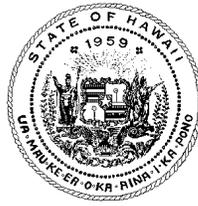


JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



STATE OF HAWAII – Ka MOKU'ĀINA 'O HAWAI'I  
**CRIME VICTIM COMPENSATION COMMISSION**  
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Chair

CLIFTON Y.S. CHOY  
Commissioner

JO KAMAE BYRNE  
Commissioner

PAMELA FERGUSON-BREY  
Executive Director

TESTIMONY ON SENATE BILL 2721, SD1  
RELATING TO THE ADMINISTRATION OF JUSTICE

by

Pamela Ferguson-Brey, Executive Director  
Crime Victim Compensation Commission

House Committee on Judiciary & Hawaiian Affairs  
Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

Tuesday, March 17, 2026; 2:00 PM  
State Capitol, Conference Room 325 & Videoconference

Good afternoon, Chair Tarnas, Vice Chair Poepoe, and Members of the House Committee on Judiciary & Hawaiian Affairs. Thank you for providing the Crime Victim Compensation Commission (“Commission”) with the opportunity to testify on Senate Bill 2721, SD1, Relating to the Administration of Justice. SB2721, SD1, includes a number of technical and substantive amendments to the Penal Code, including offenses in HRS section 706-623 that reduce the term of probation from 4 years to 3 years for the Class C felonies including where the court may be required to order the defendant to pay restitution to their victim. The shorter term of probation will negatively impact crime victims and shift the burden of restitution collection from the Judiciary to the crime victim after the reduced sentence. The Commission provides comments on SB2721, SD1, to 1) require a payment of restitution prior to discharge from probation and 2) notice to victims when the court is preparing to discharge an offender from probation.

The Commission provides compensation for victims of violent crime to pay unreimbursed expenses for crime-related losses due to physical or mental injury or death. The Commission also administers a Restitution Recovery Project to collect court-ordered restitution from inmates and parolees and to disburse those funds to their crime victims. In January 2021, the Commission and the Council of State Governments released an article titled “*Victim Restitution Matters: Four Lessons from Hawai‘i to Ensure Financial Justice for Crime Victims.*” Additionally, the Commission has represented the needs of victims and survivors on the 2011 Justice Reinvestment Working Group, the 2015 Penal Code Review Committee, and the HCR 23 Task Force. The Commission also served as one of the crime victim advocates on the 2025 Advisory Committee on Penal Code Review.

Reducing the amount of time that the Judiciary is obligated to collect restitution unfairly shifts the burden of restitution collection to the victim. Criminal justice reform must not only serve the interest of offenders but must also include meaningful protection of the interests and rights of crime victims to avoid harmful, unintended consequences.

In Hawai‘i, victims have a statutory right to restitution (HRS § 706-646). Restitution is the primary pathway to mitigate the financial impact of a crime; however, the restitution process is often inefficient and fraught with institutional barriers. A restitution order is only the first step. Failure of the court to enforce its own orders undermines the rule of law and public trust in the justice system.

In a 2011 letter to the editor written by Rod Maile, Administrative Director of the Court, after a series of articles critical of restitution collection in Hawai‘i, the Administrative Director noted:

*Clearly, offenders’ failure to fully pay restitution is a difficult, complex and long-standing problem, but one that absolutely has to be addressed because of the hurtful impact it has on victims and because non-compliance with court orders undermines public trust and confidence in the justice system.*

Unless restitution is paid in full in a timely manner, many crime victims never financially recover from the crime. The unexpected financial burden resulting from a crime makes being victimized even more devastating.

Reducing the time of restitution collection by the Judiciary results in less time for the defendant to meet their restitution obligations to crime victims before their sentence is completed. While crime victims can file their restitution order as a civil order, the process is so burdensome that almost no victims avail themselves of this option. In fact, in its “Instructions for Filing Exemplified or Certified Copy of Restitution Order”, the Judiciary refers crime victims to the Rules of Circuit Court that must be met in order to file and suggests that if they are not able to understand the procedure, to hire an attorney to assist them.

Filing is just the first step. As part of the filing and to enforce the order, the victims are required to provide the defendant with their name and address, compromising their safety. Once filing has been completed, the victim is then responsible for enforcement of the order which can include wage garnishment, bank garnishment, property liens, etc. Because collection enforcement is a legal matter, it is unlikely that a crime victim will be able to avail themselves of the civil enforcement methods needed to collect their restitution without the help of an attorney.

Reducing the amount of time that the Judiciary is obligated to collect restitution unfairly shifts the burden of restitution collection to the victim. The Commission provides comments on SB 2721, SD1 to 1) require a payment of restitution prior to discharge from probation and 2) notice to victims when the court is preparing to discharge an offender from probation.



