



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Judiciary and Labor

The Honorable Clayton Hee, Chair

The Honorable Maile S.L. Shimabukuro, Vice Chair

Tuesday, March 19, 2013, 10:05 a.m.
State Capitol, Conference Room 016

By

W. Tom Mick

Policy and Planning Department Head

Bill No. and Title: House Bill No. 197, H.D. 2, Relating to the Judiciary

Purpose: To provide biennium operating and capital improvement appropriations for FYs 2014 and 2015.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No.197, H.D. 2, which reflects the Judiciary's resource requirements for FYs 2014 and 2015.

The Judiciary is aware of the fact that the economy and economic outlook for Hawai'i have improved and are on a significant upswing from the devastating effects of the prior three years. But we are also very cognizant of concerns related to the Federal budget (i.e., fiscal cliff, sequestration, and Senator Inouye's passing) and their potential impact on Hawaii's economy; the State's unfunded pension and other post-employment benefit liabilities; and the need for and potential costs associated with the State Information Technology initiatives and the recapitalization of the Emergency Budget and Reserve and Hurricane Relief Funds. We are also quite mindful of the many competing demands for the limited resources available, and that other State departments and agencies have important needs and desires as well. Therefore, we tried to be quite prudent with our biennium budget request and focus on those items required by law or where we felt that there was a pressing, demonstrated need to better serve the public, our employees, and our clients. To that end, the Judiciary has requested 40 new permanent positions, of which 20 are no-cost conversions, and additional funding of \$10.8 million and \$11.5 million in FYs 2014 and 2015, respectively.



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The Judiciary is extremely grateful for the House Finance Committee's approval of our biennium budget requests of \$8.6 million to restore employee salaries to the levels prior to the five percent pay cut experienced by all Judiciary employees in FYs 2012 and 2013, and to restore judges' salaries to the legislatively mandated pay levels set by the 2007 Commission on Salaries. We are also pleased with the positions and funding provided for the neighbor island branches of the Children's Justice Center and for First Circuit's juvenile weekend program, for the more than \$700,000 in POS restoration funding for the First and Third Circuits, for the funding of a temporary account clerk position in the Courts of Appeal and a temporary social worker position for Project HOPE (Hawaii's Opportunity Probation with Enforcement), for monies to cover increased utility costs and ten replacement stenograph machines in the First Circuit, and for the \$1 million increase to the ceiling of the Indigent Legal Assistance Special Fund.

However, the Judiciary is very concerned that few of the new permanent positions and other specific requests were funded, and that nine vacant positions were deleted. Specifically, none of the 20 no-cost conversions of budgeted temporary to budgeted permanent positions were approved - seven for Hawai'i Girls Court, two for Mental Health Court, seven for Project HOPE, one for the Third Circuit Traffic Violations Bureau, and three law clerk positions for the Legal Research and Adoption Records Unit for the First Circuit Family Court. The lack of permanency in the positions creates program instability, inefficiencies, and added costs since there is continual personnel turnover as people in these temporary positions seek and leave for permanent positions elsewhere. Further, the length of time it takes from someone leaving to a person being hired and fully trained to fill that position results in less clients being able to be served, a condition that occurs more often than not as a result of the turnover associated with temporary positions.

Twelve of the other 20 new positions requested were not funded – two clerks for the Ho'okele program in First Circuit; three Social Service Assistants on Maui – two for the Community Service Sentencing Program (CSSP) and one to establish a randomized urinalysis program for high risk offenders; two bailiffs in the Third Circuit; one Judicial Clerk in the Fifth Circuit; and a Capital Improvement Program (CIP) Specialist, a Judicial Education Specialist, an Office of Public Guardian (OPG) supervisor, and an Information Technology (IT) Specialist in Administration. Not funding the two clerks for the Ho'okele program will result in clients at these service centers having to wait longer to be helped and get their requests answered. This is a matter of concern as more and more people become self-litigants. Further, when court users are unable to obtain timely assistance and turn in improper or incomplete documentation, it can cause denial of requests or delays in judges hearing or reviewing cases and make the whole court experience less accessible and more stressful. The lack of funding for the two CSSP positions on Maui results in the Second Circuit not being able to fully implement this program as it will only be able to accommodate about one-half of expected referrals. Thus, judges will be left without



an important and effective sentencing option that decreases the use of incarceration, provides an opportunity for non-violent offenders to perhaps avoid prison in the future, and results in significant savings to the criminal justice system. The lack of a position to establish a randomized urinalysis program on Maui means that high risk offenders will continue to be tested in a more scheduled manner which, in turn, may allow them to “game the system”. Without providing additional bailiff positions for the Third Circuit, Hilo or Kona bailiffs will continue to have to travel to the Kohala courthouse (about a one hour trip each way) whenever court is in session, which further exacerbates the situation in Hilo where an additional bailiff is already needed just to support court operations. Bailiffs are important for case processing and in helping to maintain decorum and security in court, which is even more important in Kohala where sheriff staffing is sometimes short. Workload and responsibilities for the three Judicial Clerks on Kauai have continued to increase over the years so the absence of funding for an additional clerk means that the current three clerks will continue to be overworked and that it is unlikely that the three to four week backlog in processing cases will be decreased by any significant degree in the near term.

