



The Judiciary, State of Hawaii

Testimony to the House Committee on Judiciary
Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

Thursday, February 10, 2012, 2:00 p.m.
Room 325

by
Tom Mick
Policy and Planning Department Director

Bill No. and Title: House Bill No. 1800, Relating to the Judiciary.

Purpose: To provide supplemental operating and capital improvement appropriations for FY 2013.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No. 1800, which reflects the Judiciary's resource requirements for FY 2013. During the informational budget briefings to the members of the Senate Committee on Ways and Means and the House Committee on Finance on January 4, 2012, we provided detailed information on our supplemental budget request, our current appropriation and expenditures, and on our caseload and revenue contributions to the State. Consequently, our testimony today will only address a few highlights.

The Judiciary is very cognizant that the economy is still in the initial stages of recovery. We are also well aware of the need to replenish the State's rainy day and hurricane relief funds, to address the severely underfunded financial condition of the Employee Retirement System, to restore funding to certain State core functions, and to attend to numerous other situations resulting from the economic downturn and lagging general fund revenues during the past few years. Further, this is a supplemental budget year where supplemental resource requests should be kept limited and generally just address unforeseen developments, inadvertent oversights, and special circumstances. Considering all these factors, the Judiciary has attempted to strike a balance between significant additional operating program requirements and the severe limitations on general fund resources. Accordingly, the Judiciary's general fund supplemental budget



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request focuses on maintaining its existing infrastructure, providing very limited resources to ensure the safety and security of juveniles held at the Hale Hoomalu Juvenile Detention Facility (HHJDF) at Kapolei, and continuing certain essential services jeopardized due to recent budget cuts. To that end, we have included just ten new positions and only \$1.9 million in additional supplemental general fund resources in our budget request. Specifically, these requests include position counts and related funding for six new juvenile Detention Workers for the HHJDF and four Social Service Assistant positions to provide community service sentencing options in the Second Circuit. Additional monetary resources are also requested to continue in-custody substance abuse treatment at the Maui Community Correctional Center and on-call nursing services for juveniles at our Kapolei and Home Maluhia facilities, to provide for maintenance of essential operating systems and security at the Ronald T.Y. Moon Judiciary Complex, to cover unemployment insurance benefits that will no longer be paid by the Executive Branch, and to expand court interpreter services in accordance with federal mandates. Subsequent to submission of our supplemental budget request to the Governor and the Legislature, Department of Public Safety (PSD) notified us in January 2012 that it would be discontinuing its community service sentencing program functions in the Fifth Circuit (Kauai) effective March 1, 2012. Accordingly, we also respectfully request that you consider providing two positions and related funding totaling approximately \$80,000 so that the Judiciary can assume this function from PSD on Kauai in FY 2013.

The Judiciary is very mindful of the State's economic situation and continuing budget deficit concerns as a result of the slowed rate of growth in general fund revenue collections for the current fiscal biennium. These economic and revenue conditions, and the actions taken as a result of these conditions, have had severe effects on the Judiciary these past few years – that is, on its funding situation, on its employees, and on its ability to provide complete, timely services to its clientele and to the public. Specifically, between FY 2009 and FY 2011, the Judiciary's budget base was reduced by 13.1%, or \$19.3 million, and 79 vacant positions, or 4% of its authorized permanent staffing, were eliminated, although 22 new positions were provided for Kapolei. As a result, the Judiciary had to take various cost cutting measures, including significantly reducing expenditures for electricity, purchase of service (POS) contracts, guardian ad litem/legal counsel services, per diem judges, overtime, repair and maintenance, travel, temporary hire positions, forms/supplies/printing, and other miscellaneous items. Although funding for employee furloughs was restored beginning in FY 2012, a significant offset of more than \$4.1 million was taken to reflect the 5% reduction in State government employee wages. Further, the downward trend in resources available for basic Judiciary operating expenses was continued with the Legislature cutting an additional lump-sum of \$2 million from the Judiciary's budget base.

