
HOUSE RESOLUTION

REQUESTING THE JUDICIARY TO CONVENE A WORKING GROUP TO DEVELOP
AND IMPLEMENT PROTOCOLS FOR HANDLING CRIMINAL CASES
INVOLVING VULNERABLE VICTIMS AND WITNESSES.

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 can lead to the
25 setting of trial dates that are further into the future,
26 repeated delays in the commencement of trial, and in some cases,
27 eventual dismissal of cases based on the age of the case and
28 resulting violation of the defendant's right to a speedy trial
29 under the federal and state constitutions and Rule 48 of the
30 Hawaii Rules of Penal Procedure; and
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1 WHEREAS, it is a common misconception that dismissals of
2 cases due to delay mean no future prosecution, when in fact, it
3 remains the prosecutor's prerogative to prosecute a crime so
4 long as the court does not dismiss a case with prejudice and the
5 crime is within the statute of limitations; and
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7 WHEREAS, various county prosecutors have victim counselors
8 that should explain the procedure and what is occurring to
9 victims without compromising the integrity of the criminal
10 prosecution; now, therefore,
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12 WHEREAS, it is in the State's best interest that victims
13 and witnesses be fully informed of procedural reasons and
14 decisions that lead to delay; now therefore,
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16 BE IT RESOLVED by the House of Representatives of the
17 Twenty-ninth Legislature of the State of Hawaii, Regular Session
18 of 2018, that the county prosecutors and the Attorney General
19 are requested to report to the legislature as to their
20 respective victim protocols, including but not limited to:
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22 (1) How they implement the rights specified in chapter
23 801D, Hawaii Revised Statutes, within their offices; and
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25 (2) How soon they inform witnesses and victims that a
26 court proceeding will not proceed as scheduled under HRS
27 Sec. 801D-4(2); and
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29 (3) Whether they inform victims and witnesses as to
30 reasons for delay; and
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32 (4) Whether they inform victims and witnesses as to any
33 reason not to prosecute should a case be dismissed due to
34 delay; and
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36 (5) Any recommendations in further implementing victims
37 and witness rights under Chapter 801D, Hawaii Revised
38 Statutes; and .
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40 BE IT FURTHER RESOLVED that the report, including any
41 proposed legislation, is requested to be submitted to the



1 Legislature no later than twenty days prior to the convening of
2 the Regular Session of 2020; and
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4 BE IT FURTHER RESOLVED that certified copies of this
5 Resolution be transmitted to the Attorney General and the
6 respective Prosecuting Attorneys of the City and County of
7 Honolulu and the Counties of Hawaii, Kauai, and Maui.
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