*The Judiciary, State of Hawai'i*  
*Ka 'Oihana Ho'okolokolo, Moku'āina 'o Hawai'i*

**Testimony to the Thirty-Third Legislature, 2026 Regular Session**

**House Committee on Judiciary & Hawaiian Affairs**  
Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

Tuesday, March 17, 2026 at 2:00 p.m.  
State Capitol, Conference Room 325 & Videoconference

By

The Honorable Paul B. Wong  
Circuit Court of the First Circuit  
Chair, Advisory Committee on Penal Code Review

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 2721, Senate Draft 1, Relating to the Administration of Justice.

**Purpose:** Implements recommendations pursuant to Act 245, SLH 2024, to amend the Hawai'i Penal Code. (SD1)

**Judiciary's Position:**

The Judiciary fully supports the endeavors of the 2025 Advisory Committee on Penal Code Review (the "Committee"), which was appointed by the Honorable Mark E. Recktenwald (Ret.), then Chief Justice of the State of Hawai'i, and the Judicial Council, to carry out the request of the 2024 Legislature in Act 245, Sessions Law of Hawai'i 2024, to review and recommend revisions to the Hawai'i Revised Statutes Title 37 (the "Penal Code"). The Committee consisted of 61 members from a diverse cross-section of the community affected by the criminal laws in Hawai'i. The membership included the Senate Judiciary Committee Chairperson, the House of Representatives Judiciary and Hawaiian Affairs Committee Chairperson, 16 jurists representing all courts (Supreme Court, Intermediate Court of Appeals, Circuit Court, Family Court, and District Court) and all four Judicial Circuits, prosecutors from all counties and the Department of the Attorney General, lawyers from the Public Defender's



Senate Bill No. 2721, S.D. 1, Relating to the Administration of Justice  
House Committee on Judiciary & Hawaiian Affairs  
Tuesday, March 17, 2026 at 2:00 p.m.  
Page 2

Office and the private defense bar, medical professionals from the Department of Health (“DOH”) and the Governor’s office, law enforcement officers, advocates for victims’ rights, advocates for prisoner rights, the Director of the Department of Corrections and Rehabilitation (“DCR”), and interested members of the public, advocacy groups, and government staff.

The Committee was divided into eight subcommittees. Each of the subcommittees had the primary responsibility to review one or more assigned chapters of the Penal Code, analyze issues of concern in their assigned chapter(s), and craft and propose legislative solutions for those issues. The subcommittees then presented proposed legislation to the overall Committee in plenary session. This proposed legislation contains the recommendations of the Committee that gained supermajority approval in plenary session. The Judiciary appreciates the work of the members of the Committee and thanks them for their participation.

While the Judiciary takes no position on the creation, revision, or elimination of statutory offenses contained in the Penal Code, the Judiciary does offer the following comments and support regarding the proposed revisions to Chapter 704 of the Hawai‘i Revised Statutes contained in Part IV, pages 9 – 26 of the bill. The provisions contained in Part IV address the request of the Legislature in Act 245 to review the Penal Code to ensure that it is responsive to offenders suffering from mental illness. It is the position of the Judiciary that the revisions proposed will facilitate faster mental examination of defendants, minimize the time between court decisions, leverage the medical treatment already afforded to this defendant population, and ultimately, reduce the length of stay by defendants at the Hawai‘i State Hospital. The proposals seek to modernize and expedite the transfer of information, and patients, between the DOH and DCR, and the significant revisions of section 704-406 will expedite the transfer of defendants out of the State Hospital, especially when there is no dispute that a defendant is fit to proceed and should be returned to the DCR for further criminal proceedings.

Thank you for the opportunity to testify on this measure.

JON N. IKENAGA  
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**March 16, 2026**

**SB2721 SD1: RELATING TO THE ADMINISTRATION OF JUSTICE**

**Chair Tarnas, Vice Chair Poepoe and Members of the Committee on Judiciary and Hawaiian Affairs**

The Office of the Public Defender (OPD) had several representatives on the advisory committee on penal code review which was convened pursuant to Act 245 (2024). The report submitted by the advisory committee in accordance with the Act should reflect the opinions of the OPD representatives during the discussion of the proposed amendments to the Hawai'i Penal Code (HPC). The OPD also submits the following comments in regard to the proposed amendments to the Hawai'i Revised Statute (HRS) sections set forth in SB2721 SD 1.

**PART II, SECTION 3: amending HRS § 701-107(2)**

The OPD has no objection to the proposed amendments to HRS § 701-107(2).

**PART II, SECTION 4: amending HRS § 701-108(2)**

The OPD has no objection to the proposed amendments to HRS § 701-108(2).

**PART II, SECTION 5: amending HRS § 701-116**

The OPD has no objection to the proposed amendments to HRS § 701-116.

**PART III, SECTION 7: amending HRS § 705-501**

The OPD has no objection to amending HRS § 705-501 to use gender neutral references.

**PART III, SECTION 8: amending HRS § 705-511(1) and (2)**

The OPD has no objection to amending HRS §§ 705-511(1) and (2) to use gender neutral references.

