



The Judiciary, State of Hawai'i

Testimony to the House Committee on Judiciary
The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair

Wednesday, February 6, 2019, 2:05 p.m.
Room 325

by
W. Tom Mick
Policy and Planning Department Director

Bill No. and Title: House Bill No. 510, Relating to the Judiciary.

Purpose: To provide biennium operating and capital improvement appropriations for FYs 2020 and 2021.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No. 510, which reflects the Judiciary's resource requirements for FYs 2020 and 2021.

The Judiciary recognizes that while the Hawai'i economy continues to still perform well overall, the Hawai'i Council on Revenues at its most recent meeting noted that economic growth has come down from the previous year and cited some uncertainty about the future. Among other things, the Council noted the volatility of the stock market, the federal government shutdown, the U.S.-China trade war, and the World Bank's forecast of slower growth for the global economy. In particular, concerns were expressed that the economy may reach the end of its current expansionary cycle during the seven-year budget window. The majority of the Council also noted that while visitor arrivals and expenditures are growing steadily, it still expected a slower growth rate. We are also aware that even with a projected State budget surplus, funds will continue to be tight as there are many outstanding funding issues that need to be addressed, such as increasing health care costs and their effect on premiums, post-employment/unfunded liabilities, and recovery from the effects of recent natural disasters in Hawai'i.



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Accordingly, in our biennium budget request, the Judiciary has been very prudent and focused only on its most pressing needs, primarily in the areas of essential staffing for court and administrative operations, and client services. Specifically, with these factors in mind, the Judiciary is requesting 29 new permanent positions and additional funding of \$1.75 million for FY 2020 and \$2.54 million for FY 2021, just 1.0% and 1.5% more, respectively, than our current budget base.

The need for additional essential staffing is a major concern for the Judiciary, especially as workload continues to increase and becomes more detailed and complex, as the number of pro se (i.e., self-represented) litigants continues to increase and require the attention and time of judges and staff, and as additional requirements and demands are placed on judges and staff. This concern especially relates to First Circuit which is requesting additional funding for an already authorized Family Court judge and three support staff positions as well as positions and funding for a District Court Judge and support staff; to Second and Fifth Circuits which are also requesting positions and funding for a District Court judge and a District Family Court judge, respectively, and related support staff; and to the Intermediate Court of Appeals (ICA) which is requesting an additional Staff Attorney position.

Specifically, funding of \$170K in FY 2020 and \$330K in FY 2021 is being requested by First Circuit for a District Family Court judge and related staff positions provided by the 2007 Legislature. This would help address the heavy Family Court workload and the continual increase in the number and complexity of Family Court cases, as well as the backlog and delays in scheduling/hearing cases. This judge would be assigned to help with the caseload in the Domestic Division and the Special Division (which includes Temporary Restraining Orders (TROs), paternity, and adoption cases) where there are currently three judges assigned to each Division. Just in the last four years, Domestic Division caseload has increased significantly from 7,357 cases in FY 2015 to 8,665 cases in FY 2018 while dropping slightly in the Special Division from 8,914 to 8,709 cases over this period.

First Circuit is also requesting positions and funding of \$165K in FY 2020 and \$319K in FY 2021 for a District Court judge and support staff. This judge is needed to handle increased Operating a Vehicle Under the Influence of an Intoxicant (OVUII) caseload during the last nine years, and thereby help alleviate court congestion and possible Rule 48 dismissals. Between January 2009 and December 2017, 44,153 OVUII cases were initiated in the First Circuit or an average of 4,905 per year as compared to the previous nine years (2000 through 2008) where there were a total of 29,702 cases or an average of 3,300 per year. This judge would also serve as a judge for Drug Court cases when needed.

