

ACT 201

H.B. NO. 2427

A Bill for an Act Relating to Victims of Crimes.

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

SECTION 1. Chapter 657, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§657- Extension by sentencing of criminal defendant. Notwithstanding any law to the contrary, for any victim of a particular crime, for surviving immediate family members of a victim, or for the estate of a victim, the statute of limitations for any civil cause of action against a person convicted of that crime shall be tolled from the moment the civil cause of action arises until the person convicted of that crime is released from imprisonment, released from parole, or released from probation and is no longer under the jurisdiction of the court for that crime, if:

- (1) The crime upon which the civil action is based is a felony; or
- (2) The victim of the crime upon which the civil action is based is the victim of a “sexually violent offense” or a “criminal offense against a victim who is a minor”, as defined by section 846E-1.”

SECTION 2. Section 801D-4, Hawaii Revised Statutes, is amended to read as follows:

“§801D-4 Basic bill of rights for victims and witnesses. (a) 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;
- (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 to 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 the property is no longer needed as evidence. If feasible, all the 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; and
- (7) To be informed by the department of public safety of changes planned by the department in the custodial status of the offender that allows or results in the release of the offender into the community, including escape, furlough, work release, placement on supervised release, release on parole, release on bail bond, release on appeal bond, and final discharge at the end of the prison term.

(b) Upon written request, the victim or the parent or guardian of a minor or incapacitated victim of an offense under section 707-730, 707-731, or 707-732(1)(a) shall have the right to be informed of the human immunodeficiency virus (HIV) status of the person who has been convicted or a juvenile who has been adjudicated under that section and to receive counseling regarding HIV. The testing shall be performed according to the protocols set forth in section 325-17. Upon request of the victim, or the parent or guardian of a minor or incapacitated victim, the department of health shall provide counseling.

(c) Notwithstanding any law to the contrary, the department of public safety, the Hawaii paroling authority, the judiciary probation divisions and branches, and the department of the attorney general shall make good faith efforts to notify the victim of a crime, or surviving immediate family members of a victim, of income received by a person imprisoned for that crime when the imprisoned person has received a civil judgment that exceeds \$10,000, a civil settlement that exceeds \$10,000, or any income that exceeds \$10,000 in one fiscal year, whenever the income is known to the agency, and, in addition, the department of public safety shall make good faith efforts to notify the victim of a crime or surviving immediate family members of a victim, whenever it is known to the agency that a person imprisoned for that crime has a financial account, of which the department of public safety is aware, of a value exceeding \$10,000.

(d) Notwithstanding any law to the contrary, payment of restitution and judgments to victims, or surviving immediate family members of a victim, shall be a precondition for release on parole for any imprisoned person whom the Hawaii paroling authority determines has the financial ability to make complete or partial restitution payments or complete or partial judgment payments to the victim of the person's crime, or to the surviving immediate family members of a victim.

(e) Notwithstanding any law to the contrary, the State of Hawaii, any political subdivision of the State of Hawaii, any department or agency of the State, any officer of the State, and any employee of the State shall be immune from damages in any lawsuit based on noncompliance with subsection (c) or (d). Nothing in this subsection shall be construed to prevent disciplinary action against any employee of the State who intentionally fails to comply with subsection (c) or (d) after being warned that compliance is required."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 2002.)

Note

1. Edited pursuant to HRS §23G-16.5.