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## HOUSE RESOLUTION

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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  
30 state constitutions and Rule 48 of the Hawaii Rules of Penal  
31 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; and

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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:

- 21  
22 (1) How they implement the rights specified in chapter  
23 801D, Hawaii Revised Statutes, within their offices;  
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25 (2) How soon they inform witnesses and victims that a  
26 court proceeding will not proceed as scheduled under  
27 section 801D-4(2), Hawaii Revised Statutes;  
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29 (3) Whether they inform victims and witnesses as to  
30 reasons for delay;  
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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  
34 due to delay; and  
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36 (5) Any recommendations in further implementing victims'  
37 and witnesses' rights under chapter 801D, Hawaii  
38 Revised 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.