**PART III, SECTION 9: amending HRS § 705-520**

The OPD has no objection to amending HRS § 705-520 to use gender neutral references.

**PART III, SECTION 10: amending HRS § 705-521**

The OPD has no objection to amending HRS § 705-521 to use gender neutral references.

**PART III, SECTION 11: amending HRS § 705-523**

The OPD has no objection to amending HRS § 705-523 to use gender neutral references.

**PART IV, SECTION 13: amending HRS § 704-404**

The OPD does not object to the amendment to HRS § 704-404 as the use of telehealth to conduct examinations is responsive to a shortage of examiners on the neighbor islands. An inability to retain qualified examiners may result in a delay in proceedings that affects the courts, the prosecution and the defense. The OPD emphasizes that the best practice is for such examinations to be conducted in-person.

**PART IV, SECTION 14: amending HRS § 704-406**

The OPD recognizes that it may sometimes be difficult to obtain signed consent from the defendant to obtain relevant medical, mental health, social, police and juvenile records, including those expunged. As significant privacy rights are at issue in the release of such records, the preference should always be for records, particularly those outside the normal purview of the court, to only be released with court oversight and with the signed consent of the defendant.

**PART IV, SECTION 15: amending HRS § 704-407.5**

The purpose of this amendment appears to be to try and expedite the fitness restoration process by allowing the court to rely on the opinions of Hawai‘i State Hospital doctors that the defendant has “regained fitness” by requiring that HSH keep the court apprised of the defendant’s status. The OPD has some questions about the implementation of the panel exam from three examiners to one examiner in non-Class A cases as it appears that this reduction is discretionary for Class B and C cases. The OPD is unsure when a court may appoint three examiners in Class B and C cases and what criteria the court uses to make this determination.

**PART V, SECTION 17: amending HRS, Chapter 706**

The OPD supports the proposed amendments to HRS, Chapter 706.

**PART VI, SECTION 19: amending HRS § 709-906(19)**

The OPD has no objection to the addition of the definition of “physically abuse” as this definition is consistent with current case law defining “physically abuse.” See e.g. State v. Nomura, 79 Hawai‘i 413, 903 P.2d 718 (App. 1995).

**PART VII, Section 21: amending HRS § 710-1012**

The OPD supports the proposed amendments to HRS § 710-1012 and notes that this amendment was unanimously supported by all members of the committee, including emergency services representatives.

**PART VII, Section 22: amending HRS § 710-1021**

The OPD supports the proposed amendments to HRS § 710-1021 and notes that this amendment was unanimously supported by all members of the committee.

**PART VII, Section 23: repealing HRS § 710-1011**

The OPD supports the repeal of HRS § 710-1011 and notes that this amendment was unanimously supported by all members of the committee, including law enforcement agencies.

**PART VIII, Section 25: amending HRS, Chapter 711**

The OPD supports the proposed amendments to HRS, Chapter 711.

**PART VIII, Section 26: amending HRS § 711-1100**

The OPD supports the proposed amendments to HRS § 711-1100.

**PART VIII, Section 27: amending HRS §§ 711-1101(2) and (3)**

The OPD supports the proposed amendments to HRS §§ 711-1101(2) and (3).

**PART IX, Section 29: amending HRS, Chapter 712**

The OPD supports the proposed amendments to HRS, Chapter 712.

**PART IX, Section 30: amending HRS § 712-1243**

The OPD supports the proposed amendments to HRS § 712-1243.

**PART IX, Section 31: amending HRS § 712-1255(1)**

The OPD supports the proposed amendments to HRS § 712-1255(1).

**PART X, Section 33: amending HRS § 804-407**

The OPD supports the proposed amendments to HRS § 804-407.

**PART X, Section 34: amending HRS § 804-7.1**

The OPD supports the proposed amendments to HRS § 804-7.1.

**PART XI, Section 36: amending Act 19, Session Laws of Hawai‘i 2020**

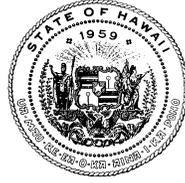
The OPD supports the amendments to Act 19, Session Laws of Hawai‘i 2020.

**PART XI, Section 37: amending Act 23, Session Laws of Hawai‘i 2023, as amended by Act 178, Session Laws of Hawai‘i 2024**

The OPD supports the amendments to Act 23, Session Laws of Hawai‘i 2023, as amended by Act 178, Session Laws of Hawai‘i 2024.

Thank you for the opportunity to comment on this measure.

JOSH GREEN, M.D.  
GOVERNOR OF HAWAII  
KE KIA'AINA O KA MOKU'AINA 'O HAWAII



KENNETH S. FINK, M.D., M.G.A., M.P.H.  
DIRECTOR OF HEALTH  
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**Testimony in SUPPORT of SB 2721 SD1  
RELATING TO THE ADMINISTRATION OF JUSTICE**

REPRESENTATIVE DAVID T. TARNAS, CHAIR  
REPRESENTATIVE MAHINA POEPOE VICE CHAIR  
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Hearing Date: Tuesday, March 17, 2026, 2:00 p.m.