Second and Fifth Circuits are requesting an additional District Court judge and District Family Court judge, respectively, along with staff to address workload issues, case complexities, delays in scheduling and hearing cases, and the additional time required to handle the increasing



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numbers of self-represented litigants. For Second Circuit, the last District Court judge was added in 1982, more than 36 years ago, and the population in Maui County has more than doubled from 77,000 to 166,000 since then. Further, since FY 2011, while the population in Maui County has increased by about 6%, new criminal filings have increased by 29% from 2,859 to 3,700 and new traffic filings by almost 17% from 21,694 to 25,306 cases. A new judge would also help address the growing needs and case numbers of the rural communities (Hāna, Lāna‘i, and Moloka‘i) that are currently underserved; allow Lahaina District Court to increase from a three-day to a five-day a week rural court; allow Second Circuit to consider implementing a dedicated Mental Health Docket, an OVUII Treatment Court, and a Community Outreach Court. Fifth Circuit has only one District Court judge and one District Family Court judge, with the last judge being added in 1984. Compared to the Second Circuit on Maui and the Third Circuit on the Big Island, the current Kaua‘i Family Court caseload per judge is much higher. Specifically, for FY 2018, the one Family Court judge on Kaua‘i was responsible for more than 4,835 cases as compared to 1,913 and 3,065 cases per Family Court judge in Second and Third Circuits, respectively. New filings were also significantly higher for the Fifth Circuit Family Court judge at 2,025 cases as compared to 1,227 and 1,307 cases per Second and Third Circuit Family Court judge, respectively. Funding requested for the Second Circuit judge and staff is \$187K in FY 2020 and \$319K in FY 2021, and for the Fifth Circuit judge and staff is \$180K in FY 2020 and \$330K in FY 2021.

The Staff Attorney position being requested for the ICA would cost \$57K in FY 2020 and \$103K in FY 2021. With the restructuring of the appellate court system in 2006, almost all appeals are filed with and resolved in the first instance by the ICA. The number of appeals and motions filed has increased significantly since then, as has the complexity and fundamental importance of the appeals, which together impose greater demands on judicial resources and the need for an additional Staff Attorney position. Indeed, since the restructuring, the ICA’s appeals caseload has almost doubled and its motions caseload has increased by more than ten times to some 2,500 procedural and substantive motions annually that formerly were handled by the Supreme Court.

For client services, the Judiciary has six budget requests – five in First Circuit related to the Hawai‘i Zero to Three Court (HZTT), the Mental Health Unit (MHU), the Community Outreach Court (COC), the Adult/Juvenile Community Service and Restitution Unit (A/JCSRU), and Court Interpreting Services; and one in Second Circuit related to Domestic Violence Intervention (DVI).

The first two First Circuit requests are for no-cost temporary to permanent position conversions for HZTT and MHU to bring stability to these two important programs. For HZTT, a permanent program manager/coordinator position is critical to providing quality program management while fostering the coordinated team approach needed to ensure that appropriate intervention services are provided to infants, toddlers, and their families to affect family



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unification, the ultimate goal. Currently, there are 17 families and 39 children in the program with 21 children in foster custody, 17 in family supervision, and one in permanent custody awaiting adoption. The two Social Worker position conversions being requested for the MHU are for specially trained probation officers who supervise clients with severe mental illness who are placed on conditional release and discharged from the Hawai'i State Hospital – these clients need intensive supervision and a stable relationship with their probation officer. The temporary designation of these positions has made it difficult to fill these positions. Two filled permanent positions would allow First Circuit to address the waitlist and increase the number of clients participating in Mental Health Court, and increase the number of conditional release clients being supervised by MHU.

The First Circuit is requesting three positions and funding of \$79K in FY 2020 and \$139K in FY 2021 to expand the COC to make it a true mobile court in providing services to communities where residentially challenged individuals reside. Currently, COC sessions are held twice a month in Honolulu District Court, and once a month in Wahiawā District Court and the Wai'anāe Public Library. Since the program began in January 2017, 102 persons have participated in the program, 1,145 cases have been cleared from court dockets, and defendants have served more than 2,100 community service hours. Also requested by First Circuit are two social worker positions and funding of \$59K in FY 2020 and \$109K in FY 2021 for its A/JCSRU. These positions are needed to handle increased workload, help with the COC, address the backlog for restitution and ability to pay studies, manage community service placements, recruit agencies willing to provide community service opportunities, and monitor work sites. The final First Circuit request is for two permanent clerk positions (one of which is a no-cost temporary position conversion) costing in total \$20K in FY 2020 and \$33K in FY 2021 for its Court Interpreting Services Section. These positions are needed to help with the ever-increasing requests for interpreter services as this Section not only must field requests and schedule interpreters for Circuit, Family, and District Court proceedings, but also for all other Judiciary related programs and activities such as Drivers Education classes, divorce and adoption proceedings, specialty courts and programs, Kids First, etc.

