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THE HONORABLE DAVID Y. IGE, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawai`i

March 28, 2014

RE: H.B. 1669, H.D. 2; RELATING TO FAMILY COURT.

Chair Ige, Vice-Chair Kidani and members of the Senate Committee on Ways and Means, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony regarding House Bill 1669, H.D. 2, **in support if such funds are provided to the Family Court's Criminal Division of the First Circuit, to conduct jury trials for misdemeanor domestic violence cases.**

In 2012, the Department included in its legislative package—and strongly advocated for the passage of—two companion bills (H.B. 2351 & S.B. 2949), which would have appropriated grant-in-aid funds to the Judiciary for the hiring of two judges and necessary staff in the Family Court of the First Circuit, to conduct jury trials for misdemeanor domestic violence cases. Given the backlog of domestic violence cases in our courts—then and now—our office is gravely concerned by the number of cases that end up getting dismissed simply because there are not enough Family Court judges to preside over the cases awaiting trial.

While our bills were not passed in 2012—and no additional judges were added to the misdemeanor domestic violence courts—additional funding was ultimately budgeted to the Judiciary that year, to fill some then-existing-but-vacant judge positions within Family Court. While the judge positions to be filled would not specifically hear misdemeanor domestic violence cases, the Judiciary maintained that filling these vacant positions would alleviate pressure on the entire Family Court system, thus allowing those judges who do hear domestic violence cases to focus more of their time on these cases.

Since 2012, the Department has seen no noticeable lessening of the backlog of domestic violence cases in Family Court, nor any noticeable decrease in the number of cases that get dismissed while awaiting trial. While the Department appreciates efforts to alleviate overall caseloads at Family Court, the Department feels that a certain level of importance should be

given to domestic violence cases, particularly because many domestic violence victims are willing to proceed with prosecution, but are then forced to appear at court time and time again for this purpose. On top of this hardship, the dismissal of these cases can cause significant setbacks in the victims' recovery and/or healing process.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu H.B. 1669, H.D. 2, respectfully asks that this appropriation be limited to hiring a judge and staff for misdemeanor domestic violence cases. Thank you for the opportunity to testify on this matter.



The Judiciary, State of Hawai'i

Testimony to the Senate Committee on Ways and Means

The Honorable David Y. Ige, Chair

The Honorable Michelle N. Kidani, Vice Chair

Friday, March 28, 2014, 9:25 a.m.
State Capitol, Conference Room 211

by

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

Bill No. and Title: House Bill No. 1669, House Draft 2, Relating to Family Court

Purpose: Provides funds to the judiciary for an additional full-time family court judge position and staff positions for the family court of the first judicial circuit. (HD2)

Judiciary's Position:

The Judiciary submits this testimony in strong support of this bill.

The Preamble of this bill captures well the urgency of the need to fund an additional family district court judge and supporting staff in the family court of the first judicial circuit. This urgency must be viewed as urgency on behalf of the community rather than just the judiciary. The judges and staff of the family court are accustomed to the need to work at, over and above capacity. They have worked not only by smoothly and efficiently processing and hearing cases with great determination. They also continue to seek ways to streamline the process for the public. The judges and staff will continue to do so no matter what the outcome of this bill. The passage of this bill would greatly assist the Family Court of the First Circuit in providing critical judicial services to the community.

This judicial position was created by the Legislature five years ago. We respectfully submit that it is time to fund that position.



The Preamble already enumerates the startling overall numbers faced by the family court. Here, we will provide a deeper glimpse into those numbers so there can be a greater understanding of the context for the numbers.

“[T]he four juvenile division judges handled over two thousand one hundred juvenile and child abuse cases.” This number alone cannot capture the enormity of the work faced by these judges and family court staff. The statistics from the 2013 Judiciary Annual Report are even greater than the numbers in the preamble. In 2013 alone, 1,221 child abuse and neglect cases were filed. In fiscal year 2012-2013, there were 8,386 juvenile law violation and status offense cases filed in the First Circuit alone. Divided amongst 4 judges, that is over 2,000 referrals per judge in one year. The overall total number of cases does not reflect the exponential number of actual hearings; besides the initial hearings and trials, adjudicated cases require many subsequent hearings, over a number of subsequent years. In addition, these 4 judges also manage and preside over our successful “specialty” courts: Juvenile Drug Court, Zero to Three Court, Girls Court, and the specialized drug court for parents in child abuse and neglect cases. In July of this year, we will also take on the Voluntary Care to 21 Court - - mandated by the Legislature but enacted without funding.

