



THE JUDICIARY, STATE OF HAWAII

Testimony to the House Committee on Finance

The Honorable Marcus Oshiro, Chair
The Honorable Marilyn B. Lee Vice Chair
Wednesday, March 5, 2008, 10:00 a.m.
State Capitol, Conference Room 308

by

Thomas R. Keller
Administrative Director of the Courts

Bill No. and Title: House Bill No. 2700, Relating to the Judiciary.

Purpose: To provide supplemental operating and capital improvement appropriations for FY 2009.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No. 2700, which reflects the Judiciary's resource requirements for FY 2009. During the budget briefing to the members of the House Committee on Finance on January 10, 2008, we provided detailed information on our budget and the urgent nature of the requests. Consequently, our testimony today will address only a few highlights.

As you know, the basis for a supplemental budget differs markedly from a biennium budget. The biennial budget concept is based upon the premise that planning, evaluation, prioritization, and appropriate resource allocation were done in the previous year and that supplemental budget resources will be requested largely to address unforeseen developments, inadvertent oversights, and special circumstances. Supplemental budget requests meeting these guidelines and affecting all budget programs in the Judiciary include the following: (1) the 2007 Legislature passed a bill that significantly increased hourly fees for guardians ad litem and legal counsel but provided no funds in FY 2009 to pay for this rate hike; (2) the Commission on Salaries recommended a well deserved pay raise for justices and judges that was approved by the 2007 Legislature without any funds to pay for this increase; (3) the 2007 Legislature passed our budget bill with a provision requiring three of the four circuits to expend up to \$100,000 each for medically targeted substance abuse treatment services but again provided no funds; (4) the



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Department of Budget and Finance notified us of a significant increase in risk allocation fees for FYs 2008 and 2009 in January 2008, too late to be included in last year's budget request; and (5) a representative from the SCR 117 Task Force established by the 2006 Legislature to review services provided to forensic patients notified the Judiciary that the Task Force has requested a 100 percent increase in fees for court ordered psychiatric/psychological examinations of forensic patients.

In the First Circuit, other supplemental operating resources are being requested to address facility, safety, and security issues, that is, to replace and re-stretch carpeting in the Ka'ahumanu Hale (Circuit Court) and Kauikeaouli Hale (District Court) Buildings, replace rusted condenser water pipes at the cooling towers in the Kauikeaouli Hale Building, and replace eight metal detectors and two x-ray machines for which a service contract is no longer available and replacement parts are increasingly difficult to find. Also being requested are additional funds to cover increased costs for medical services at the Detention Home, provide two positions to facilitate operation of the Court Interpreter Program and handle the tremendous increase in interpreter requests, and pay for enhancements to 20 workstations to create a safer and more efficient work environment. Second Circuit requests include resources to expand Maui/Molokai Drug Court operations and service, and pay for lease, janitorial, and electricity costs to consolidate operations on Molokai into one location. Funds are needed in the Third Circuit for a District Family Court judge and staff in the Hamakua and North/South Kohala area, security services for South Kohala District Court, increased costs and clientele for adult sex offender treatment services, and two additional positions in the Kona area to improve services. Fifth Circuit is requesting funds for an additional accountant position to help handle an increased workload. Supplemental requests for Judiciary Administration programs include resources to continue to Phase III of the National Center for State Courts Drug Court evaluation, expand court interpreter services to all Judiciary civil and administrative proceedings, provide needed positions for human resource operations and the King Kamehameha V Judiciary History Center, increase the purchase of service funding base for the Center for Alternative Dispute Resolution, and fund a Future Vision Conference for the Judiciary.