In Administration, no additional CIP Specialist means that there will be only two people in the CIP Office to help initiate, manage, monitor, and coordinate two new courthouse projects as well as more than 20 other CIP and repair and maintenance projects, monitor leases, assist programs with space planning, and be available for any other facility related matters/discussions/analysis/etc. Without an additional Education Specialist, training for Judiciary employees and judges, an important area in the Judiciary’s 20/20 Strategic Vision Plan, may not be able to be expanded to the extent needed. Not funding the OPG Supervisor will result in the current Director having to continue to supervise the eight Oahu personnel, as well as the neighbor island guardians, and handle all administrative and management responsibilities for the office as well. The lack of an additional IT position means that there will be delays in handling IT related problems and in keeping up with and applying IT type knowledge to various applications such as internet/intranet, cloud, mainframe work, and system support.

Other specific requests not funded by House Bill 197, H.D. 2 related to leasing space in Kapolei for 81 employees in the Juvenile Client Services Branch of the Family Court to move from Honolulu, six replacement x-ray security machines for First Circuit rural courts and an electronic scheduling system for the Detention Home, and additional training funds. The lack of funding to lease space in Kapolei means that First Circuit will not be able to: (1) improve communication and coordination among Family Court divisions since they will still be separated and not be in geographical proximity of each other as hoped, (2) eliminate the unproductive/lost travel time between Honolulu and Kapolei, (3) have workers be more productive and efficient and spend more quality time with juveniles and their families, (4) reduce travel stress and fatigue and thereby improve morale and performance, and (5) free up second floor space in Ka’ahumanu Hale (the Circuit Court Building in Honolulu) for additional courtrooms and related offices.



Without new x-ray security machines, the security of the public, employees, and clients could be compromised to the extent these machines malfunction or break down and cannot be repaired timely due to lack of or obsolete replacement parts. No electronic scheduling system means that the Detention Home will have to continue to operate with its inefficient, error-prone, and time-consuming manual system. Not receiving additional training funds means that the Judiciary will not be able to expand training for its employees and judges to the extent desired by the Chief Justice and hoped for by Judiciary employees who, overall, have indicated that lack of training is one of their major concerns.

Nine vacant positions costing more than \$430K were eliminated by House Bill 197, H.D. 2 – four permanent and two temporary in First Circuit and three permanent in Administration. These nine positions were those shown as being vacant for more than one year on a November 30, 2012 vacancy listing provided the Senate Ways and Means and House Finance Committees with our written testimony in late December 2012. However, **four of these positions (#14896, #59529, #57119, and #57144) have been filled and if not restored, would cause the Judiciary to have to take action to remove the individuals filling the positions from employment**; one other (#59432 for a Law Clerk for the Chief Judge of the First Circuit) was filled subsequent to the November 30 listing but again became vacant on February 7, 2013 with an estimated fill date of March 31, 2013; one (#59484, a social worker for Drug Court) is pending selection (that is, a candidate list has been referred to the hiring program, interviews and reference checks are being conducted, and an applicant may have been selected but not yet notified); and two (#58219, a Court Operations Specialist in First Circuit's Chief Court Administrator's Office and #58932, a newly established Research Statistician) were the subject of reorganizations that were not finalized between the Judiciary and HGEA until February 13, 2013 and January 17, 2013, respectively. Position #500191, a Social Worker IV temporary position at Girls Court, had been frozen due to budget constraints and was just recently reopened for recruitment with an expected fill date of April 30, 2013.

Relative to the CIP budget included in House Bill 197, H.D. 2, the Judiciary is very appreciative of the funding provided for an environmental analysis at Alder Street and for two important safety projects at Hoapili Hale (the main court building on Maui). However, we are extremely concerned over the lack of funding for three other important projects – construction of new Judiciary Complex in Kona, design and construction of a new District Court facility in Wahiawa, and renovation work at Ka'ahumanu Hale (the Circuit Court building on O'ahu). In Kona, there is an urgent need for a new courthouse since we are currently holding court in three different locations, in buildings that were not designed for that purpose, and that are accordingly difficult to secure. The Legislature has already funded and we have completed a detailed environmental study, selected a site on state-owned land, and are proceeding with design work. Without the construction funding needed to continue moving the process forward, efforts and funding to provide a new Judiciary Complex in Kona will have been wasted and the citizens in



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Kona will be deprived from having a secure, efficient, and modern court facility. With regard to Wahiawa, we have received some initial planning money, but without the additional design and construction funding requested, we will not be able to continue forward with this project, and we will have to continue leasing space in a former retail building unsuited for court operations usage. Lastly, the lack of funding for renovations of the second floor of Ka'ahumanu Hale means that the Judiciary cannot begin the design process to create a minimum of four courtroom "sets" (that is, courtrooms, chambers, and office space) for four circuit judges that would move from Kauikeaouli Hale (the District Court building in Honolulu) and cannot achieve its long-term goal of having all of First Circuit's circuit court divisions in one location.

There is one last item of concern for the Judiciary. House Bill 197, H.D. 2 did not approve the budget base transfer of \$150,000 to Courts of Appeal in varying amounts from each of the other Judiciary programs to cover continuing shortages over the past few years in the Courts of Appeal appropriation. Courts of Appeal did not have this funding problem four to five years ago because there were always vacancies to cover any shortages in payroll, but there have been few if any vacancies in the last few years so there are no extra funds to help cover shortages. As it is, the payroll percentage of the Courts of Appeal total allocation of more than \$5 million is 96%, leaving only about \$200,000 to cover all its other expenses. For the last few years, we have had to transfer funds from other programs to cover the shortage in Courts of Appeal so we thought it would be a better and more efficient management of money and programs to transfer these funds up front in the budget base.