“[T]he three special division judges handled eleven thousand five hundred restraining order, paternity, adoption, involuntary commitment, and guardianship hearings.” Here is the simple and startling math: 11,500 divided by 3 equals 3,833 (per judge). These are not simple hearings. Even when the hearing is not a trial, every hearing represents a family with all the complexities found in any family, except these families have additional burdens that require court actions, such as domestic violence.

“[T]he three domestic division judges handled approximately four thousand divorce and custody cases.” This number does not include the 3,082 cases pending at the beginning of the 2012-2013 fiscal year according to Judiciary statistics, which brings the total to over 7,000 divorce cases. As with the other divisions, domestic division judges also have exponentially more hearings than just the number of cases in addition to taking every opportunity to help the parties reach agreement in order to avoid court battles. The contested pre-trial and post-trial hearings are often full evidentiary hearings and the trials are always evidentiary hearings--similar to the cases in the civil division but without sufficient staff support, no jury making the dispositive decisions, and not enough time. Divorce cases, like civil cases, can involve millions of dollars and multiple pieces of property. Unlike civil trials, divorce trials also involve gut-wrenching child custody decisions.

Every hearing and every case in family court require preparation time, time spent on dealing with non-hearing motions and requests, and many other duties that the public does not witness. For example, each judge takes a turn as the 24 hours off-duty on-call judge for emergency mental health commitments. Yet, family court judges and staff are nevertheless able to provide quality services to the community to create solutions for problems facing our kids,



House Bill No. 1669, HD2 Relating to Family Court
Senate Committee on Ways and Means
Friday, March 28, 2014, 9:25 a.m.
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speak at schools, and volunteer their time, after-hours, for mock trials and moot courts. Although there are delays due to sheer overwhelming numbers, these same realities are felt across the nation and many other courts have far graver delays. The fact that we are doing as well as we do is a testament to the hard work and creativity of our current judges and staff. Time and again, the judges and staff of family court step up to demonstrate their resolve to serve the community with the available resources. It is now crucial for the Legislature to expand those resources for the good of the community.

We note, however, that any appropriations from this bill must be in addition to the Judiciary's current budget requests. If the Legislature is inclined to move forward with this funding, we would respectfully request that the appropriation in Section 2 of the bill be amended to read "\$299,016." This amended figure reflects salary levels for the district family judge and staff that will take effect on July 1, 2014.

We urge favorable consideration for the passage of this bill. Thank you for the opportunity to testify.



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To: Committee on Ways and Means
Sen. David Y. Ige, Chair
Sen. Michelle N. Kidani, Vice Chair

From: Alethea K. Rebman & Dyan K. Mitsuyama
Email: info@mitsuyamaandrebman.com
Phone: 545-7035

Re: Testimony in Support of HB 1669, HD2
Hearing: Friday, March 28, 2014
Time: 9:25 a.m.
Place: Conference Room 211

Good morning, Chair, Vice Chair, and members of the Committee. We are partners at Mitsuyama & Rebman LLC, a law firm concentrating in family law.

We present this testimony in strong support of HB 1669.

The Family Court is one of the few points of contact between many of the families involved and our judicial system. It is almost always an eye-opening shock to these citizens when they realize that the Family Court just cannot give their matters the time and attention that they deserve.

This occurs despite the hard work of virtually every staff member and judge in the system. We see firsthand that from the clerks to the bailiffs to the sheriffs to the judges, everyone puts in more time and energy than could reasonably be expected and they go beyond their job descriptions. We have received follow-up calls from clerks who were on their vacations. We see bailiffs who are unfailingly courteous to everyone and who stay after hours to allow litigants to stay late. We know that judges are working long after hours to prepare for their full days in court. We see many other examples of the extra effort put in to make justice as accessible and citizen-friendly as possible.

