



**Office of the Public Defender
State of Hawaii
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary**

February 4, 2014, 2:00 p.m.

H.B. No. 1669: RELATING TO FAMILY COURT

Chair Rhoads and Members of the Committee:

This measure adds one full-time district court judge to the Family Court of the First Circuit. The Office of the Public Defender supports this measure.

Family court judges preside over a varied but critical subject matter. They hear divorce cases, CPS, adoptions, juvenile proceedings and involuntary commitment hearings, to name a few. Their calendars are heavy, in volume and emotion. A full-time judge in the family court is preferable to per-diem judges because family court cases tend to have a higher number of scheduled court hearings than their counterparts in the circuit and district courts. An additional full-time judge will allow more cases to have a single judge follow the case from start to finish.

Full-time judges are selected by the chief justice from a list of names provided to him by the Judicial Selection Commission, with Senate confirmation. Per diem judges are not subjected to any confirmation or selection process, and are selected by the chief justice. The cost for funding this position will be offset by a similar reduction in salary which would have been paid to a per diem judge.

We support the passage of H.B. No. 1669. Thank you for the opportunity to be heard on this matter.



The Judiciary, State of Hawai'i

Testimony to the House Committee on Judiciary

The Hon. Karl Rhoads, Chair
The Hon. Sharon E. Har, Vice Chair

Tuesday, February 4, 2014
2:00 p.m.
State Capitol, Conference Room 325

by

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

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

Purpose: Provides funds to the judiciary for an additional full-time family court judge position for the family court of the first judicial circuit.

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. In 2013 alone, 892 juvenile cases and 1,221 child abuse and neglect cases were filed. The overall total of 2,113 cases reflect an 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.” As with the other divisions, domestic division judges also have 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, 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 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 \$ 290,868 or so much thereof as may be necessary to fund one judge and three 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, 2014.

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

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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**THE HONORABLE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawai'i**

February 4, 2014

RE: H.B. 1669; RELATING TO FAMILY COURT.

Chair Rhoads, Vice-Chair Har and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of House Bill 1669, if such funds are used to conduct jury trials for misdemeanor domestic violence cases and cases related to those.

In 2012, the Department included in its legislative package—and strongly advocated for the passing 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 ("DVM") cases. Given the backlog of DVM cases in our court-system—then and now—our office is greatly 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 pending trial.

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

Since 2012, the Department has seen no noticeable lessening of the backlog of DVM cases, nor any noticeable decrease in the number of cases that get dismissed while awaiting trial. While the Department does appreciate 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 given that many domestic violence victims are willing to proceed with prosecution and appear repeatedly at court for this purpose, and the dismissal of their cases can cause significant setbacks in their recovery and/or healing process.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports H.B. 1669, if the appropriation is limited to hiring a judge for misdemeanor domestic violence cases. Thank you for the opportunity to testify on this matter.

KLEINTOP, LURIA & MEDEIROS

A LIMITED LIABILITY LAW PARTNERSHIP

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TO: Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice-Chair
House Committee on Judiciary

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

HEARING DATE AND TIME: February 4, 2014 at 2:00 p.m.

RE: Testimony in Support of HB1669

Good afternoon Representative Rhoads, Representative Har, 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 am here today to testify in support of HB1669.

HB1669 would provide funding for an additional Family Court judge 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 2013, approximately 50,000 litigants required the service 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

maters (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 backlogs in the Court's ability to hold hearings and conferences.

Another Family Court judge would alleviate some 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.

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



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DIVORCE AND FAMILY LAW

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TO: Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice-Chair
House Committee on Judiciary

FROM: Dyan K. Mitsuyama & Alethea Kyoko Rebman
E-Mail: info@mitsuyamaandrebman.com
Phone: 545-7035

HEARING DATE AND TIME: February 4, 2014 at 2:00 p.m.

RE: Testimony in Support of HB1669

Good afternoon Representative Rhoads, Representative Har, and members of the Committee. My name is Dyan Medeiros. We are partners at Mitsuyama & Rebman, LLLC, a law firm concentrating on Family Law matters.