The proposed biennium budget request 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 197, H.D. 2, which includes the Judiciary's biennium budget request, and that you strongly consider reinstating the 20 no-cost conversions of budgeted temporary to budgeted permanent positions, restoring positions and funding for our other biennium budget requests that were not funded, restoring the nine "vacant" positions and related funding that were eliminated from our budget base, and approving the transfer of \$150,000 to Courts of Appeal from other Judiciary programs. The Judiciary also respectfully requests restoration of CIP funding of \$90 million for the Kona Judiciary Complex, \$37.7 million for the Wahiawa District Court facility, and \$1.8 million for renovation work at Ka'ahumanu Hale.

I hope that the information provided today will assist your committee in its deliberations relating to this bill. Thank you for your consideration and the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

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TESTIMONY ON HOUSE BILL 197, HD2
RELATING TO THE JUDICIARY

by

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Tuesday, March 19, 2013; 10:05 AM
State Capitol, Conference Room 016

Good afternoon Chair Hee, Vice Chair Shimabukuro, and Members of the Senate Committee on Judiciary and Labor.

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify before you today. The Commission strongly supports the Judiciary Appropriations Act of 2013.

The Commission was established by the Legislature to mitigate the physical, emotional and financial impact suffered by victims of violent crime. The Commission disburses funds to pay un-reimbursed expenses for crime-related losses experienced by victims who suffer physical or emotional injury, or death, as the result of a violent crime. Many violent crime victims and surviving family members could not afford the medical, rehabilitative or mental health treatment they need to recover from the crime, or the cost of a funeral to bury a loved one, if crime victim compensation was not available. The Commission also administers the restitution collection and disbursement for the Justice Reinvestment Initiative (Act 139, 2012) which collects restitution from inmates and parolees, and disburses those funds to crime victims.

The Commission supports HB 197, which includes a request to restore funding appropriated to the Judiciary for domestic violence intervention services in the state. These services, which include counseling, crisis line intervention, provision of support groups and other forms of intervention for children and families, are critical in restoring balance and wholeness to victims in the aftermath of violent crime. In recent years, funding reductions have burdened the State of Hawai'i's existing domestic violence service providers, leaving victims of crime vulnerable and, in some cases, without timely access to critical services. Restoring these services through the Judiciary Appropriation Act of 2013 will do much to mitigate the impact of crime on its victims. Therefore, we urge the Committee to support the passage of HB 197, HD2.

Thank you for providing the Commission with the opportunity to testify in support of House Bill 197, HD2.

William P. Kenoi
Mayor



Walter K.M. Lau
Managing Director

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Deputy Managing Director

County of Hawai'i Office of the Mayor

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March 19, 2013

The Honorable Clayton Hee, Chair,
And Members of the Senate Committee on
Judiciary and Labor
Hawai'i State Capitol, Room 016
415 South Beretania Street
Honolulu, Hawai'i 96813

Re: House Bill 197, HD 2 RELATING TO THE JUDICIARY

Aloha, Chair Hee and Committee Members:

Thank you for this opportunity to express our strong support for an appropriation of \$90 million for design and construction of the proposed Kona Judiciary Complex. Chief Justice Mark Recktenwald has made this project a top priority this year, and we believe this courthouse is needed to better serve the residents of West Hawai'i.

West Hawaii residents have never had a single, centralized courthouse. Currently the District Courtroom and Circuit Courtroom are in the Old Kona Hospital in the Keakealani Building, while Judge Ronald Ibarra's courtroom is in the former Al's Farm & Garden location on Halekii Street in Kealakekua. Family Court facilities to serve the area are located in the Lender's Document Service Building in Kailua-Kona.

The proposed Kona Judiciary Complex is planned for the corner of Ane Keohokalole Highway and Kealakehe Parkway across the street from the West Hawai'i Civic Center, which opened in 2011. This central location in a rapidly growing area of North Kona will provide for more efficient and convenient operations to improve service to the public.

Mahalo for your consideration.

Aloha,

William P. Kenoi
MAYOR

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OFFICE OF THE PROSECUTING ATTORNEY

March 18, 2013

**TESTIMONY IN SUPPORT OF HB 197
RELATING TO KONA JUDICIARY COMPLEX FUNDING**

COMMITTEE ON JUDICIARY AND LABOR

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

Honorable Chairman and Members:

The Office of the Prosecuting Attorney for the county of Hawaii supports HB 197 and in particular funding of the proposed Kona Judiciary Complex.

Our deputy prosecutors serve at the various Kona Courthouses everyday and have seen first hand the problems in the current facilities. Although the judiciary has made improvements and do their best under the circumstances, we are deeply concerned about safety for staff, parties, jurors and witnesses. Since 2008, the Kona courts hear cases from North Kohala, South Kohala, Kona and Ka'u districts. As caseloads increase, the concerns stated below will become more pressing. We sincerely appreciate Chief Justice Recktenwald for his support for the building of the Kona Judiciary Complex.

Keakealani Building located at the old Kona hospital is the main courthouse, which houses both a circuit and district court as well as clerks offices and judiciary administration staff. It has numerous steps, which our deputies must use to enter the building, often laden with files and other equipment. Parking is scarce and efforts to obtain a dedicated stall for prosecutor and public defender were unsuccessful because of existing DAGS rules. We had one deputy fall and fracture her rib while walking with her trial box to her car, which had to be parked in the grass because there was no other parking space. She was in the midst of a felony jury trial and had to continue to work in pain.

Prisoners coming from or going to the cellblock must climb steep concrete steps in the back of the building, which is wet if it rains. We have had at least one prisoner fall with shackles, and another escape from this location. The cellblock itself is woefully inadequate. Its small space must sometimes house newly arrested defendants as well as inmates transported from the community correctional facility. There is no place for attorneys to talk to their clients or for guards to wait. ACOs set up an outdoor table under the judge's overpass to watch the cellblock door.