The Judiciary's supplemental requests are consistent with the Judiciary's mission and respond to demands to: (1) provide essential services to and ensure the safety of children, other at-risk family members, and clients; (2) provide necessary treatment and evaluation services to offenders requiring the courts' assistance; and (3) ensure that our facilities are safe and secure for the public and our employees. In keeping with the biennial budget concept, and in recognition of the State's limited financial resources, the Judiciary has followed a conservative approach in developing its supplemental request. The Judiciary's general fund supplemental budget request for funding of approximately \$7.7 million for FY 2009 results in a total supplemental general fund budget just under \$152 million. This figure is more than \$2 million below the Judiciary's



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general fund appropriation ceiling based on the November 12, 2007 Council on Revenues' final estimate of state growth.

Capital Improvement Project (CIP) requirements continue to be a major item of concern, especially as our facilities get older and as the population, the needs of our clients, and the services provided by our court system expand. With the move of our First Circuit Family Court and Detention Home to Kapolei in 2010, CIP funds are needed to start the planning process for an administration building in Kapolei; to provide furniture, fixtures, and equipment for our new Kapolei Judiciary Complex; and to redevelop the soon to be vacated Family Court areas in the Ka'ahumanu Hale, Kauikeaouli Hale, and current Detention Home Buildings. In addition, the west Hawai'i community is extremely concerned about safety, security, space, parking, and accessibility conditions at Judiciary facilities in Kona; thus, CIP planning funds are being requested for a new Judiciary Complex, as well as construction funds for improvements to the present court facility in the Keākealani Building. Other CIP funds are needed for critical air conditioning and elevator repairs and upgrades at our over 20 year old court buildings on Maui and for repairs and improvements at other Judiciary facilities, statewide.

The Judiciary understands that the economy has somewhat slowed and is not as robust as in the past few years and that this, along with the desire to provide adequate public services to Hawaii's citizens, creates difficult resource allocation decisions as you attempt to balance significant competing initiatives with available general fund resources. With the size and cost of state government always a recurring issue, the Judiciary continues its efforts to reduce costs and increase efficiencies, presenting for your consideration requests that we believe provide the greatest opportunity to directly serve those seeking court assistance.

The proposed supplemental budget is the Judiciary's best estimate of the resources necessary to maintain the integrity of the courts and to fulfill our statutory, constitutional, and public service mandates. The Judiciary respectfully requests your support of House Bill No. 2700 which includes the Judiciary's supplemental budget request.

Thank you for the opportunity to testify on this measure.



TO: Chair Marcus Oshiro
Vice Chair Marilyn Lee
Members of the Committee on Finance

FR: Nanci Kreidman, M.A.
Executive Director

RE: H.B. 2700

Aloha. Please accept this testimony reinforcing our request for monies to be included in the FY 09 Judiciary budget for crucial program services designed to meet the complex needs of victims of domestic violence.

We struggle each year to meet the rising costs of doing business, competing in the labor market for talented and compassionate professionals and reaching into the community with the important information we have about violence in the family. Requests made in prior years have yielded appropriations which increase our operating budget, but not to the level that is necessary.

In addition to State funding, we receive City and County funding, Federal funding, private grants, client fees, individual contributions and host events to raise money. We continue to seek ways to diversify our funding base and recognize that public money is essential for us to serve the community.

All of our program services delivered to clients and in the courts and community are documented for demographic, planning and evaluation purposes. All of the data is available upon request and reflects the earnest efforts we make to bring peace to our island families.

The community will continue to be best served with the appropriation of \$350,000 through our contract with the Hawaii State Judiciary. Thank you for permitting comment this morning.



Adrienne King <adrienne@kingandking.com>

HB2700 FIN, Wednesday, 3-5-08 at 10am in House CR 308

Adrienne King <adrienne@kingandking.com>

Wed, Mar 5, 2008 at 1:25 AM

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To: Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair
Committee on Finance

From: Adrienne King, Esq.