Location: 325 & Video

1 **Fiscal Implications:** Undetermined.

2 **Department Position:** The Department of Health (Department) supports this measure and  
3 offers amendments.

4 **Department Testimony:** The Adult Mental Health Division (AMHD) provides the following  
5 testimony on behalf of the Department.

6 Pursuant to Act 245, SLH 2024, SB 2721 seeks to implement Final Report  
7 recommendations of the 2025 Advisory Committee on Penal Code Review. The bases for the  
8 proposed legislative changes have been detailed in the Final Report. The Department  
9 acknowledges the work of the Advisory Committee and appreciates the opportunity to  
10 participate.

11 The Department supports these amendments to the penal code and defers to the  
12 Department of the Attorney General to ensure all amendments conform to federal law.

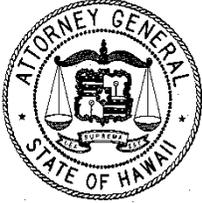
13 **Offered Amendments:** To address cases in which a defendant may be in the custody of the  
14 Department, but the defendant is housed at a location under the operation of an entity other  
15 than the Department, the Department respectfully requests amending page 10, line 19 to read

1 as follows: “requested to be conducted utilizing telehealth at facilities operated by the named  
2 department(s) in which defendants may be hospitalized or incarcerated.”

3 As a measure to expedite judicial proceedings by improving the accessibility of records  
4 maintained by public agencies, the Department requests an update to the proposed language  
5 in Section 13, page 13, line 10 to read as follows:

6 “at ~~[the location]~~ locations where the ~~[records are maintained]~~ defendant has been or is  
7 hospitalized or incarcerated upon request”

8 Thank you for the opportunity to testify.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2026**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2721, S.D. 1, RELATING TO THE ADMINISTRATION OF JUSTICE.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

**DATE:** Tuesday, March 17, 2026                      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Mark S. Tom, Deputy Attorney General

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Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) submits the following testimony in overall support, noting specific concerns and suggested amendments.

Act 245, Session Laws of Hawaii 2024, requested the Judicial Council to appoint a committee to examine the Hawaii Penal Code, title 37 (chapters 701 to 713), Hawaii Revised Statutes (HRS), to recommend revisions to the Code. This bill serves as a product of their work that seeks to maximize consistency and proportionality between various offenses and sentencing provisions in the Hawaii Penal Code. The overall goal was to align with prevailing best practices, appropriate resolutions for victims, mentally ill offenders, and all others involved in the criminal justice system.

While the Department supports many of the changes suggested in this bill, we note two specific areas of concern:

**Revocation, modification of probation decisions**

Section 17 of this bill amends section 706-623(1) to decrease the "default" probation period for all class C felony offenses not otherwise specified as having a four-year probation period. Page 27, lines 15-18. The enumerated specified class C felonies that would continue to receive a four-year probation period are only those found under "part III, IV, or VII of chapter 707, and . . . part V or XIII of chapter 708." Probation for any other class C felony offense, if probation is deemed appropriate by the court in a particular case, would only be three years.

In addition to those offenses listed in subsection (1)(c), the Department recommends adding the following offenses to those that would continue to receive a four-year probation period:

- Intimidating a Witness under section 710-1071;
- Retaliating Against a Witness under section 710-1072.2;
- Jury Tampering under section 710-1075;
- Aggravated Harassment by Stalking under section 711-1106.5;
- Cruelty to Animals in the First Degree under section 711-1108.5;
- Violation of Privacy in the First Degree under section 711-1110.9;
- Cruelty to Animals by Fighting Dogs in the Second Degree under section 711-1109.35;
- Causing Injury or Death to a Service Animal or Law Enforcement Animal under section 711-1109.4;
- Sexual Assault of Animals as a second offense under section 711-1109.8(3)(a);  
and
- Promoting Pornography for Minors under section 712-1215.

It is also important to note that the court already has and will continue to have discretion to sentence someone to probation for less than the statutorily standardized period, if "the court enters the reason therefor on the record" (page 27, lines 9-10). Moreover, the court may terminate an offender's probation term early if it is deemed appropriate to do so.

### **Consenting to unreasonable noise on premises**

In the new section added to chapter 711 by section 25 of this bill, the word "allows" should be defined or clarified for both law enforcement and members of the public as to what type of behavior would qualify as an offense. See page 33, line 13. One possible solution would be to add an additional provision to the new section at the end of page 33, line 14, as follows (underscoring in bill removed to indicate the suggested additional wording by underscoring):

**"§711- Consenting to unreasonable noise on premises.** A renter, resident, owner-occupant, or other person responsible for a premises who intentionally, knowingly, recklessly, or negligently allows another person to make unreasonable noise on the premises shall be guilty of a violation. It shall not be a defense to this section that verbal or written orders to desist were given to the person making unreasonable noise, without pursuing any further consequences upon the person making unreasonable noise, if the unreasonable noise persists thereafter."