There are three separate locations for Kona courthouses. In all locations, quarters are very close; resulting in jurors, parties, witnesses and families forced to intermingle in the hallways, limited waiting spaces and restrooms. During criminal proceedings, it is common for family and friends of a victim and the defendant to want to come to the courthouse and observe the proceedings. Emotions can run high and people may be distressed and desperate. Our deputies have observed jurors to appear intimidated because everyday when they arrive and leave, and at every break, these jurors must walk by supporters and family of the defendant on trial. Trials have had to halt because jurors may have inadvertently heard something improper. Deputies have been threatened by family members upset that a defendant is found guilty. The close quarters don't provide the space needed to prevent, diffuse or react to intimidation or violence. This is not safe, and a serious incident is just a matter of time.

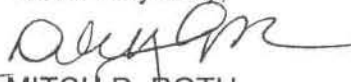
Preliminary hearings and trials in the Family Court at the Lender's Documents Building are held in a room where victims must testify within six feet of the defendant, separated only by counsel table. This Family Court also hears juvenile matters, domestic violence restraining orders, divorces, and child welfare cases. These types of cases can be highly charged. The deputy sheriffs do their best to be present and prevent incidents but they cannot be everywhere and incidents nevertheless have occurred.

The fact that the courtrooms are located in three separate buildings have led to confusion with people going to the wrong location to conduct their business. Defendants who go to the wrong courthouse may be issued a bench warrant; attorneys and parties risk being sanctioned. A witness who appears in the wrong courthouse may result in a case being dismissed. The Kona community has only limited public transportation. A person with transportation issues cannot readily appear at the correct courtroom if he or she misunderstood their summons or subpoena.

The adult probation department is currently on the second floor of the Lenders Document Building, which does not have an elevator. Disabled defendants have to meet their probation officers in an alternate location. This is not acceptable.

The Kona community deserves a complex where all judiciary business is conducted in one location in a safe environment, and where lessons learned from other complexes built throughout the state may be applied. We urge this Legislature to enact H.B. 197 and support the Kona Judiciary Complex.

Yours very truly,


MITCH D. ROTH
Prosecuting Attorney



TESTIMONY
Senate Judiciary and Labor Committee
House Bill 197 Relating to the Judiciary
Hearing: March 19, 2013

TO: Chair Clayton Hee
and Members of the Senate Judiciary and Labor Committee

FROM: Craig P. Wagnild
President, Hawaii State Bar Association

RE: HB 197 Relating to the Judiciary (Budget)

Chair Hee and Members of the Senate Judiciary and Labor Committee, as the President of Hawaii State Bar Association, I am submitting the following testimony **IN SUPPORT** of three provisions of **HB 197** the biennium budget proposal for the Hawaii State Judiciary submitted for the Legislature’s consideration by Chief Justice Mark Recktenwald. The items selected for support have one consistent objective: Access to Justice.

Capital Improvement Projects (CIP)

Integral to the goal of access to justice are clean, safe and conveniently located court facilities for the administering of justice. As with many other State agencies aging buildings with work areas filled to capacity with employees, files, and equipment designed to meet the needs of the public are in great need of renovation and/or expansion. And in some geographical areas of the State, new buildings are needed to accommodate population growth. The HSBA is in strong support of the proposed CIP projects listed on page 6 of HB197.

- Kona Judiciary Complex
- Wahiawa Court Facility
- Kaahumanu Hale (Maui)
- Status Offender Shelter & Juvenile Services Center
- Hoapili Hale Building (Maui)

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Testimony

House Bill 197 Relating to the Judiciary

Hearing: March 19, 2013

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Judicial Salaries

The retention and recruitment of qualified individuals for the State Bench is absolutely critical to our community's access to justice, especially for the criminal calendar and the constitutional right of a defendant to a "speedy trial". The Judges and Justices of Hawaii's Bench are dedicated individuals who serve in their courts and who are called upon for extra time and efforts in the community, scheduling speaking engagements in our schools and with community organizations, and serving on special judicial committees to interact with the Federal bench, the HSBA and other national legal organizations.

The salary adjustments for members of the State Bench included on page 3 of HB197 reflect increases proposed by the PRIOR Salary Commission. Judges and Justices like all other State employees took salary cuts and bear the burden of increased healthcare and other employee expenses. Salary adjustments will help retain qualified and experienced jurists, and more importantly, assist in the recruitment of the next generation of judges and justices.

Funds for Legal Service Providers

In prior legislative sessions the Legislature approved modest increases to certain court filings to fund needed programs administered by Hawaii's legal service providers that assist the indigent, handicapped, and groups of people who are not served or who are underserved. The funds are being collected with only a portion being released for needed legal services. The HSBA supports the Judiciary's efforts as reflected on page 3 (JUD601) to increase the ceiling for the release of additional collected funds for community purposes.

Conclusion

The HSBA appreciates your consideration of its support for these three critical items in HB197.



To: Chair Hee
Vice Chair Shimabukuro
Members of the Committee on Judiciary

Fr: Nanci Kreidman, M.A.

RE: HB 197, HD1

Aloha. Thank you for the opportunity to contribute to the important discussion about the Judiciary Budget for the upcoming Biennium.