Despite those yeoman's efforts from the Family Court, citizens cannot be heard promptly, and they sometimes cannot be heard at all because the court must limit the time available for each matter and it can be impossible for all issues on the table to be heard within a given time. Families are put in the unjust position of choosing which of

their pressing issues they can present to the Court, or of presenting just a fraction of their evidence.

The proposed new added staffing in the bill before you would help families and therefore our society in ways that are unimaginable except to those who have seen or been through the courts.

We understand that this Committee has heard about the added expense imposed upon litigants by the current wait times, and we would add that an invisible expense is created when a party cannot wait for a court date set months away and may be forced into accepting lower monetary settlements in order to live in the meantime, which may affect the person for a lifetime.

Thank you for the opportunity to submit testimony in support of H.B. No. 1669.

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EMAIL:
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TO: Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair
Senate Committee on Ways and Means

FROM: Dyan M. Medeiros
E-Mail: d.medeiros@hifamlaw.com
Phone: 524-5183

HEARING DATE AND TIME: March 28, 2014 at 9:25 a.m.

RE: Testimony in Support of HB1669 HD 2

Good morning Senator Ige, Senator Kidani, and members of the Committee. My name is Dyan Medeiros. I am a partner at Kleintop, Luria & Medeiros, LLP and have concentrated my law practice in the area of Family Law for more than fifteen (15) years. I am also a past Chair of the Family Law Section of the Hawaii State Bar Association.

I submit this testimony in support of HB1669 HD 2 but request that the effective date of the bill be modified to July 1, 2014.

HB1669 HD 2 would provide funding for an additional Family Court judge (and support staff) in the Family Court of the First Circuit.

There are four divisions within the Family Court of the First Circuit: the Domestic Division (which handles divorce cases), the Juvenile Division (which handles juvenile law violation/status offenses and child abuse and neglect cases), the Special Division (which handles restraining orders, paternity, adoption, involuntary commitment, and guardianship cases), and the Criminal Division (which handles orders for protection, restraining order violations, and jury trials). The Domestic Division, the Juvenile Division, and the Special Division are all housed at Family Court in Kapolei. The Criminal Division is housed at District Court in Honolulu. In 2013, approximately 50,000 litigants required the services of the Family Court of the First Circuit.

There are currently three (3) Domestic Division Judges who handle approximately 4,000 cases each year. In 2013, those Domestic Division Judges handled 4,560 hearings and conferences. There are four (4) Juvenile Division judges who handled 2,113 cases and 7,339 hearings in 2013. There are three (3) Special Division judges who handled 11,500 hearings in 2013. Of

course, judges also need to process paperwork and handle other case-related matters (such as reviewing files and reports). This work is not done during a hearing or conference and must be performed at other times.

Clearly, the sheer volume of cases and hearings handled by the Family Court each year requires each judge to carry a heavy caseload. Increasing caseloads cause delays in case processing and backlogs in the Court's ability to hold hearings and conferences.

Another Family Court judge would alleviate many of the delays that currently exist in Family Court cases and would allow the Family Court to improve the service it provides to our community. Delaying the effective date of this bill to July 1, 2030 delays this improvement to the detriment of our community.

This position was created years ago but never funded. HB1669 HD 2 as currently written further delays that funding. The Family Court needs a new judge and it needs that judge now, not sixteen (16) years from now.

Thank you for the opportunity to submit this testimony.

**FAMILY LAW SECTION
OF THE
HAWAII STATE BAR ASSOCIATION**

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March 13, 2014

TO: Senator David Ige, Chair
Senator Michelle Kidani, Vice-Chair
Committee on Ways and Means

FROM: Dyan K. Mitsuyama, Legislative Committee Chair of the
HSBA Family Law Section
E-Mail: dyan@mitsuyamaandrebman.com
Phone: 545-7035

HEARING DATE AND TIME: March 28, 2014 at 9:45 a.m.

RE: Testimony in Support of HB1669 HD2

Good Morning Chair and Vice-Chair, and members of the Committee.

