidence for each element of a crime, key
20 witnesses being absent from the jurisdiction, and prioritizing
21 within the respective prosecutors' offices and court system of
22 other crimes; and
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24 WHEREAS, congestion in the State's courts is one of the
25 most cited reasons for delays that have led to the setting of
26 trial dates that are further into the future, repeated delays in
27 the commencement of trial, and in some cases, eventual dismissal
28 of cases based on the age of the case and resulting violation of
29 the defendant's right to a speedy trial under the federal and



1 state constitutions and Rule 48 of the Hawaii Rules of Penal
2 Procedure; and

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4 WHEREAS, it is a common misconception that dismissals of
5 cases due to delay mean no future prosecution, when in fact, it
6 remains the prosecutor's prerogative to prosecute a crime so
7 long as the court does not dismiss a case with prejudice and the
8 crime is within the statute of limitations; and

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10 WHEREAS, various county prosecutors have victim counselors
11 that should explain the procedure and what is occurring to
12 victims without compromising the integrity of the criminal
13 prosecution; and

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15 WHEREAS, it is in the State's best interest that victims
16 and witnesses be fully informed of procedural reasons and
17 decisions that lead to delay; now, therefore,

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19 BE IT RESOLVED by the House of Representatives of the
20 Twenty-ninth Legislature of the State of Hawaii, Regular Session
21 of 2018, the Senate concurring, that the county prosecutors and
22 the Attorney General are requested to report to the Legislature
23 as to their respective victim protocols, including but not
24 limited to:

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- 26 (1) How they implement the rights specified in chapter
- 27 801D, Hawaii Revised Statutes, within their offices;
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- 29 (2) How soon they inform witnesses and victims that a
- 30 court proceeding will not proceed as scheduled under
- 31 section 801D-4(2), Hawaii Revised Statutes;
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- 33 (3) Whether they inform victims and witnesses as to
- 34 reasons for delay;
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- 36 (4) Whether they inform victims and witnesses as to any
- 37 reason not to prosecute, should a case be dismissed
- 38 due to delay; and
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- 40 (5) Any recommendations in further implementing victims'
- 41 and witnesses' rights under chapter 801D, Hawaii
- 42 Revised Statutes; and
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1 BE IT FURTHER RESOLVED that the report, including any
2 proposed legislation, is requested to be submitted to the
3 Legislature no later than twenty days prior to the convening of
4 the Regular Session of 2020; and

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6 BE IT FURTHER RESOLVED that certified copies of this
7 Concurrent Resolution be transmitted to the Attorney General and
8 the respective Prosecuting Attorneys of the City and County of
9 Honolulu and the Counties of Hawaii, Kauai, and Maui.