We both present this in support of HB 1669.

HB1669 would provide funding for an additional Family Court judge in the Family Court of the First Circuit which is much needed.

The Family Court of the First Circuit has eleven (11) full-time judges. In 2013, approximately 50,000 litigants required the service of the Family Court of the First Circuit. There are four divisions within the Family Court of the First Circuit: the Domestic Division (i.e. divorce cases), the Juvenile Division (juvenile law violation/status offenses and child abuse and neglect cases), the Special Division (restraining order, paternity, adoption, involuntary commitment, and guardianship), and the Criminal Division (orders for protection, restraining order violations, and jury trials) which is led by two judges at District Court. The Domestic Division, the Juvenile Division, and the Special Division are all housed at Family Court in Kapolei.

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 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.

This affects the general public who have to appear in Family Court either as parties or witnesses. Many have to take off from work for the entire day because we, as family law practitioners, cannot anticipate when/if our 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 hold hearings or trials in the time given.

Another Family Court judge would alleviate some 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.

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

February 3, 2014

To: Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice-Chair
House Committee on Judiciary

Fr: Stephanie A. Rezens
E-mail: stephanie@rezentscrowley.com
Phone: 532-9020

Re: Testimony in Support of HB 1669
Hearing Date And Time: February 4, 2014; 2:00 p.m.

Dear Representative Rhoads, Vice-Chair Har and Members of the House Committee on Judiciary:

I am Stephanie A. Rezens. I am an attorney who has been licensed to practice law in the State of Hawaii for over 36 years. My area of concentration is Family Law. I am a past Chair of the Hawaii State Bar Association's Family Law Section. I speak today in my individual capacity as an attorney in private practice.

The Family Court has a tremendous impact on the lives of the individuals who come before the court each year. The Family Court as you are aware has exclusive jurisdiction over family related matters such as: divorces; juvenile law violations; adoptions; paternities; child support; guardianship of the person and domestic abuse of a family member.

This body has recognized the importance of the Family Court by previously approving a position of an additional Family Court Judge for the First Circuit Court. H.B. 1669 is for the purpose of funding that position. I strongly support passage of this bill.

In 2013, the Family Court of the First Circuit Court handled cases involving over 50,000 litigants. These cases address the most pressing needs of families. As a family law attorney, in my opinion one of the most important roles a family court judge can fulfill is to be able to have the time to listen to each litigant and render a sound decision. However, the huge caseload assigned to each judge of the family court does not always allow him or her the ability to do this. With the addition of another Family Court Judge for the First Circuit, the needs of all litigants can be better addressed.

Thank you for this opportunity to speak in favor of HB 1669


Stephanie A. Rezens

TO: Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice-Chair
House Committee on Judiciary

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

HEARING DATE: February 4, 2014 at 2:00 p.m.

RE: Testimony in Support of HB1669

Aloha, Representative Rhoads, Representative Har, 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, 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.

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.

TO: Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice-Chair
House Committee on Judiciary

FROM: John Schmidtke, Jr.
E-Mail: John@SchmidtkeLaw.com
Phone: 599-4100 x 101

HEARING DATE AND TIME: February 4, 2014 at 2:00 p.m.

RE: Testimony in Support of HB1669

My name is John Schmidtke. I have practiced exclusively in the field of family law since 1983. I submit this written testimony in support of HB1669—we need funding for an additional judge in the Family Court of the First Circuit.

The Family Court on Oahu is overworked and understaffed. The court has never recovered from the backlogs caused by furloughs several years ago and disruption in services caused by the move to Kapolei. Delays are chronic despite the dedication and hard work of the staff, the clerks, and the judges. There are just not enough of them to do the work.

The volume of cases and hearings handled by the Family Court requires each judge to carry a heavy caseload. Adding another Family Court judge would ease some of the delays and would allow the Family Court to better meet its obligation to our community.

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