### **Possessing a dangerous drug**

The Department has serious concerns about part IX of the bill (page 35, line 6, through page 37, line 21), and recommends that it be deleted from the bill. Part IX creates a new misdemeanor-level offense of Possessing a dangerous drug in the second degree, by carving out possession of the lowest quantities of dangerous drugs from the existing offense of Promoting a dangerous drug in the third degree. Other than those carved-out quantities, Promoting a dangerous drug in the third degree remains a class C felony and is renamed to Possessing a dangerous drug in the first degree.

While the Department believes these changes are well-intentioned, making possession of dangerous drugs a misdemeanor—even for these small amounts—will greatly diminish the court's ability to impose effective treatment and oversight to individuals who suffer from substance abuse disorders. The period of supervision afforded to these misdemeanants cannot exceed one year, which would be insufficient to secure placement and completion of a viable drug treatment program. See section 706-623(1)(c) (probation period for misdemeanors). Drugs are scheduled based on their degree of danger or probable danger to the public, and "dangerous drugs" are the most dangerous of all. See sections 329-11 (Authority to schedule controlled substances), 329-14 (Schedule I), and 329-16 (Schedule II), HRS. For example, ingestion of even miniscule amounts of Carfentanil (equivalent in size to a grain of salt), is commonly known to be lethal. Despite these dangers, under this bill, possession of dangerous drugs like Fentanyl, Carfentanil, Amphetamine, Pentobarbital, Opium, Mescaline, Peyote, and many other drugs would only constitute a misdemeanor. The

mere one-year term of probation would impede these individuals' ability to complete long-term treatment, which is often what is needed for substances such as these.

If the Committee is concerned that individuals in possession of small amounts of dangerous drugs are serving lengthy prison sentences for these offenses, Hawai'i law already provides numerous opportunities for individuals to avoid prison sentences for this conduct. Deferral, conditional discharge, and first- or second-time drug offender sentencing provisions can all be utilized to assist defendants in pursuing treatment and avoiding criminal convictions on their record. See sections 853-1, 706-607, and 706-622.5, HRS. In addition to these options, Defendants are routinely given multiple opportunities to participate in probation or specialty court programs before prison is even a consideration. Any defendants who serve a prison term solely for a Promoting a dangerous drug in the third degree have either been sentenced as a repeat offender pursuant to section 706-606.5, HRS, or have already failed on probation after all these other mechanisms have been exhausted.

For the foregoing reasons, the Department recommends that part IX of the bill be deleted.

Thank you for the opportunity to testify on this matter.

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
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**Sanna Muñoz**  
Deputy Director  
Rehabilitation Services  
and  
Programs

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 2721, SENATE DRAFT 1  
RELATING TO THE ADMINISTRATION OF JUSTICE.

by

Tommy Johnson, Director  
Department of Corrections and Rehabilitation

House Committee on Judiciary and Hawaiian Affairs  
Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

Tuesday, March 17, 2026, at 2:00 p.m.  
State Capitol, Conference Room 325 & via Videoconference

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

The Department of Corrections and Rehabilitation (DCR) **supports the intent** of Senate Bill (SB) 2721, Senate Draft (HD) 1, which seeks to implement recommendations pursuant to Act 245, SLH 2024, to amend the Hawai'i Penal Code and provides the following comments and recommended amendments:

Section 34 (Part X – Page 41 / Lines 8 through 18) places the responsibility for court-ordered electronic monitoring on DCR providing the legislature appropriates funds specifically for this purpose. The DCR would require an annual legislative appropriation of approximately \$100,000 to support the costs of the electronic monitoring equipment leases with an active global positioning system (GPS), and immediately route deviation and/or device tampering notification capabilities. While DCR supports the intent of this measure, it should be noted that all costs associated with SB 2721, SD 1 fall outside of the priorities as outlined in the Governor's Executive budget package.

In addition, Section 13 (Line 15 on Page 12 through Line 4 on Page 13) and Section 15 (Line 1 through Line 11 on Page 26) should be amended to read; “(10) Within fourteen days of receipt of a court order, excluding intermediate Saturdays, Sundays, or holidays. Designated pursuant to section 8-1, or longer term as the court may prescribe, all public agencies, persons, or other entities in possession of relevant medical, mental health, social, police, and juvenile records, including those expunged, and any other pertinent records of a defendant ordered to be examined under this chapter, shall provide those records to the court in accordance with the terms of the order, notwithstanding any other state or federal statute and without requiring a signed consent from the defendant if the order so provides.

The rationale for requesting the above amendments is because although some protection is warranted to inmates under HIPAA Combined Federal Regulation (CFR) 164.5129(e), records may be given under judicial order, so long as it is signed by a judge with the exception of medical records related to substance use disorder. HIPAA is not the only applicable law regulating substance use disorder medical records. 42 CFR Part 2 states that a court order is not automatically sufficient for these records. Currently, all of DCR’s psychiatrists document on substance use disorder, which these records are designated as confidential and are not released with any records requests. Violations of 42 CFR Part 2 can carry both civil and criminal penalties.