During the 20 months that furloughs were in effect in the Judiciary, more than 600,000 staff hours were lost. Even with the end of the two-day-per-month employee furloughs, the



impact of these budget and personnel reductions is still being felt throughout the Judiciary and Hawai'i, especially considering that the Judiciary has no control over its workload and must now accommodate that workload with less financial resources and people. Taken together, these conditions have resulted in justice being delayed as some cases and hearings take longer to get heard and resolved, and in the elimination or reduction of important services being provided by or through the Judiciary. During the furlough period, significant problems arose in scheduling trials and hearings as fewer days were available for scheduling, and because prosecutors, public defenders, and sheriffs did not all have the same furlough days as the Judiciary. With fewer days, there were more continuances which exacerbated the scheduling problems, and contributed to overcrowded calendars. The judges pointed out that they had less time to devote to individual cases.

Hawaii's families and most vulnerable citizens have been significantly impacted by the budget cuts and staff reductions. For example, between FY 2009 and FY 2011, the median age for adjudicating Family Court felony cases increased by 32%. The wait time for children to participate in the Kids First program in Kapolei, which seeks to alleviate the impacts of divorce by having children attend group counseling sessions, increased.

Justice has been delayed in civil cases as well. The number of pending civil cases at the end of the fiscal year increased by 122% in our district courts and 32% in our circuit courts from FY 2008 through FY 2011. Not surprisingly, since the resources available to address that increased caseload were reduced, the median age of pending circuit court civil cases increased by more than 32% between FY 2009 and FY 2011. Prolonging the time it takes to resolve these civil disputes increases the cost and uncertainty of litigation and hinders our community's efforts at economic recovery.

As mentioned above, the budget situation resulted in the Judiciary reducing funding for POS contracts; actual POS contract expenditures decreased by almost \$2.8 million (23%) between FY 2009 and FY 2011. These types of contracts involve the purchase of assessment and/or treatment services for substance abuse, child sex abuse, and mental health, as well as domestic violence (DV) emergency shelter services, juvenile client and family services, victim impact classes, individual/group counseling, and more. Portions of some of these programs/services were eliminated while others were significantly reduced. Cuts severely impacted treatment courts and resulted in fewer services being available and fewer clients served, and longer waits to access services resulting in less adherence to program goals and a slow-down in admittance. For example, between FY 2009 and FY 2011, expenditures for DV with Domestic Violence Action Center on Oahu decreased by 30% and with Child and Family Services on the Big Island by 40%; for substance abuse treatment for adults with Aloha House on Maui by 63% and for juveniles with Maui Youth and Family Services by 49%; for residential and shelter treatment services with Salvation Army on the Big island by 44%; and for juvenile client and family services with Parents and Children Together on Oahu by 30%. If further



budget reductions or other conditions cause the Judiciary to have to make further cuts in its POS contracts, many of which serve its specialty courts, the long-term effect to the State could be significantly increased costs to the prison, welfare, law enforcement, social services systems, and judicial communities.

While all the factors mentioned above certainly have affected the breadth, extent, and timeliness of services provided by the Judiciary, we recognize that all State agencies and programs have been similarly impacted as a result of the fiscal constraints imposed by the continuing economic and budget deficit concerns. Considering all these matters, we feel that our general fund budget request of slightly more than \$134.5 million, or just \$1.9 million more than our current budget base and still significantly less than our FY 2009 budget base of \$150 million, is both reasonable and prudent. But, at the same time, we remain extremely concerned about the significant impact that the current economic environment has and will have on our citizens' access to justice. We believe that our focus on maintaining the Judiciary's existing infrastructure and continuing certain essential services jeopardized due to recent budget cuts indicates our intent to address and balance these concerns.

In addition to our general fund supplemental budget request, the Judiciary has one special fund supplemental budget request. Specifically, an increase of \$1.35 million in the Indigent Legal Assistance Fund (ILAF) expenditure ceiling to \$1.9 million is being requested to accommodate the significant increase in revenues expected due to Act 180, SLH 2011. Provisions in Act 180 more than doubled the ILAF surcharge rates and greatly expanded the types of filings to which the ILAF surcharge rates would be assessed. Funds in the ILAF are used to provide indigent residents with access to civil legal services.