The budget under consideration includes funds that represent a partial restoration of monies lost to domestic violence programs in general, and the Domestic Violence Action Center (DVAC), in particular. The support needed to begin to rebuild programs and access to specialized, unduplicated services to survivors cannot be overstated. The DVAC budget was cut \$610,000, by the Judiciary's own calculations. In FY 2009 ten staff was laid off, severely limiting the agency's ability to meet the steady demand for assistance. With a restoration of \$536,000 to Juvenile and Adult Client Services, the distribution of funds will not assist programs to re-build *sufficiently*.

In FY 2012, the DVAC Helpline responded to 2,688 inquiries, opened 289 complex and potentially lethal Family Court divorce, protection order, paternity and post decree cases and closed 243 cases; 563 requests for legal representation were received. The agency advocacy team opened an additional 200 cases and closed 183 cases. DVAC staff assisted with the completion of 5,004 safety plans and 3,369 risk assessments. The agency staff is on site at court, meets with survivors in the community, makes relevant referrals, accompanies clients to other community agencies and assists with stalking kits, Hopeline cell phones, educational scholarships and bus vouchers.

Making the transition from victim survivor remains poorly understood. The barriers to this successful safe escape are overwhelming and terrifying. Assistance along the way, and effective representation in Court is good for the community and good for the court. This informed, compassionate advocacy can be life changing for survivors, their families and the abuser.

As a legal service provider, DVAC would also like to weigh in on the Judiciary's request to lift the ceiling for ILAF funds. Act 180 increased the ILAF surcharge rates which raises



distributed to legal service providers. A previous request (in 2012) was made to the legislature, to raise the ceiling, to accommodate the increase in revenues collected; this request was not realized.. The Judiciary budget in front of you currently has a similar request to adjust the ceiling. We would advocate this adjustment to allow the revenues raised to be disbursed by the Judiciary.

Thank you for your willingness to give consideration to the important work of the Domestic Violence Action Center and the need for increased funds to meet the community need-both through a larger appropriation for POS dv services and the ILAF ceiling increase.

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March 17, 2013

TESTIMONY FROM: Robert J. LeClair, Executive Director, Hawaii Justice Foundation
(Note: Robert LeClair will not be testifying in person.)

TO: Senator Clayton Hee
Chair, Senate Committee on Judiciary and Labor
Members of the Senate Committee on Judiciary and Labor

HEARING DATE/TIME: Tuesday, March 19, 2013, 10:05 a.m.
Hawaii State Capitol, Conference Room 016

MEASURE NUMBER: TESTIMONY IN STRONG SUPPORT OF
HB 197, HD2 PORTION RELATING TO \$1,000,000 INCREASE
OF THE CEILING FOR INDIGENT LEGAL ASSISTANCE
FUND (ILAF) SPECIAL FUND

SUBMITTED BY E-MAIL: <http://www.capitol.hawaii.gov/submittestimony.aspx>

Dear Chair Hee and Members of the Senate Committee on Judiciary and Labor:

The Hawaii Justice Foundation (HJF) requests the Senate Committee on Judiciary and Labor to approve that portion of HB 197, HD2 relating the proposed increase of \$1,000,000 to the current ceiling of \$550,000 for the Indigent Legal Assistance Fund (ILAF). In 2011, Act 180 was passed, which amended HRS Section 607-5.7 to provide additional surcharge fees on various court filings in our Hawaii State Court system under the “Indigent Legal Assistance Fund” (“ILAF”) set forth in HRS Section 607-5.7. In order to effectuate Act 180, it is necessary to increase the ceiling amount for the ILAF fund so that all funds collected can be distributed to the eligible legal service providers.

The Judiciary, the Hawaii Access to Justice Commission, HJF, and all eight of the current ILAF grantees strongly unanimously support the raising of the ILAF ceiling so that all funds collected can be distributed. **As it now stands and if collections continue at their current rate, ILAF may have more than a \$900,000 balance in the fund by the end of FY 2013 that cannot be distributed to support indigent legal services due to the \$550,000 ceiling limitation. These funds will become inaccessible, go to waste, and serve no purpose at all, and the intended beneficiaries will not receive the legal assistance they require.**

HJF distributes funds from a variety of sources to help increase access to justice for Hawaii’s people. HJF does not provide direct client services, but HJF’s funding activities provide HJF with a unique perspective on the seriousness of the unmet civil legal needs in the Islands. For

several years, HJF has worked in cooperation with the Hawaii State Judiciary to manage the ILAF Program. ILAF has been operating smoothly, with excellent cooperation from the low-income legal service providers, the Hawaii State Judiciary, and the Hawaii Justice Foundation. **In 2011, Act 180 was passed to increase the amount of funding under the ILAF Program, and these additional funds are essential to help offset the decreases in funding sources experienced by each of the ILAF legal service providers.**

Act 180 was an acknowledgment of the serious need for legal services for those of low-income. We are all painfully aware of the current national and local economic conditions. Legal needs of people are higher than ever, due to these economic conditions. Low-income legal service providers have experienced cuts in governmental funding sources and reduced contributions from private donations, which makes it critical that the ceiling for ILAF be raised to enable all funds collected to be distributed to eligible ILAF grantee organizations.

The ILAF Program has procedural safeguards to ensure accuracy and accountability. All organizations receiving funds under ILAF are strictly monitored by the Hawaii Justice Foundation. Quarterly reports and a yearly summary report are required of each organization, and these are reviewed by the Hawaii Justice Foundation. The application process is quite extensive, with thorough documentation. The application includes an attestation clause, where the Executive Director of each organization attests to the truthfulness of the application. State Unemployment reporting forms are used for verification of employees, and individual signed statements are received from each person providing legal services that attest to the veracity of the percentage of time that the person spends in providing qualified direct legal services. The Hawaii Justice Foundation works with the Hawaii State Judiciary to determine the allocation formulas, and the potential grantees have an opportunity to contest any determinations made under the ILAF Program. For many years, the Program has operated smoothly and without complaints regarding accuracy or accountability from the Judiciary, the Hawaii Justice Foundation, or the grantees. The ILAF Program is an example of how mutual cooperation and competency can produce an effective process that works for the betterment of Hawaii's people.