Thank you for the opportunity to provide testimony in **support of the intent** of SB 2721, SD 1.



# Hawai'i Psychological Association

*For a Healthy Hawai'i*

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## COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

Tuesday, March 17, 2026, 2:00 P.M. - VIA VIDEO CONFERENCE – ROOM 325  
TESTIMONY SUBMITTING COMMENTS TO SB 2721, SD1 RELATED TO THE  
ADMINISTRATION OF JUSTICE

The Hawaii Psychological Association (HPA) offers comments regarding SB 2721, SD1 which proposes amendments to the Hawai'i Penal Code (HPC). Specifically, we have reservations about the process of re-evaluating individuals for fitness to proceed.

The vague language proposed in the amendments to Section 704-406 on fitness re-evaluations after a person is found unfit to proceed appears to undermine the role of trained mental health examiners in determining fitness to proceed. The language is unclear with respect to the settings in and conditions under which fitness re-evaluations will take place. A letter from a treating doctor is not an adequate substitute for an independent examination by a non-treating mental health professional. Treating doctors may be biased, perhaps unconsciously, to either please their employer with a finding of unfitness to reduce the State Hospital census or to protect their patients from prosecution.

HPA recommends that the evaluations continue to be conducted without the defendants' lawyers being present so that examinees can speak freely about any differences of opinion they may have with their attorneys. Also, patients may be less likely to express misperceptions about the judge when the judge is present. If the purpose of the amendment is to reduce the backlog of evaluations at the Department of Health's Court Evaluation Branch, the shortage-differential salary should be increased in order to fill empty positions.

Mahalo for the opportunity to provide testimony on this important measure.

Sincerely,

Alex Lichten, Ph.D. Chair, HPA Legislative Action Committee

Law Office of Georgette A. Yaindl, LLLC  
Georgette Anne Yaindl 8940  
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March 15, 2026

Rep. David A. Tarnas, Chair  
Rep. Mahina Poepoe, Vice Chair  
Committee on Judiciary & Hawaiian Affairs  
House of Representatives  
33<sup>rd</sup> Legislature, State of Hawai`i

via: <http://www.capitol.hawaii.gov>

Dear Committee leadership and members,

Re: **SUPPORT FOR SB2721 SD1 RELATING TO THE  
ADMINISTRATION OF JUSTICE**

DATE: Tuesday, March 17, 2026  
TIME: 2:00 p.m.  
PLACE: Conference Room 325 & Videoconference  
State Capitol  
415 South Beretania Street

I write to express strong support for this bill and to recognize the contributions of the Penal Code Review Task Force for its attention to a particularly gnarly chapter 704. The proposed amendments provide needed clarity and organization to the chapter, and the proposed substantive amendments align with actual practice and procedure at least as I have experienced it here in the Third Circuit.

Thank you for your consideration of my testimony. Aloha.

/s/ Georgette A. Yaindl  
GEORGETTE ANNE YAINDL



Date: February 2, 2026

To: Rep Tarnas, Chair  
Rep Poepoe, Vice Chair  
Members of the House Committee on Judiciary and Hawaiian Affairs

From: Lynn Costales Matsuoka, Executive Director  
The Sex Abuse Treatment Center  
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony on SB 2721, SD 1  
Relating to Administration of Justice

Hearing: March 17, 2026, Conference Room 325, 2:00pm

Good morning, Senate Chair Fukunaga, Senate Vice Chair Lee, and Members of the Senate Committee on Public Safety and Military Affairs. Thank you for the opportunity for the Sex Abuse Treatment to provide support with comments on the SB 2721, SD1 relating to the Administration of Justice.

The Sex Abuse Treatment Center (SATC) supports SB 2721, SD 1, except for that portion of the bill relating to restitution. Restitution is statutorily mandated under HRS 707-746 and serves as recognition of the financial impact crimes have on victims. To make victims whole, the legislature found it necessary to mandate restitution to be ordered, not based on the ability to pay. Rather, the ability to pay is a factor for consideration on the "time and manner" of payment.

SB 2721, SD 1 reduces the amount of time in which an offender is placed on probation for certain crimes. This reduction of probation time invariably reduces the time in which an offender is required to pay restitution. While it is true that an order of restitution can be a stand-alone order, allowing for enforcement separate from the conclusion of the criminal case in which it was ordered, this however, places a significant burden on the victim to seek enforcement through the judicial process, absent any support. Navigation of the judicial system is challenging at best, and without any support or advocacy a victim is left to navigate a system that is unfamiliar, uncertain and places them at risk to divulge personal information to their offender (name, address, other contact information).

