

SB2949
TESTIMONY



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Judiciary and Labor

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Tuesday, February 14, 2012, 9:30 a.m.
State Capitol, Conference Room 016

by
R. Mark Browning
Deputy Chief Judge/Senior Judge
Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 2949, 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 1st 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 the following grave concerns:

(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.

(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 to 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) 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.

(5) 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.

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 the opportunity to testify on this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-6552

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE CLAYTON HEE, CHAIR
SENATE JUDICIARY AND LABOR COMMITTEE
Twenty-sixth State Legislature
Regular Session of 2012
State of Hawai`i

Tuesday, February 14, 2012

RE: S.B. 2949; RELATING TO APPROPRIATIONS TO JUDICIARY.

Chair Hee, Vice Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney, City and County of Honolulu submits the following testimony in support of S.B. 2949.

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.

Under Rule 48 of the Hawaii Rules of Penal Procedure, our deputy prosecuting attorneys have to take their cases to trial by six months or face dismissal by the courts. Since every month we have a high volume of about two-hundred misdemeanor domestic violence and domestic violence-related cases before only two courts, a number of our cases are at risk of getting dismissed due to court congestion, which is not considered an "exceptional circumstance" by the courts where time can be excluded from the requirement that a case begins trial by six months.

For the following reasons, we strongly support the passage of S.B. 2949. Thank you for this opportunity to testify.