ILAF is currently an extremely strong program, but there are improvements underway to make the Program even more effective. Act 180 requires that a major report be submitted in early 2014 to the Hawaii State Legislature on the effectiveness of the ILAF Program, and this report will contain complete details on the successes and challenges of ILAF. The contracts between the Judiciary and the eligible grantees for FY 2013-2014 will include additional provisions to strengthen requirements that each ILAF grantee demonstrate how the desired outcomes of ILAF are being met.

An additional benefit from increasing funding to the low-income legal service providers relates to increased efficiency in the courts by helping with providing legal advice and other needed services to the numerous *pro se* ("by self") litigants in Hawaii's various courts. District Courts and Family Courts have seen a virtual explosion of cases where people are unrepresented by counsel. The Hawaii State Judiciary has made valiant efforts to assist these litigants through information kiosks and other programs. However, people representing themselves face two fundamental difficulties. First, they are unfamiliar with court procedures

and forms. Second, litigants of any economic level are emotionally involved in their case, and this makes it very difficult to resolve the case without outside assistance. Increasing the ILAF ceiling will provide additional funds to our legal service providers, who in turn will be able to give greater information, advice, and sometimes direct representation to litigants. **This will assist our Courts in processing cases in a more efficient and effective manner.**

Your favorable approval of the requested \$1,000,000 increase in the ILAF ceiling is essential. Increase of the ILAF ceiling will be a major step toward efforts to achieve access to justice for all of Hawaii's people.

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March 19, 2013



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Aloha United Way

To: Chair Senator Clayton Hee
Vice Chair Senator Maile S.L. Shimabukuro
Members of the Senate Committee
on Judiciary and Labor

From: Howard S. Garval, MSW, President & CEO
Child & Family Service

Hearing Date and Time: March 19, 2013, 10:05 a.m.

Place: Conference Room 016

RE: HB197 - Relating to the Judiciary-SUPPORT

Good morning Chair Hee, Vice-Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor. I am Howard Garval, President & CEO of Child & Family Service, Hawaii's oldest and most comprehensive human services organization founded in 1899. Our mission is: **strengthening families and fostering the healthy development of children.** Our organization touches the lives of over 40,000 of Hawaii's residents each year serving keiki to kupuna on every island. We are the only organization that operates more than one domestic abuse shelter as we have two on Oahu and two on the Big Island. We also provide services for the Domestic Violence Advocacy program funded by DHS for women who receive a waiver from Jobs First due to domestic violence. **In terms of HB197, we also provide Judiciary-funded court ordered education and anger management intervention services for perpetrators and court advocacy for the victims and their children.**

Child & Family Service strongly supports HB197 which appropriates POS funds for the Judiciary for the fiscal biennium beginning July 1, 2013, and ending June 30, 2015. These funds would go towards providing domestic violence intervention services in the state. Domestic violence services fall under "Juvenile and Family Services," Section 2.3 - Domestic Violence Intervention Services; and support victim support groups, victim advocacy, legal assistance, legal representation, crisis and help lines, visitation centers, programs to support children who experience the trauma of domestic violence, and batterer intervention programs and services.

Judiciary funding for domestic violence services in fiscal year 2013 is 36% less than it was in FY2009, even with rainy day funds in FY11 and FY12. These rainy day funds ran out as of June 30, 2012, and we appreciate the First Circuit Court's efforts to restore some of the previous funding cuts. The impact of the funding reductions

Our Mission: Strengthening Families and Fostering the Healthy Development of Children

has hampered our program's ability to provide timely and responsive services and has had the following impact on programs that support domestic violence victims across the state:

- Reduced families visits from weekly to once or twice per month,
- Closed visitation centers on Leeward Oahu, which has resulted in increasing the waitlist for visitation services in other visitation sites,
- Decreased the number of hours the crisis line is open;
- Decreased the number of crisis walk-ins, forcing victim/survivors to have to return for services on another day;
- Decreased the number of groups available to victim/survivors;
- Delayed group intervention for non-English speaking offenders and victim/survivors, especially for those who speak Chuukese and/or Marshallese.
- Created waiting lists for offenders ordered domestic violence intervention services, and
- Eliminated programs such as parenting groups, programs for children who experience domestic violence, counseling for survivors, adult and teen offenders, and support to the families of the teens.

There continues to be great need for these services. On one day in 2012, 411 adults and children received non-residential assistance and services, including individual counseling, legal advocacy, and children's support groups in Hawaii. Unfortunately, on the very same day, there were 69 unmet requests for services in our state due to a critical shortage of funds and staff (National Network to End Domestic Violence Census 2012). These funding shortages have created greater and greater vulnerabilities in the network of services which survivors need for their safety, escape, and self-sufficiency.

Domestic violence victims and their families deserve access to community services that provide safety and offer the hope of recovery. Therefore we urge the Committee to pass HB197.

Mahalo for the opportunity to submit testimony.