My name is Dyan K. Mitsuyama, a licensed attorney here in the State of Hawaii. I have practiced here in Hawaii for about 15 years now mostly concentrating in Family Law matters.

Today I not only speak for myself, but for the Family Law Section (FLS) of the Hawaii State Bar Association, which is comprised of approximately 136 licensed attorneys statewide all practicing or expressing an interest in practicing family law. I serve as the current Legislative Committee Chair as well as Treasurer of FLS.

The Family Law Section is in strong support of HB 1669 HD2 with one minor criticism as to the effective date. HB1669 HD2 would provide funding for an additional Family Court judge and staff in the Family Court of the First Circuit, which is much needed now.

It is our understanding that the Family Court intends to use this funding for an additional Judge in the Domestic Division, which currently has only three (3) Judges that handle approximately 4,000 cases each year. Another Judge in this division is much needed.

In 2013, those Domestic Division Judges handled 4,560 hearings and conferences. There are four (4) Juvenile Division judges who handled 2,113 cases and 7,339 hearings in 2013. There are three (3) Special Division judges who handled 11,500 hearings in 2013. Of course, judges also need to process paperwork and handle other case-related matters (such as

reviewing files and reports). This work is not done during a hearing and must be performed at other times.

Clearly, the sheer volume of cases and hearings handled by the Family Court each year requires each judge to carry a heavy caseload. Increasing caseloads cause delays in case processing and overwhelming backlogs in the Court's ability to hold hearings and conferences. Divorce cases last much longer than they need to because of the court's backlog. For example, one could be ready to go to trial today, but the court could not schedule one until at least 4-6 months from today.

And even if there is a trial or a hearing scheduled today, there is no guarantee it will be concluded today. This affects parties and witnesses who have to appear in Family Court. Many have to take off from work for the entire day because we, as family law practitioners, cannot anticipate when/if a hearing will be heard on that day or at what time. On occasions, participants have to return on another day because the Judges are not able to conclude hearings or trials in the time given. This causes not only extreme emotional distress to the litigants who wait patiently for results or Judges' rulings, but it significantly increases the cost of litigation while the parties and/or witnesses lose time/money away from work.

Another full-time Family Court judge would definitely help cure some of the delays that currently exist in Family Court cases.

Because the backlog exists now, the criticism we have is the effective date should be July 1, 2014, not July 1, 2030.

Thank you for the opportunity to testify in support of HB1669 HD2.

NOTE: The comments and recommendations submitted reflect the position/viewpoint of the Family Law Section of the HSBA. The position/viewpoint has not been reviewed or approved by the HSBA Board of Directors, and is not being endorsed by the Hawaii State Bar Association.

TO: Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice-Chair
Senate Committee on Ways and Means

FROM: Jessi L.K. Hall
E-Mail: jhall@coatesandfrey.com
Phone: 524-4854

HEARING DATE: March 28, 2014 at 9:25 a.m.

RE: Testimony in Support of HB1669, HD2

Good day Senator Ige, Senator Kidani, and members of the Committee. My name is Jessi Hall. I am an attorney whose practice concentrates in Family Law. I am also a past Chair of the Family Law Section of the Hawaii State Bar Association. I am writing in support of HB1669, HD2, regarding funding for a new Family Court judge.

In my thirteen years of practicing in Family Court I have personally witnessed the number of filings and delay in hearings dramatically increase. It is difficult for litigants to wait months for an opportunity for their case to be heard. This delay is an injustice when you consider that Family Court is dealing with one of the most important things in this world, people's families. How these cases are handled often have a direct effect on the children. Many children in the juvenile system come from broken homes.

Delays in the system cause parents to go without seeing their children, parents and/or the children become financially strapped, and/or assets not being protected. To the extent that this delay can be reduced would have a direct effect on other state resources, to include but not limited to, the judiciary and public assistance.

Family Court matters are emotional cases that touch every part of our community. In 2013, approximately 50,000 litigants came to Family Court. Family Court has far more motions and cases filed than any other court in Hawaii and the number is increasing each year.