We respectfully ask this Committee to exclude cases, particularly convictions for class C felonies, in which restitution is ordered so victims and offenders are able to meet the court order on timely payment of restitution. As we see it, more time to make payment is beneficial to not only the victim to collect payment, but also the offender to make payment. Alternatively, increased restitution amounts to be paid, should coincide with the shorter probation period to assure restitution can be paid within the probation period.

Thank you for your consideration.



**SB-2721-SD-1**

Submitted on: 3/12/2026 7:19:44 PM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Tim Huycke	Individual	Support	Written Testimony Only

Comments:

I very strongly support SB2721.

**SB-2721-SD-1**

Submitted on: 3/12/2026 7:37:53 PM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lily Troy MD	Individual	Support	Written Testimony Only

Comments:

I support SB2721 SD1

enact Gun control please

**SB-2721-SD-1**

Submitted on: 3/13/2026 10:08:01 AM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
James E Raymond	Individual	Support	Written Testimony Only

Comments:

Thank you. I am a member of Indivisible Windward.

**SB-2721-SD-1**

Submitted on: 3/13/2026 11:20:40 AM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marcela Montalto	Individual	Support	Written Testimony Only

Comments:

Supporting a bill that strengthens penalties for firearm violations is an important step toward improving public safety and accountability. Stronger consequences for illegal possession, trafficking, or misuse of firearms can help deter dangerous behavior and reduce gun-related violence in our communities. These measures do not target responsible gun owners who follow the law; rather, they focus on individuals who knowingly break firearm regulations and put others at risk. By reinforcing the seriousness of these violations, the bill promotes safer neighborhoods, supports law enforcement efforts, and helps ensure that firearms are handled responsibly and within the boundaries of the law.

**SB-2721-SD-1**

Submitted on: 3/13/2026 1:58:32 PM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kehaulani Coleman	Individual	Support	Written Testimony Only

Comments:

Thank you

**SB-2721-SD-1**

Submitted on: 3/14/2026 1:38:50 AM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kanani Kai	Individual	Support	Written Testimony Only

Comments:

I strongly SUPPORT SB2721.

Mahalo.

Kanani Kai

Member Indivisible Hawaii

**SB-2721-SD-1**

Submitted on: 3/14/2026 8:25:04 AM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Denize Machit	Individual	Support	Written Testimony Only

Comments:

Please support this bill to implement the recommendations from the board.

Mahalo,

Denize Machit

**SB-2721-SD-1**

Submitted on: 3/14/2026 6:32:42 PM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Tammy M DeBernardi	Individual	Support	Written Testimony Only

Comments:

I support this bill that implements recommendations from the 2025 Advisory Committee on Penal Code Review.

**SB-2721-SD-1**

Submitted on: 3/15/2026 11:45:17 AM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Brodie Lockard	Individual	Support	Written Testimony Only

Comments:

I support SB2721.

**SB-2721-SD-1**

Submitted on: 3/15/2026 2:57:12 PM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Calvin Black	Individual	Support	Written Testimony Only

Comments:

I am a member of Indivisible. Thank you for supporting this bill.

**SB-2721-SD-1**

Submitted on: 3/15/2026 4:06:09 PM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Larry Smith	Individual	Support	Written Testimony Only

Comments:

Aloha,

Please approve.

Larry Smith

District 27

Mahalo,

**SB-2721-SD-1**

Submitted on: 3/15/2026 5:08:28 PM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gail Morrison	Individual	Support	Written Testimony Only

Comments:

Thank you for supporting this bill.

Gail Morrison, Honolulu

**SB-2721-SD-1**

Submitted on: 3/15/2026 6:37:26 PM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Judith Mura	Individual	Support	Written Testimony Only

Comments:

STRONGLY SUPPORT SB2721 SD1

**SB-2721-SD-1**

Submitted on: 3/15/2026 9:28:12 PM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jesse Hutchison	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill.

Thank you!

**SB-2721-SD-1**

Submitted on: 3/16/2026 11:17:56 AM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Janet Teare	Individual	Support	Written Testimony Only

Comments:

Thank you for supporting this bill. I'm a member of East Hawaii Indivisible.

**TESTIMONY IN SUPPORT OF S.B. 2721, S.D. 1 (WITH AMENDMENTS)  
Relating to the Administration of Justice**

**TO: Chair David A. Tarnas, Vice Chair Mahina Poepoe, and Members  
House Committee on Judiciary and Hawaiian Affairs**

**FROM: Dennis M. Dunn**

**(dennismdunn47@gmail.com)  
Kailua, Hawai'i**

**HEARING: Tuesday, March 17, 2026, 2:00 p.m.  
Conference Room 325**

**SUMMARY**

I strongly support S.B. 2721, S.D. 1, which implements the 2025 Hawai'i Penal Code Review Committee's recommended amendments to the Hawai'i Penal Code. However, I respectfully urge the Committee to adopt targeted amendments to ensure that reductions in probation terms do not undermine victim restitution, which remains one of the most essential, and most poorly executed, components of our criminal justice system.

