WHEREAS, the State Legislature enacted the Victims and Witnesses Bill of Rights in chapter 801D, Hawaii Revised Statutes, in 1988; and

WHEREAS, some victims of and witnesses to crimes feel that their rights under chapter 801D, Hawaii Revised Statutes, are being ignored, especially when it comes to delays or repeated continuances in the court proceedings; and

WHEREAS, certain victims of and witnesses to particular types of crimes, including children, the elderly, and survivors of sexual assault and domestic violence are especially vulnerable with respect to the stress and trauma of having to repeatedly appear in court, only to learn that trial in their case is being delayed yet again; and

WHEREAS, there are many reasons that crimes are not prosecuted timely enough for victims and witnesses such as lack of sufficient credible evidence for each element of a crime, key witnesses being absent from the jurisdiction and prioritizing within the respective prosecutors' offices and court system of other crimes; and

WHEREAS, congestion in the State's courts can lead to the setting of trial dates that are further into the future, repeated delays in the commencement of trial, and in some cases, eventual dismissal of cases based on the age of the case and resulting violation of the defendant's right to a speedy trial under the federal and state constitutions and Rule 48 of the Hawaii Rules of Penal Procedure; and
WHEREAS, it is a common misconception that dismissals of cases due to delay mean no future prosecution, when in fact, it remains the prosecutor's prerogative to prosecute a crime so long as the court does not dismiss a case with prejudice and the crime is within the statute of limitations; and

WHEREAS, various county prosecutors have victim counselors that should explain the procedure and what is occurring to victims without compromising the integrity of the criminal prosecution; now, therefore,

WHEREAS, it is in the State's best interest that victims and witnesses be fully informed of procedural reasons and decisions that lead to delay; now therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2018, that the county prosecutors and the Attorney General are requested to report to the legislature as to their respective victim protocols, including but not limited to:

(1) How they implement the rights specified in chapter 801D, Hawaii Revised Statutes, within their offices; and

(2) How soon they inform witnesses and victims that a court proceeding will not proceed as scheduled under HRS Sec. 801D-4(2); and

(3) Whether they inform victims and witnesses as to reasons for delay; and

(4) Whether they inform victims and witnesses as to any reason not to prosecute should a case be dismissed due to delay; and

(5) Any recommendations in further implementing victims and witness rights under Chapter 801D, Hawaii Revised Statutes; and

BE IT FURTHER RESOLVED that the report, including any proposed legislation, is requested to be submitted to the
Legislature no later than twenty days prior to the convening of
the Regular Session of 2020; and

BE IT FURTHER RESOLVED that certified copies of this
Resolution be transmitted to the Attorney General and the
respective Prosecuting Attorneys of the City and County of
Honolulu and the Counties of Hawaii, Kauai, and Maui.