With Aloha,

Howard S. Garval, MSW, President & CEO, Child & Family Service



LEGAL AID
SOCIETY OF HAWAII

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Calvin Pang, Esq.
President, Board of Directors

M. Nalani Fujimori Kaina, Esq.
Executive Director

**TESTIMONY IN SUPPORT OF
HB197 HD2 - RELATING TO THE JUDICIARY**

Committee on Judiciary - Room 016

Senator Clayton Hee, Chair
Senator Maile Shimabukuro, Vice-Chair

March 19, 2013 at 10:05 a.m.

The Legal Aid Society of Hawaii submits testimony in support of HB197 HD2 – Relating to the Judiciary. Specifically, we are advocating for an increase of the current ceiling of the Indigent Legal Assistance Fund (ILAF) to \$1.55 million to accommodate the increase in revenues expected due to Act 180, SLH 2011.

Act 180 SLH 2011 increased the ILAF surcharge rates and expanded the types of filings to which the ILAF surcharge rates would be assessed. The result of these increases, has helped to increase the amount of funding which is available to legal service providers across the state to provide civil legal services to those in need. These legal services vary, but most help to provide access to basic necessities and to resolve important issues like child custody, protection against violence, and relief from unfair treatment.

Currently, of the Legal Aid receives 20,000 calls each year, approximately 10,000 of callers qualify for assistance. While each caller is provided with basic information and legal advice on how to solve their problem, Legal Aid is only able to assign an attorney or paralegal to represent the client in 15.7% of all cases. With growing federal reductions (currently, we are expecting a decrease of almost \$300,000 from our major federal funding source the Legal Services Corporation due to sequestration cuts and expected census adjustments), increases from this fund will Legal Aid continue to maintain services and possibly increase the amount of services available to those in need.

We ask for your support in increasing this ceiling.

Thank you for this opportunity to provide testimony.

Sincerely,

M. Nalani Fujimori Kaina
Executive Director

The Legal Aid Society of Hawaii (Legal Aid) is the only legal service provider with offices on every island in the state, and in 2012 provided legal assistance to approximately 10,000 Hawai'i residents in the areas of consumer fraud, public assistance, family law, the prevention of homelessness, employment, protection from domestic violence, and immigration. Our mission is to achieve fairness and justice through legal advocacy, outreach and education for those in need.

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 18, 2013 7:19 AM
To: JDLTestimony
Cc: ciAlohaAdvocate@yahoo.com
Subject: Submitted testimony for HB197 on Mar 19, 2013 10:05AM

HB197

Submitted on: 3/18/2013

Testimony for JDL on Mar 19, 2013 10:05AM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Charlene Iboshi	Zonta Club of Hilo	Support	No

Comments: Dear Senate Committees on Judiciary and Labor: The Zonta Club of Hilo recognizes the importance of the Judiciary's role in delivering the best system for handling efficient and effective justice for offenders, victims and the public. To this end, we support the Judiciary's budget, including restoration of domestic violence program funding and the CIP for the West Hawaii Judiciary Complex. I have practiced in all courts in Hawaii County, and personally, recognize the need for the consolidation of the courts in an accessible location for our West Hawaii Community. The current facilities for the courts are outdated and unsafe for the the staff, practitioners and public. Although there are many deserving Capital Improvement Projects demanding fiscal support, the Judiciary's number one priority of the West Hawaii Judicial Complex should be supported. Public safety and confidence in the Justice System demands it. Mahalo for the opportunity to testify Charlene Iboshi

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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TESTIMONY
Senate Judiciary and Labor Committee
House Bill 197 Relating to the Judiciary
Hearing: March 19, 2013

TO: Chair Clayton Hee and members of the Senate Judiciary and Labor Committee

FROM: Carol Kitaoka
Kona Attorney

RE: HB 197 Relating to the Judiciary (Budget)
*KONA JUDICIARY COMPLEX

Chair Hee and Members of the Senate Judiciary and Labor Committee, I am an attorney residing in Kona who is employed by the Hawaii County Prosecutor's Office. I am offering these comments as a private citizen IN STRONG SUPPORT of the request for construction funds for a new Kona court complex which is listed on page 6 of this Bill.

The Kona community is in DIRE need of a court complex. Currently one Circuit Court courtroom and the Kona District Court are located in the old Kona Hospital Building along with the Department of Health in Kealahou. A second Circuit Court courtroom is approximately one mile away. The Kona Family Court is several miles away in Kailua-Kona.

As Deputy Prosecutors we practice in all courtrooms. The Circuit Court Deputies must drive between the Circuit Courts and parking is limited, in fact, scarce is a more accurate description. We park in dirt lots or on the grass. The public is faced with the same problems of finding the right Court and finding parking. In addition, access to the Courts at the old Kona Hospital is very difficult for the disabled. The courtrooms and the parking area are on different levels and there is NO elevator.

The most pressing concern from my perspective is the safety of the public, the Judiciary employees, and the attorneys who must appear in the courtrooms. The in-custody defendants must go through the open hallways to get to the courtrooms, victims and defendants and their families and supporters are waiting in the SAME area. During jury trials, the victims and the defendants' families and supporters must wait in the same area. This may be an intimidating experience for victims who are already under stress. In addition, jurors must wait in the SAME area as defendants' families and supporters if they leave the confines of the courtroom. Jurors have reported instances of intimidation.

In closing, the Kona community needs the long awaited and promised Kona Judiciary Complex. I am humbly requesting your favorable consideration for the full funding requested by Chief Justice Mark Recktenwald for the next phase of this CIP project. Thank you for your consideration.