The Second Circuit request in the client services area is for an additional \$100K of purchase of service contract funding in both FYs 2020 and 2021 for DVI and victim support services on Maui, Lāna'i, and Moloka'i. Such funding is needed to ensure continuation of these services as failure to adequately compensate the providers may result in less than effective programs and lack of agencies willing to provide these statutorily mandated services.

The remaining two general fund budget requests are for Third Circuit and relate to the new Kona Keahuolū Courthouse scheduled to open in the Fall of 2019. Specifically, one groundskeeper and five additional janitorial positions are being requested to fully staff these services for the new 140,000 square foot courthouse on 10 acres of property. About \$264K in FY 2020 and \$333K in FY2021 are needed for these positions and to fully fund positions for a



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Facilities Manager and Building Maintenance Worker partially funded by the Legislature during its 2018 session. Another \$474K in FY 2020 and \$424K in FY 2021 is being requested to support new building operating costs related to electricity and other utilities; for annual maintenance contracts for elevators, air conditioning, fire alarms, energy management, water treatment, and refuse collection; and for other expenses such as janitorial and building maintenance supplies, and various repair and maintenance costs not covered by contract. The additional \$50K in FY 2020 is for estimated moving expenses from three different buildings/locations, two of which are about 11 miles away, to the new courthouse.

Capital Improvement Project (CIP) requirements remain a major item of concern as the Judiciary's infrastructure continues to age and deteriorate, and as the population served and services provided by the Judiciary keep expanding. CIP funds totaling \$23.3 million in FY 2020 and \$15.9 million in FY 2021 are being requested to address certain critical needs, some of which relate to the health and safety of Judiciary employees and the public. Our top priority CIP funding request is for \$9.2 million in FY 2020 and \$8.1 million in FY 2021 to upgrade and modernize fire alarm systems and elevators at Ka'ahumanu Hale in First Circuit, both of which are more than 30 years old and which continue to malfunction with greater frequency. These fire alarm systems do not function at full capacity nor comply with current fire codes, and elevator codes now require that all fire alarm systems be updated to current levels so that all systems are compatible with each other thereby necessitating that these projects be tied together. Other FY 2020 requests for Ka'ahumanu Hale include \$2 million to repair leaks into the basement evidence storage and communications rooms and \$1.5 million for atrium security renovations. Ongoing projects require another \$3.5 million in FY 2020 and \$2 million in FY 2021 for security improvements for Hoapili Hale in Second Circuit, and \$2.2 million in FY 2020 and \$2 million in FY 2021 to reroof and repair leaks and damages at Pu'uhonua Kaulike in Fifth Circuit. The Judiciary is also requesting \$850K in FY 2020 for Hoapili Hale parking structure piping renovations, and \$1 million in FY 2020 and \$800K in FY 2021 to upgrade the air conditioning system at Ali'iolani Hale in downtown Honolulu. Lastly, CIP lump sum funding of \$3 million is being requested for both fiscal years so that we can address both continuing and emergent building issues.

The proposed biennium budget 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 No. 510, the Judiciary's biennium budget request.

Thank you for the opportunity to testify on this measure.

HB-510

Submitted on: 2/5/2019 11:16:54 AM

Testimony for JUD on 2/6/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brandon Segal	Department of the Prosecuting Attorney, Maui County	Support	No

Comments:

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee on Judiciary:

The Department of the Prosecuting Attorney, County of Maui STRONGLY SUPPORTS H.B. 510, Relating to the Judiciary. This budget request including funding for a critically-needed additional District Court Judge position in the Second Circuit, and funding for necessary security and facility improvements at Hoapili Hale in Wailuku. In addition, we support the Judiciary's request to adequately fund court-mandated domestic violence intervention programs in the Second Circuit. Thank you for the opportunity to provide testimony.

