

STAND. COM. REP. NO. **1048**

Honolulu, Hawaii

March 22, 2011

RE: S.B. No. 1073
S.D. 2
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1073, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES,"

begs leave to report as follows:

The purpose of this bill is to improve the ability of low- and moderate-income individuals to obtain civil legal services by increasing the amount of the surcharges on specified court filings for indigent legal fees.

The Hawaii Access to Justice Commission; Hawaii Paralegal Association; Young Lawyer's Division of the Hawaii State Bar Association; Domestic Violence Action Center; the Mediation Center of the Pacific, Inc.; Hawaii Disability Rights Center; Hawaii Justice Foundation; Hawaii Immigrant Justice Center at Legal Aid Society of Hawaii; Japanese American Citizens League; American Civil Liberties Union of Hawaii; Legal Aid Society of Hawaii; Volunteer Legal Services Hawaii; Center on Disability Studies; the Dean of William S. Richardson School of Law; a board member of the Legal Aid Society of Hawaii; and numerous individuals testified in support of this measure. The Collection Law Section of the Hawaii State Bar Association, Hawaii Credit Union League, Hawaii Collection Association, and numerous concerned individuals opposed this bill.

SB1073 HD1 HSCR JUD HMS 2011-3069



Your Committee finds that there is a need to fund legal services for low- and moderate-income individuals who would not otherwise have access to them. The increases proposed by this measure on the surcharges for indigent legal services are the first since the Act was passed in 1996, as well as the first proposed changes to the filings which are subject to the surcharges. Under the current law, the only district court filings subject to the surcharge are summary possession filings; this bill will make the surcharge applicable to other filings, such as assumpsit cases, which may involve individuals who need legal representation or services provided by the Indigent Legal Assistance Fund. Your Committee acknowledges concerns expressed by several members about the effect of the bill on attorneys and their clients and whether it disproportionately impacts certain sectors while allowing others to avoid contribution to the Fund.

Accordingly, your Committee has amended this bill
by:

- (1) Implementing a graduated surcharge to increase over a two year period, so that on January 1, 2012, the surcharge on certain filings in circuit and appellate courts will increase by \$25, and then by an additional \$15 on January 1, 2014, and the surcharge on certain filings in district court will increase by \$15 on January 1, 2012, and an additional \$10 on January 1, 2014;
- (2) Requiring the Hawaii Justice Foundation to review, on a biennial basis, whether the Indigent Legal Assistance Fund is meeting the civil legal needs of indigent persons, and report its findings and recommendations to the Legislature in even-numbered years beginning in 2014;
- (3) Adding a sunset date of January 1, 2017;
- (4) Changing the effective date to January 7, 2059, to encourage further discussion; and
- (5) Making technical, nonsubstantive changes for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1073, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1073, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,


GILBERT KEITH-AGARAN, Chair



