

A Bill for an Act Relating to Rights of Victims and Witnesses in Criminal Proceedings.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
RIGHTS OF VICTIMS AND WITNESSES IN
CRIMINAL PROCEEDINGS**

§ -1 **Legislative intent.** In recognition of the civic and moral duty of victims and witnesses of crimes to cooperate fully and voluntarily with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this State, the Legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crimes are treated with dignity, respect, courtesy, and sensitivity and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.

§ -2 **Definitions.** In this chapter:

“Crime” means an act or omission committed by an adult or juvenile that would constitute an offense against the person under the penal code of this State.

“Homicide victim” means a person whose death was caused by another person under part II of chapter 707.

“Major developments” means arrest or release of the suspect by the police, case deferral by the police, referral to the prosecutor by the police, rejection of the case by the prosecutor, preliminary hearing date, grand jury date, trial and sentencing dates, and the disposition of the case.

“Surviving immediate family members” means surviving grandparents, parents, siblings, spouse, children, and any legal guardian of the homicide victim.

“Victim” means a person against whom a crime has been committed by either an adult or a juvenile.

“Witness” means a person whose testimony or knowledge is desired in any proceeding or investigation by a grand jury or in a criminal investigation, action, prosecution, or proceeding.

§ -3 **Eligibility of victims.** A victim has the rights afforded by this chapter and is eligible for the services under this chapter only if the victim reported the crime to police within three months of its occurrence or discovery, unless he had justification to do otherwise.

§ -4 **Basic bill of rights for victims and witnesses.** Upon written request, victims and surviving immediate family members of crime shall have the following rights:

- (1) To be informed by the police and the prosecuting attorney of the final disposition of the case. If the crime charged is a felony, the victim or a surviving immediate family member shall be notified of major developments in the case and whenever the defendant or perpetrator is released from custody. The victim or a surviving immediate family member shall also be consulted and advised about plea bargaining by the prosecuting attorney.
- (2) To be notified by the prosecuting attorney if a court proceeding to which they have been subpoenaed will not proceed as scheduled.
- (3) To receive protection from threats or harm in accordance with the Hawaii Witness and Security Protection Act program guidelines.
- (4) To be informed by the police, victim/witness counselor, or other criminal justice personnel, of financial assistance and other social services available as a result of being a witness or a victim of crime, including information on how to apply for the assistance and services.
- (5) To be provided by the court, whenever possible, with a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants.
- (6) To have any stolen or other personal property expeditiously returned by law enforcement agencies when such property is no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property, the ownership of which is disputed, shall be returned to the person within ten days of being taken.

§ -5 Responsibility for rights and services. (a) Each county is responsible for the enforcement of rights under section -4. The courts shall fashion all decisions and orders to enhance the recognition of these rights and the provision of these services, to the extent that they will not conflict with the constitutional rights of the defendant.

(b) Neither the failure of any State or county officer or employee to carry out the requirements of this section nor compliance with it shall subject the State or county officer or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by competent authority.

§ -6 Intergovernmental cooperation. The county prosecutor, the police, local social service agencies, the courts, and all other agencies involved in the criminal justice system shall all cooperate with each other to ensure that victims and witnesses of crime receive the rights and services to which they are entitled under this chapter."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 9, 1988.)