

COMMITTEE ON JUDICIARY

Rep. Tommy Waters, Chair fx 586-9456

Rep. Blake Oshiro, Vice-Chair fx 586-6341

DATE: Tuesday, March 25, 2008

TIME: 4:05 p.m.

PLACE: Conference Room 325

HR140 HCR166

REQUESTING A STUDY OF THE CREATION OF A FOURTH CIRCUIT COURT TO BE
LOCATED AT THE KAPOLEI COURT COMPLEX.TESTIMONY IN SUPPORT

My name is Adrienne King, immediate past Chair of the Family Law Section of the HSBA. I am speaking today as the head and founder of the Honolulu Family Court Professionals, a group of over 100 professionals, (lawyers & non-lawyers) who frequent the Family Court in a professional capacity and who signed what I call The Petition, which I drafted and circulated 3 years ago, which stated their support for a *full-service* court in Kapolei and in opposition to the transfer of the entire First Circuit Family Court to the Kapolei Court complex. By the transfer of the "entire First Circuit Family Court" is meant the anticipated *relocation of all the judges* who hear Family Court *civil* cases, i.e., divorce, paternity, custody, visitation, child support, restraining orders, CPS, guardianship and adoption matters, from their present location at the Punchbowl Street courthouse to the new court complex in Kapolei.

Consistent with that position, I speak today with enthusiastic favor of HR140 and HCR166. These Resolutions, submitted by Kapolei's visionary Representative, Sharon Har, and numerous other Representatives in the State House, request the Judiciary to report to the next Legislature the results of a study requested of the Judiciary to conduct to identify the funding, personnel, equipment, and supplies needed to create a fourth judicial circuit to be located at the Kapolei Court Complex to serve the residents of the Waialua, Wahiawa, Waianae, and Ewa districts as identified under section 4-1, HRS.

The Creation of the 4th Judicial Circuit on O'ahu is an ACCESS TO JUSTICE ISSUE.

We, the Honolulu professionals who serve our fellow citizens in the Family Court, support providing judicial services on O'ahu on a proportional to population basis to insure nothing less than the equal access to justice for the people on O'ahu. This is not a new issue for us who practice in Family Court. For example, the Family Law Section of the Bar Association conducted a survey 10 years ago, which found that

(a) Purely from the standpoint of access to justice, the survey results strongly [emphasis in original] support the creation of a reasonably-sized secondary full service multi-court facility in Kapolei, with a principle [sic] multi-court facility to remain available to the public in downtown Honolulu.

(b) From an access to justice perspective, the survey results clearly do not [emphasis in original] support the present State administration's plan to relocate the entire Family Court to Kapolei."

The Family Law Section newsletter stated 7 years ago that

The Hawaii's family law bar has long been opposed to the severance of the First Circuit Court from the existing integrated Circuit, District, and Family Court facilities in downtown Honolulu, and the relocation of the entire Family Court to a site in Kapolei. We believe that such a severance and relocation of the existing Family Court will create insurmountable transportation problems which will in turn constitute a major impediment to free access to Family Court, especially among Oahu's

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lesser affluent families and children. Instead, we have long favored the creation of a fully integrated satellite court system in Kapolei, with Circuit, District, and Family Court facilities to provide services to that part of Oahu's population who lives and works closer to Kapolei, than to the existing Family Court facilities in downtown Honolulu.

Equal access to justice is first and foremost achieved through physical access. You can talk till you are blue in the face about professionals doing work for free and you can pass bills to increase taxes to provide for more free professional help in family court, but the primary and most cost effective way to achieve equal access for all O'ahu's citizens, is to **make it easy for them to get to court.** If you make it harder for people to get to court, you are impeding their access to justice. This is especially true for those who are not poor enough to qualify for free legal help, yet don't have enough to pay for an attorney, who is going to have to charge an extra \$200, plus or minus, for the hour (& it takes an hour "portal to portal") to drive to Kapolei from town, and another \$200 to drive back. Physical access means having a courthouse close to where people live and work and their kids go to school. It should be easy and convenient to get to, via multiple transportation corridors. Right now the proposed rail system stops a mile short and bus ride to Kapolei from most all of O'ahu requires one or two transfers, gas prices are not going to go down, nor is the traffic going in every direction on all the major highways going to decrease.