Subj: Testimony **SUPPORTING HB2700 & OFFERING an AMENDMENT**
Appropriates funds to the Judiciary for FY 2008-2009

Hearing: Wednesday, 03-05-08 at 10:00 am in House conference room 308

My name is Adrienne King, immediate past Chair of the Family Law Section of the HSBA. I am speaking on my behalf and as the head and founder of the Honolulu Family Court Professionals, a group of 123 signers of a petition in favor of a full-service court in Kapolei and opposed to the relocation of the entire First Circuit Family Court from its present Honolulu location to Kapolei. Please note that my position is often mischaracterized as opposing the court in Kapolei – this is false. I PERSONALLY support a full service court in Kapolei and a proportional court presence in Honolulu based on the needs of the public.

It was reported at the Family Law Section Board meeting yesterday, by Richard Diehl, incoming Chair of the Family Law Section and a per diem judge recently appointed by Chief Justice Moon, that the lobbying efforts of the family law practitioners to retain a meaningful presence of family law services in Honolulu appear to have been successful. This is welcome news. While the Judiciary has made many conflicting representations about the number of courtrooms that would be retained for the type of services provided at the present Honolulu court location, from one to five over the last 2 years, it was represented to the Board by Judge Diehl, that at a meeting he had with Chief Justice Moon, within the last 48 hours, that Chief Justice Moon *promised* Judge Diehl FLS representation on a Judiciary planning committee currently studying the allocation of court facilities and personnel for the Honolulu-based Family Court **consistent with Act 110 (2005)**. Based on this representation of **committee participation consistent with Act 110 (2005)**, the FLS Board voted to support HB2700.

Unfortunately, for a number of reasons, details of how this planning committee would actually work was not explained, and I would be remiss in my representation of the Honolulu Family Court Professionals if I did not recommend the Legislature add a stipulating amendment to HB2700 to clarify the promise made by the Chief Justice.

I most strongly recommend the following section be amended to HB2700.

SECTION #. Any Judiciary planning committees and processes, consistent with and implementing Act

generated by increasing the surcharge for indigent legal services, as recommended by the Access to Justice Hui."

HB3422 raises costs and fees in civil actions, and is another tax on the people. Keep in mind that "access" also means physical access, that is, making it easier for people to get to court, not harder. Providing a means of allowing the public to participate in the processes and committees that will create and generate solutions to achieve equal access, *without the necessity of raising taxes*, is the responsibility of the legislature and specifically this finance committee, especially with the ever increasing demand on financial resources.

The proposed amendment to HB2700 DOES JUST THAT.

HB3369 appropriates funds for legal service providers and states in Section 1: In its November 2007 report, *Achieving Access to Justice for Hawaii's People*, the Access to Justice Hui exposed the compelling and extensive need for legal services in civil matters amongst Hawaii's low income residents. Each day, these residents grapple with disparate issues, sometimes simultaneously, in civil matters related to affordable housing, homelessness, domestic and sexual violence, child custody, elder abuse, public benefits, consumer fraud, and immigration. According to the report, over seventy seven per cent of Hawaii's low income community is without access to critical legal services. HB3669 has not progressed.

Many of these described unmet legal needs involve family court. Rather than addressing access to justice issues by just raising taxes on the public, or funding more appropriations via taxes, the proposed amendment is consistent with this committee's ever faithful vigilance over the public purse, by seeking additional non-financial ways to address the issue of equal access to justice. The amendment further serves the public by ensuring their voices and needs are addressed and incorporated in any Judiciary planning processes.

While the promise to include lawyers from the Family Law Section on a Judiciary planning committee is welcome news, access to justice necessarily demands that the public be represented by more than just one or two attorneys on some committee, hence the inclusion of other professionals and family court users in the proposed amendment.

In a Honolulu Advertiser commentary, Senator Jill Tokuda's statements about the real way to solve problems bears repeating. In discussing the failed transition at the State Historic Preservation Division of DLNR, prior to Laura Theilen's appointment, in contrast to the group assembled to oversee the Superferry operations under legislation passed during the last special session, Senator Tokuda noted that "assembling a decision-making body that represents only one view is not likely to address the core issues...In the latter case, (i.e. the Superferry group) voices of cultural practitioners and environmentalists those who had been critical of the operations under consideration were included, reflecting an awareness that all concerns must be heard if a review is to be effective. **Change comes in the wake of the courage to turn away from what you want to hear, and to instead seek what you need to know. Coming to grips with dissent is not easy, but I doubt anyone expects that bringing effective change to SHPD will be simple. Pushing against the status quo, focusing on what is best rather than what is comfortable calls for real leadership.** We should all hope that the DLNR and its director will demonstrate that leadership, expand the transition team to **include those whose opinions will make a difference to the division's long-term success**, and provide our community with the assurances it deserves that SHPD will operate as intended."

