



*The Judiciary, State of Hawaii*

**Testimony to the House Committee on Human Services**

The Honorable John M. Mizuno, Chair

The Honorable Jo Jordan, Vice Chair

Monday, January 30, 2012 at 8:30 a.m.

State Capitol, Conference Room 329

by

R. Mark Browning

Deputy Chief Judge/Senior Judge

Family Court of the First Circuit

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**Bill No. and Title:** House Bill No. 2351, Relating to Appropriations to the Judiciary

**Purpose:** Makes a grant-in-aid to the Judiciary for the hiring of 2 judges and necessary staff in the Family Court of the 1<sup>st</sup> Judicial Circuit to conduct jury trials for misdemeanor domestic violence and domestic violence-related cases.

**Judiciary's Position:**

The Judiciary has the following comments regarding this bill.

While we support the funding of two District Family Court judge positions along with their support staff, we are unable to unconditionally support this bill. We have grave concerns regarding this bill that appears to be a part of the bills offered by the Office of the Honolulu Prosecutor and that appears to be designed to deal with the current "backlog" in cases of domestic violence offenses.

(1) The Judiciary, through Family Court, already has 3 courtrooms dedicated solely to domestic violence offenses arising out of HRS Section 709-906 and Chapter 586, two of them are Circuit Courts handling the jury trials and one is a Family District Court handling the arraignments and jury waived trials. This arrangement has been in place for over 15 years. During those 15 years, due to the hard work and dedication of these judges and their staff, no serious backlog problem has arisen despite the high volume of these cases until recently.



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(2) While the Family Court of the First Circuit does indeed need at least two additional judges, this bill is simply not practical. It appears to request a “grant in aid.” Such funding generally covers just one year. Circuit Court judges are appointed to 10-year terms; District Court judges are appointed to six-year terms. If the Legislature is favorably inclined to grant this funding, the Judiciary will need much more than just a one-year commitment of monies.

(3) Even though there is great need for additional judges in Family Court (one would be assigned to hear divorce cases and another is sorely needed to assist with domestic violence protective order cases as well as paternity cases), such a need is for District Family judges and not Circuit judges. During the 2007 Legislative Session, the Legislature provided the Judiciary with two District Family Court judge positions and six support staff positions. However, no funding was requested nor received for these positions at that time. Since then, the Judiciary has not sought funding for these positions because of the state’s unsettled economic and budget deficit situation, and because of the need to be fiscally responsible. The Legislature has responded positively in the past to the Judiciary’s frugal requests for large capital improvements and funding of judicial positions because we have made very hard choices in what we request. In better economic times, the Judiciary would be able request funding for more priorities. But, in these uncertain times, the Judiciary has strictly ordered its priorities and has been very circumspect in our requests.

(4) This bill impinges on the doctrine of separation of powers on two levels. The obvious problem is that an executive body is requesting additional judges for the Judiciary. Another, perhaps less obvious, problem is that this is a city executive entity (and not the Mayor’s office) making a request regarding state level general jurisdiction judges.

(5) By directing that the new judges be assigned to a specific calendar, this bill would restrict the judiciary's flexibility to meet changing conditions in the future.

(6) Because we are truly in need for two additional District Family Court judges for the cases described above, we do respectfully support the request in this bill for two additional Family Court judges. We note, however, that any appropriations for judges and their staff must be in addition to the Judiciary’s current budget requests. If the Legislature is inclined to move forward with funding additional judgeships at this time, we would respectfully request that the bill be amended to read as follows:

**SECTION 1.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$        or so much thereof as may be necessary to fund two judge and six support staff positions in the Family Court of the First Circuit.



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SECTION 2. The sum appropriated in section 1 shall be expended by the Judiciary for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2012.

Thank you for your consideration of our request.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
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THE HONORABLE JO JORDAN, VICE CHAIR  
HOUSE HUMAN SERVICES COMMITTEE  
Twenty-sixth State Legislature  
Regular Session of 2012  
State of Hawai'i

Monday, January 30, 2012

RE: H.B. 2351; RELATING TO APPROPRIATIONS TO JUDICIARY.

Chair Mizuno, Vice Chair Jordan, and members of the House Committee on Human Services, the Department of the Prosecuting Attorney, City and County of Honolulu submits the following testimony in support of H.B. 2351.

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii, funds for fiscal year 2012-2013, to the Judiciary for the hiring of two judges and necessary staff in the family court of the First Judicial Circuit, to conduct jury trials for misdemeanor domestic violence and domestic violence-related cases. This bill would help alleviate the amount of domestic violence cases being dismissed by the courts due to congestion. Currently, there are only two judges presiding over jury trials involving abuse of a family or household member.

For the following reasons, we strongly support the passage of H.B. 2351. Thank you for this opportunity to testify.

TO: Representative Mizuno, Chair  
Representative Jordan, Vice Chair  
Human Services Committee Members

FROM: Dara Carlin, M.A.  
Domestic Violence Survivor Advocate  
881 Akiu Place  
Kailua, HI 96734

DATE: January 30, 2012

RE: **Support** for HB2351, Appropriations to The Judiciary

Good Morning Representatives and thank you for this opportunity to provide testimony on this measure.

This measure piggybacks HB1919 that seeks to establish a domestic violence court pilot program. If we're able to get HB1919 going, we're going to need HB2351 so I hope you'll be willing to support both proposals.

Respectfully,

Dara Carlin, M.A.  
Domestic Violence Survivor Advocate