**Testimony of
Gary M. Slovin & Mihoko E. Ito**

DATE: March 18, 2013

TO: Senator Clayton Hee
Chair, Senate Committee on Judiciary and Labor
Submitted Via Email JDTestimony@capitol.hawaii.gov

RE: **H.B. 197 H.D. 2 – Relating to the Judiciary**
Hearing Date: Tuesday, March 19, 2013 at 10:05 am
Conference Room 016

Dear Chair Hee and Members of the Committee on Judiciary and Labor:

We submit this testimony in **support** of the Judiciary's request to increase the budget ceiling for the Indigent Legal Assistance Fund (ILAF).

In 2011, the Legislature increased the ILAF filing fee surcharge in certain circuit court cases (Act 180 Session Laws of Hawaii 2011), intending to increase ILAF funding distributed to non-profit legal service provider organizations. The funds generated from the surcharge are vital to these legal service providers, who rely on the funds to provide much needed legal services to the indigent. Given the decline in funding from other sources to these organizations in recent years, the need for this source of funding continues to be urgent.

The increase in the ILAF budget ceiling is needed to effectuate the intent of the Legislature, and to preserve and provide funds to achieve justice for those who need it most. While the ceiling was not increased in last year's Judiciary budget, it will be critical to increase the ceiling this year, given the graduated increase in filing fees set forth by Act 180 and the continuing decline in funds from other sources that has placed the agencies in very difficult circumstances.

We support H.B. 197 H.D.2, which raises the budget ceiling for the ILAF to the full \$1 million as reflected in the Judiciary budget worksheets, and respectfully request your favorable consideration of this important issue.

Thank you for the opportunity to submit testimony on this measure.

Gary M. Slovin
Mihoko E. Ito
Tiffany N. Yajima
Nicole A. Velasco

1099 Alakea Street, Suite 1400
Honolulu, HI 96813

March 19, 2013

The Honorable Clayton Hee, Chair,
And Members of the Senate Committee on
Judiciary and Labor
Hawai'i State Capitol, Room 016
415 South Beretania Street
Honolulu, Hawai'i 96813

Re: House Bill 197, HD2 RELATING TO THE JUDICIARY

Aloha Senator Hee,

I'm writing to express **STRONG SUPPORT** for \$90 million for design and construction of the proposed Kona Judiciary Complex. Chief Justice Mark Recktenwald has made this project a top priority this year because this courthouse is desperately needed by West Hawai'i residents, who have never had a single, centralized courthouse.

Presently, Judiciary operations take place in more than three locations throughout Kona, located an excessive distance from each other. Many residents must travel upwards of 80 miles to appear. The sometimes insurmountable demand placed on their time and financial resources to comply with a summons creates a downward spiral from which it is difficult to escape, thus creating additional, needless expense for the entire system.

The proposed Kona Judiciary Complex is planned for a central location in a rapidly growing area of North Kona, across the street from the West Hawai'i Civic Center, which opened in 2011. Envisioned as a landmark for the area, it will allow better service to the public, better security for Judiciary staff, and a thriving addition to this highly desirable region of Hawaii.

Thank you kindly for your consideration.

Best regards,

Barbara Dalton
PO Box 1011
Captain Cook, HI 96704

hee2 - Kathleen

From: Masunaga, Margaret [mkmasunaga@co.hawaii.hi.us]
Sent: Monday, March 18, 2013 10:07 AM
To: JDL Testimony
Cc: Margaret Masunaga
Subject: *****SPAM***** from Margaret Masunaga of Capt. Cook, South Kona, Re: House Bill 197, HD2 relating to the Judiciary. Hearing 3/19/2013 @10:05 a.m.

Dear Chair Clayton Hee,
and Members of the Senate Committee on Judiciary and Labor
Hawaii State Capitol, Room 016
415 South Beretania St.
Honolulu, Hawaii 96813

Re: STRONG SUPPORT of Kona Judiciary Complex
House Bill 197, HD2 relating to the Judiciary

Dear Chair Hee and Committee Members:

I am submitting this written testimony in STRONG SUPPORT of full funding for the Chief Justice's number one priority of the Judiciary's Capitol Improvement Project, the KONA JUDICIARY COMPLEX.

West Hawaii has NO courthouse. We were passed over in the 1990's when the Kona Courthouse was taken off the list, in favor of constructing the second Hilo Courthouse.

I believe you are well aware of the deplorable current conditions of the Family Court, which is in the Lender's Document Services Building on Nalani Street in Kailua-Kona, HI. I appeared at this courthouse every week when I was employed as a Deputy Corporation Counsel and later as a Deputy Attorney General. I was a young lawyer back then, now I am almost 56 years old (a senior citizen according to AARP)!

I remember specific instances when there were "747" cockroaches on the walls and on the floors when I was trying to address Judge Nakamura, or Judge Cox, or Judge Auna. The first time I saw a centipede and millipede, I almost screamed. Safety is also a concern for me. I recall one defendant who refused to talk to the Judge, the attorneys, the court clerk during a hearing. I have been threatened by a defendant who came to my workplace.

Funding has already been approved by the legislature for the engineering and design of the proposed Kona Judiciary Complex in North Kona, in the planned growth area called a Transit Oriented Development (TOD) as supported by the Kona Community Development Plan. The Kona community, West Hawaii Bar Association, and Hawaii State Bar Association, thank the legislature for this funding.

It is so critical to continue to fund the building of the Kona Judiciary Complex. Please do not treat Kona residents as second-class citizens. We envision a beautiful centralized courthouse in West Hawaii we can be proud of. We believe the new courthouse will be a landmark in the area, rich in Hawaiian history, right along the Ane Keohokalole Highway, named after Analea Keohokalole.

Thank you for your consideration of my testimony.

Sincerely,

Margaret K. Masunaga
P. O. Box 345

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