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# A BILL FOR AN ACT

RELATING TO RESTITUTION FOR VICTIMS OF CRIME.

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

1       SECTION 1. The legislature finds that the holding in *State*  
2     *v. DeMello*, 310 P.3d 1033 (Haw. Ct. App. 2013), denied  
3     restitution for their wage loss on the basis that "[t]here is no  
4     explicit provision in HRS § 706-646 for the award of lost wages  
5     as part of restitution".

6       While the Hawaii supreme court ultimately vacated the  
7     appellate court's decision as to restitution of lost wages, the  
8     legislature further finds that the additional language in this  
9     Act is necessary to clarify that the intent of section 706-646,  
10    Hawaii Revised Statutes, is to reimburse crime victims fully for  
11    all reasonable and verified losses resulting from a defendant's  
12    offense, including reimbursing crime victims who miss work due  
13    to injuries or impairment suffered as a result of a defendant's  
14    offense, as well as reimbursing victims for the cost of mental  
15    health treatment, counseling, and therapy. Nevertheless, as  
16    signaled by the use of the phrase, "including but not limited  
17    to", the losses enumerated in section 706-646(3), Hawaii Revised



1 Statutes, are intended to be illustrative, not exhaustive, for  
2 purposes of restitution.

3 SECTION 2. Section 706-646, Hawaii Revised Statutes, is  
4 amended by amending subsection (3) to read as follows:

5 "(3) In ordering restitution, the court shall not consider  
6 the defendant's financial ability to make restitution in  
7 determining the amount of restitution to order. The court,  
8 however, shall consider the defendant's financial ability to  
9 make restitution for the purpose of establishing the time and  
10 manner of payment. The court shall specify the time and manner  
11 in which restitution is to be paid~~[. While]~~; provided that while  
12 the defendant is in the custody of the department of public  
13 safety, restitution shall be collected pursuant to [chapter 353]  
14 section 353-22.6 and any court-ordered payment schedule shall be  
15 suspended. Restitution shall be a dollar amount that is  
16 sufficient to reimburse any victim fully for losses, including  
17 but not limited to:

- 18 (a) Full value of stolen or damaged property, as  
19 determined by replacement costs of like property, or  
20 the actual or estimated cost of repair, if repair is  
21 possible;



1 (b) Medical expenses [~~and~~], which include mental health  
2 treatment, counseling, and therapy;

3 (c) Funeral and burial expenses [~~incurred as a result of~~  
4 ~~the crime.~~]; and

5 (d) Lost earnings."

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

9 SECTION 4. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on January 7, 2059.



**Report Title:**

Crime Victim Restitution; Lost Wages; Mental Health Treatment;  
Therapy

**Description:**

Clarifies that reimbursement to crime victims includes lost wages and expenses for mental health treatment, counseling, and therapy. Effective 1/7/2059. (SD1)

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