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. This committee has not yet seen fit to schedule this bill for hearing. It will be requested to re-introduce the bill in the next Legislature. **The proposal for the 4th Circuit will not go away.** Speaker Say and Representative Har have stated their full support for the creation of an additional judicial circuit on Oahu as being consistent with the Legislature's stated goal of the creation of a "second city to rival Honolulu." How will it "rival" Honolulu if it doesn't have its own full-service court, just Honolulu's Family Court? The increasing population numbers on Oahu **mandate the Legislature's planning now** for the institution of two judicial circuits on this island. The number of people living in just the central and leeward areas of O'ahu is greater than that of the 2nd, 3rd and 5th circuits combined. Another judicial circuit is mandated in order to fulfill not only the Judiciary's stated policy of "equal access to justice," but the Legislature's responsibility to ensure equal access to justice.

Indeed, this Legislature recognizes this responsibility as reflected in language in two pending House bills requesting more funds for legal services.¹ These bills propose to raise costs and fees in civil actions and give money to agencies providing free legal services. These bills are just another tax and drain on public resources. The people don't need more taxes & fees levied, but rather creative and foresightful management of the resources available. The

¹ HR3422, 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 generated by increasing the surcharge for indigent legal services, as recommended by the Access to Justice Hui.

HR4369 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.

creation of a 4th Circuit is primarily a management issue, not a money issue, since money has already been allocated for a new court complex and no doubt more will be allocated. (And there are serious issues of accountability and transparency with the money being continually requested every year for this complex.) Many of the unmet legal needs described in the Access to Justice Hui's report involve family court matters. Rather than addressing access to justice issues by just raising taxes on the public, or funding more appropriations via taxes, the Legislature would most responsibly look to long term solutions, like 50 years into the future, not 5. The creation of an additional judicial circuit on O'ahu is that long term solution.

The Creation of the 4th Judicial Circuit on O'ahu supports

A "LOCAL" VISION NOT "MAINLAND" SPRAWL

Neighborhood courts are like neighborhood schools. They should be located in the district they serve. In being so located, a sense of community, a sense of belonging to this particular place, which is so valued in Hawaii, is fostered and nurtured. People decry the loss of the sense of what is "local." They complain about Hawaii becoming "too mainland." This complaint is staring us in the face right with this issue. Leeward and Central O'ahu deserves its own separate judicial district, not just to be considered a convenient dumping ground for Honolulu's overcrowded family court. Having their own full service court grows a broader and more independent economic base. This is vital not only to support the growing socially and economically diverse population in this part of the island, but also nourishes a "sense of place" which those with foresight, who live there, like Representative Har, seek to establish. The current plan is shortsighted. It takes much from the urban Honolulu population and gives nothing to support the full flowering of a second city which has pride in the independence of its own community institutions.

If the leaders of this state and Island are serious about creating a true "second city" on O'ahu and to insure equal access to justice for all of O'ahu, then this second city should be treated like one and given a real "full-service" court--which can only be accomplished by the creation of the 4th Circuit. The Legislature must seize this timely opportunity and impress upon the Judiciary the necessity of doing so *now*.

Respectfully submitted,

Adrienne King

cc:

- Rep. Cindy Evans
- Rep. Josh Green M.D.
- Rep. Ken Ito
- Rep. Sylvia Luke
- Rep. Angus I. K. McKelvey
- Rep. Hermina Morita
- Rep. Alex Sonson
- Rep. Jos. Souki
- Rep. Clift Tsuji
- Rep. Ryan Yamane
- Rep. Kyle Yamashita
- Rep. Barbara Marumoto
- Rep. Kymberly Pine
- Rep. Cynthia Thielen
- Rep. Calvin Say

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