This amendment is the most economically efficient way to ensure the legal needs of the public are met – by every branch of government.

Thank you for the opportunity to testify on behalf of this legislation. The Honolulu Family Court Professionals support this amendment and respectfully request this committee's support.

110, Session Laws of Hawaii 2005, shall:

1. **involve fully**, but not be limited to, **representatives of stakeholder groups** including domestic violence service providers, family court volunteers, psychologists, social workers, marriage and family therapists, state entities providing family court services, the University of Hawaii Law School clinic program director, members of the Family Law Section of the HSBA, members of the Honolulu Family Court Professionals, lay person family court parties, members of the public, and other parties with a justifiable interest affected by the allocation of family court services between the Honolulu and Kapolei court locations; and
2. **hold noticed meetings open to the public**; and
3. **report any findings, conclusions and recommendations, including minority positions, to the Legislature no later than 20 days prior to the start of the 2009 session.**

HISTORY

Act 110 (2005), which allocated \$95 million to build a court complex in Kapolei, included the express proviso:

SECTION 7. Provided that court space and resources be retained for family court services in the existing Honolulu court location; and provided further that the judiciary create a **public** participation process that allows **stakeholder group representatives the opportunity to be involved in the planning** process for the Kapolei court complex and the Honolulu-based family court.

This proviso had been repeatedly ignored by the Judiciary which now comes before you requesting more money for more buildings in Kapolei, and to demolish and reconfigure not only the Punchbowl Street courthouse, but also the Alakea St. Courthouse, in which Family Court criminal cases are tried, with absolutely no involvement of any stakeholder groups in the planning, *prior to this promise made to Judge Diehl to include a lawyer on the committee.*

THE FAMILY LAW SECTION OF THE HSBA & OTHER FAMILY LAW PRACTITIONERS AND USERS REACTED

The Judiciary's attitude toward the proviso, and toward the Family Law Section, after years of promises by the Judiciary to work with the Family Law Section, and after representations were made to the Legislature of such collaboration, resulted in (1) a petition being circulated against the removal of the entire First Circuit Family Court to the Kapolei court complex, and in support of the retention of a meaningful Family Court presence in the present location. This petition currently has 123 signatures, and consists not only of members of the Family Law Section, but, just as importantly, non Section member attorneys and other professionals who frequently appear in Family Court. (2) The passage on January 17, 2006, of a resolution by the Family Law Section consistent with the circulated petition.

In support of the Judiciary's stated purpose of creating a full service court worthy of a major urban area, a bill to create a separate judicial circuit, the 4th, was introduced in the 2006 and 2007 legislative sessions. Speaker Say and Representative Har have stated their support for the creation of a second judicial circuit on Oahu as being consistent with the Legislature's stated goal of the creation of a "second city" to rival Honolulu. The increasing population numbers on Oahu certainly necessitate the Legislature's *planning now* for the institution of two judicial circuits on this island. The number of people living in the central and leeward areas is greater than that of the outer island circuits and another judicial circuit is mandated in order to fulfill the Judiciary's policy of ensuring "equal access to justice."

PRESENT

HB3422, Section 1 states:

"The legislature finds that the Access to Justice Hui's final report of November 2007 found that four out of five low- and moderate-income residents do not have their legal services needs met and that legal service providers are only able to assist one in three who contact them for assistance. The legislature further finds that to increase the delivery of legal services, more funding is necessary and can be

Arienne King