Most Family Court hearings are evidentiary hearings. Judges need to take, hear, and consider testimony and evidence and currently they often do not have enough time to do so, causing hearings to be continued prolonging the process further. Judges are only as good as the information presented to them in court. In order to receive all pertinent testimony and evidence and make informed decisions, Judges need more court time than they are currently given. A new Family Court Judge position would give Judges more court time and the workload would be spread out.

In the Family Court of the First Circuit (Honolulu), there are currently three Domestic Division Judges who handle approximately 4000 cases each year. In 2013, there were about 630 motions to set hearings and 630 settlement conferences. Additionally, there were approximately 3,300 pre and post-divorce hearings in 2013. At one point in 2013, the wait time for a post-divorce motion hearing was 5 months. The Family Law Bar is so concerned about the situation that several are volunteering their time to act as Settlement Masters and assistants in an attempt to relieve the docket. Others volunteer their time to assist in mediating cases that are set for trial. Unfortunately though, all of this volunteer time is only a temporary fix.

The above numbers depict the sheer volume of cases that Family Court judges hear each day. Funding the current existing, but unfunded position for a Family Court judge would decrease the wait time for hearings and give judges more time in court to consider evidence with their increasingly heavy caseload.

It is for all of the above reasons that I believe it is essential that funding be provided for the appointment of a new Family Court judge. Thank you for the opportunity to testify in favor of HB1669, HD2.

Coates & Frey

P. Gregory Frey
Managing Attorney

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March 26, 2014

TO: Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice-Chair
Senate Committee on Ways and Means

FROM: P. Gregory Frey
E-Mail: pgfrey@coatesandfrey.com
Phone: 524-4854

HEARING DATE: March 28, 2014 at 9:25 a.m.

RE: Testimony in Support of HB1669, HD2

Aloha, Senator Ige, Senator Kidani, and members of the Committee. My name is P. Gregory Frey, Managing Attorney of Coates & Frey, AAL, LLLC, Hawaii's largest Family Law firm. I am also a former Chair of the Family Law Section of the Hawaii State Bar Association, and former Board member of the Hawaii State Bar Association. I have practiced for about 27 years in Hawaii's Family Court. I am writing in support of HB1669, HD2, regarding funding for a new Family Court judge.

My firm handles more divorces every year than any other firm in Hawaii. It is difficult for our clients that have to wait for months for an opportunity for their case to be heard. This delay is an injustice when you consider that Family Court is dealing with one of the most important things in this world, people's families. Delays cause parents to go without seeing their children, parents and/or the children become financially strapped, and/or assets not being protected.

Family Court matters are emotional cases that touch every part of our community. In 2013, approximately 50,000 litigants came to Family Court. Family Court has far more motions and cases filed than any other court in Hawaii and the number is increasing each year.

Most Family Court hearings are evidentiary hearings. Judges need to take, hear, and consider testimony and evidence and often do not have enough time to do so, causing hearings to be continued prolonging the process further. Judges are only as good as the information presented to them in court. In order to receive all pertinent testimony and evidence and make informed decisions, Judges need more court time than they are currently given. A new Family Court Judge position would give Judges more court time and the workload would be spread out.

Domestic & Family Relations • Divorce • All Family Law

*Mr. Coates, the firm's founder, remains an active and vital part of the office in an "Of Counsel" capacity, but no longer maintains an ownership interest in the firm.

Senator Clayton Hee, Chair

March 26, 2014

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In the Family Court of the First Circuit (Honolulu), there are currently three Domestic Division Judges who handle approximately 4000 cases each year. In 2013, there were about 630 motions to set hearings and 630 settlement conferences. Additionally, there were approximately 3,300 pre and post-divorce hearings in 2013. At one point in 2013, the wait time for a post-divorce motion hearing was 5 months.

The above numbers depict the sheer volume of cases that Family Court judges hear each day. Funding the current existing, but unfunded position for a Family Court judge would decrease the wait time for hearings and give judges more time in court to consider evidence with their increasingly heavy caseload.

It is for all of the above reasons that I believe it is essential that funding be provided for the appointment of a new Family Court judge. Thank you for the opportunity to testify in favor of HB1669, HD2.