Specifically, I recommend:

- 1. Requiring full payment of restitution before early discharge from probation; and**
- 2. Requiring reasonable notice to victims before a defendant is discharged from probation.**

**BACKGROUND AND EXPERIENCE**

I was honored to serve on the 2025 Hawai'i Penal Code Review Committee, as well as the 2015 Penal Code Review Committee, alongside dedicated professionals from across Hawai'i's criminal justice system. The views expressed here are my own and do not represent the Committee or its members.

My comments are informed by nearly 50 years of experience advocating for crime victims, including 44 years with the Honolulu Prosecuting Attorney's Office, where I served as Director of Victim Witness Kokua Services from 1985 to 2022.

**GENERAL SUPPORT FOR THE BILL**

I generally support the Committee's recommendations, including the proposal in Section 17 of the bill to reduce probation terms for certain felony and misdemeanor offenses under H.R.S. §706-623. These recommendations reflect the belief that shorter probation terms may be sufficient for lower-level offenders and the reality that many probationers are not actively supervised due to chronic staffing shortages within the Judiciary's Adult Client Services Branch.

However, any reduction in probation terms must be carefully examined for its impact on victim restitution.

### **WHY RESTITUTION MATTERS**

Restitution is grounded in the most fundamental principles of our justice system. It is a direct measure of the harm caused by criminal conduct and a primary mechanism of offender accountability.

While emotional and psychological injuries are difficult to quantify, restitution—measured in dollars and cents—provides victims with a tangible acknowledgment of loss and a meaningful opportunity for financial recovery.

For offenders, restitution represents the clearest demonstration of responsibility and the first real step toward rehabilitation. Failure to pay restitution signals the opposite: a lack of accountability and a lack of genuine commitment to change. In my view, restitution is the price an offender must pay to re-enter civil society.

### **THE PROBLEM: RESTITUTION GOES UNPAID**

Although comprehensive statewide data was unavailable during the Committee's deliberations, decades of experience strongly suggest that a substantial portion of restitution ordered in Hawai'i is never paid.

Victims have very little leverage in this process. Restitution enforcement depends almost entirely on probation supervision or court hearings to address noncompliance. Once a probationer is discharged from probation, incentives for continued payment largely disappear.

Post-probation collection mechanisms have largely failed. Free-standing restitution orders place an unreasonable burden on victims to pursue civil enforcement—something most victims lack the knowledge, resources, or financial incentive to do. In my career, I have never encountered a single victim who successfully recovered restitution through civil enforcement.

Similarly, tax refund intercepts remain nonfunctional due to the Department of Taxation's failure to implement procedures, despite authorizing legislation enacted nearly a decade ago.

### **WHY PROBATION LENGTH MATTERS**

These realities underscore the critical importance of probation supervision in achieving restitution payments. Any reduction in probation terms must therefore be weighed against its predictable effect: less time to enforce restitution and fewer payments to victims.

### **PROPOSED AMENDMENT #1: RESTITUTION AS A CONDITION OF EARLY DISCHARGE**

One modest and effective reform would substantially improve restitution outcomes: requiring full payment of restitution before a defendant is eligible for early discharge from probation.

Early discharge is a privilege, not a right, and should be earned through meritorious conduct—including satisfaction of restitution obligations.

Proposed amendment to H.R.S. §706-623:

*The court, on application of a probation officer, on application of the defendant, or on its own motion, may discharge the defendant at any time, provided that the court has determined that the defendant has completed payment of restitution to the victim of the offense or other parties who reimbursed the victim for financial losses incurred as a result of the crime.*

*Prior to granting early discharge, the defendant's probation officer shall report to the court.*

#### **PROPOSED AMENDMENT #2: NOTICE TO VICTIMS BEFORE DISCHARGE**

I also urge the Committee to adopt an amendment requiring reasonable notice to victims when a court intends to discharge a defendant from probation.

Proposed amendment to H.R.S. §706-624.5:

*§706-624.5 Notice of probation.*

*(1) Whenever the court places a defendant convicted of an offense against the person under chapter 707, or an attempt thereof, on probation without a term of imprisonment, the court shall provide advance written or electronic notice to each victim who has requested such notice of the probation and of the court's intention to discharge the defendant from probation.*

*Notice shall be provided using the contact information supplied by the victim.*

*(2) Neither the failure to provide notice nor compliance with this section shall subject the State or any officer or employee to civil liability, but failure may provide a basis for appropriate disciplinary action.*

#### **CONCLUSION**

Restitution is an ancient and foundational element of our justice system. It is essential to both victim recovery and offender accountability.

I respectfully urge the Committee to pass S.B. 2721, S.D. 1, **with the amendments proposed above.**

Please put victims first.

Thank you for your time and consideration.

**SB-2721-SD-1**

Submitted on: 3/16/2026 2:19:26 PM

Testimony for JHA on 3/17/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jessica Kuzmier	Individual	Support	Written Testimony Only

Comments:

Aloha, I am writing in support of SB2721 because I support gun control. Mahalo for your consideration.