With regard to Capital Improvement Program (CIP) requirements, the Judiciary is very mindful of the Governor's and the legislative leadership's emphasis on funding CIP projects and their desire to use such projects to "prime the pump" and stimulate the economy. The Judiciary believes that its projects fall right into this mode, as well as address concerns with its facilities and components that continue to age and deteriorate. Specifically, the Judiciary is requesting funds to design and construct a replacement for the domestic water booster and fire pump system at Kauikeaouli Hale (the District Court Building) to ensure that the pump works and that water is available above the fourth floor. A second request is for funds for Ali'iōlani Hale, the historic Supreme Court building, to repair and refinish its exterior walls, repair and/or replace exterior windows and doors, recoat part of the roof surface, and perform other remedial repairs and work as defined in a report prepared by Mason Architects, Inc. in October 2010. Four other projects relate to various air conditioning and air handling improvement projects at two Judiciary buildings – one on Oahu and one on Maui. Lastly, CIP funds are being requested for an Environmental Assessment for a new and expanded status offender and juvenile services center



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at the Home Maluhia site on Alder Street on Oahu. This facility is vital to ensuring the continuum of services necessary to provide for Hawaii's juveniles exhibiting behaviors that could potentially lead to more serious problems with the law as they grow older and become adults.

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. 1800 which includes the Judiciary's supplemental budget request.

Thank you for the opportunity to testify on this measure.



TO: Chair Keith-Agaran
Vice Chair Rhoads
Members of the Committee on Judiciary

FR: Nanci Kreidman, M.A.
Chief Executive Officer

RE: H.B. 1800

Good afternoon. We thought it important to offer for consideration budget information related to the Domestic Violence Action Center (DVAC). The Domestic Violence Action Center provides specialized, unduplicated services to victims of domestic violence. The agency is the only one of its kind, exclusively dedicated to domestic violence, with the needs of victims in sharp focus.

This fiscal year (FY 2012), DVAC is thriving with Rainy Day Funds (\$390,000), appropriated to offset the enormous budget cuts the agency sustained in 2009. The loss of these funds are imminent – June 30, 2011, and catapults the agency and its services into a spin. The original loss of funding, \$570,000 was devastating.

More staff will be laid off and additional services will be eliminated.

At fiscal year end 2011, DVAC had 11,155 callers on its Helpline, with victims on our caseload and the community. We received 399 requests for legal representation, opened legal 215 cases, with attorneys making 366 appearances in court. Advocates opened an additional 189 cases, and staff completed 4,500 safety plans, as well as 3,514 risk assessments. At the half year point for FY 2012, domestic violence shows no signs of abating. Staff has had 2,635 contacts with agency clients, answered 741 Helpline calls, accepted 74 complex and potentially lethal cases, and closed an additional 61 cases.

It is our greatest hope for the community, that these unique program services can be maintained with an appropriation to the Judiciary for contracting with the Domestic Violence Action Center.

Thank you for allowing this comment and giving consideration to the importance of preserving these key services, bringing peace to island families.



HAWAII STATE BAR ASSOCIATION

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**TESTIMONY OF THE FAMILY LAW SECTION, HAWAII STATE
BAR ASSOCIATION, IN OPPOSITION TO HB 1800, RELATING
TO APPROPRIATIONS TO THE JUDICIARY**

Committee on Judiciary

**Representative Gilbert S. C. Keith-Agaran, Chair
Representative Karl Rhodes, Vice Chair
Conference Room 325, State Capitol
February 10, 2012, 2:00 p.m.**

Good morning Representatives:

My name is Steven L. Hartley and I am the current Chair of the Family Law Section of the Hawaii State Bar Association. I submit this written testimony on behalf of the Family Law Section.

The FLS is comprised of over one hundred attorneys who practice law in the Family Court. The majority of us handle all types of family law matters, including divorce, paternity, domestic violence and guardianship cases. As a Section, our testimony represents the views of our members.

The FLS submits this testimony in support of House Bill 1800 relating to supplemental appropriations for the Judiciary. Recent funding cuts and furloughs in the Family Court have resulted in a significant reduction in accessibility to programs and services such as the Kids First program and family services and counseling that are critical to the Family Court's handling of cases. The domino effect of the reduction of available services has contributed to a noticeable increase in time necessary to complete family court litigation, including divorce, TRO and CPS cases, due to the necessary requirements provided by these programs and services.

We understand that in these tough economic times all areas receiving state funding must make hard choices. However, we are concerned that further reductions may have a significant negative impact on access to justice for the people of Hawaii especially in the basic services the Family Court provides. As such, we support this supplemental appropriations bill and believe it will help remedy some of the financial

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burdens weighing on the Hawaii courts and the services that support them.

For these reasons, we support HB 1800.

Thank you for allowing us to submit our testimony.