CONTACT:

Brandon Segal, Deputy Prosecuting Attorney

Appellate Section Hawaii State Bar Association

February 5, 2019

Hearing on H.B. No. 510, House Judiciary Committee,
February 6, 2019 at 2:05 p.m.

Dear Chair Lee, Vice-Chair San Buenaventura, and Members of the Committee:

On behalf of our colleagues in the Hawaii State Bar Association's Appellate Section,¹ we write in strong support of HB 510, Relating to the Judiciary. As appellate practitioners, we write to draw the Committee's attention to one particular item: the need for an additional staff attorney at the Intermediate Court of Appeals (ICA).

We respectfully request that the committee support this particular appropriation. Our section is comprised of appellate specialists; the state appellate courts are of keen interest to us. The ICA's work includes the bulk of the appeals in our state courts. Because most appeals go to the ICA, the motions related to appeals also go to that court. The Judiciary's Annual Report includes statistics from Fiscal Year 2017-2018.² These statistics show that nearly 600 new appeals were filed with the ICA during the last fiscal year, and over 2,400 motions. In other words, the motions are filed at a rate of approximately *45 motions a week*. This is a massive influx of work. The ICA is not a large organization and resolving hundreds of motions requires a great deal of staff and judge time. Many motions requires a detailed analysis of appellate jurisdiction, stays pending appeal, or the like. Others are simpler procedural matters, but still require an individualized analysis and response, as appropriate for each appeal. Regardless of the complexity of the motions, another staff attorney will significantly add to the ICA's capacity to handle the constant flood of appellate motions and assist in the resolution of appeals generally. This should free up more time for the ICA's judges to decide appeals.

Given the importance of the ICA to the entire state judicial system, the Judiciary's request for one more staff attorney for the ICA is a modest one. The Appellate Section asks that in considering the Judiciary's budget, this request be fully funded.

Thank you.

Michelle Comeau, Section Chair
Deirdre Marie-Iha, Legislative Liaison

¹ The views and opinions expressed here are those of the HSBA's Appellate Section. The HSBA Board has not reviewed or approved the substance of the testimony submitted.

² The Judiciary's 2018 annual report and the statistical supplement that accompanies it are available at https://www.courts.state.hi.us/news_and_reports/reports/reports (last visited February 5, 2019).



February 5, 2019

STATE OF HAWAI'I
HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY

RE: HB510 – RELATING TO THE JUDICIARY

Dear House Committee on Judiciary,

The West Hawai'i Bar Association is a Neighbor Island Bar Association consisting of 111 attorneys that practice law primarily in West Hawai'i. Our membership consists of attorneys in private practice, in the public sector working for both the State and the County, and non-profits. These attorneys practice in all different types of areas of law, including criminal law, family law, estate planning, elder law, civil litigation, and bankruptcy.

The West Hawai'i Bar Association, its general membership and its executive committee, **strongly supports** HB510 – RELATING TO THE JUDICIARY.

The West Hawai'i Bar Association asks for the approval of the funding and operational requests for the Third Circuit in HB510. The essential staffing and expenses for 1 groundskeeper and 5 janitorial positions for the new Keahuolū Courthouse in Kona is requested, as well as the full funding of the existing two maintenance staff positions for Keahuolū Courthouse. In addition, the West Hawai'i Bar Association requests the funding for the additional utility and support expenses for Keahuolū Courthouse.

The West Hawai'i Bar Association attorneys are looking forward to the completion and opening of Kona's new courthouse. This building will provide one location for Kona's Family, District, and Circuit Courts. This full-service facility will provide our community with a centralized, convenient, and secure environment to take care of all court-related matters. Along with the

courtrooms, the three-floor courthouse will include a self-help center, the driver's education office, temporary holding cells, juvenile and adult client services, a law library, administrative offices, and secure and confidential meeting rooms for attorneys.

The West Hawai'i Bar Association requests that funding be approved so that Keahuolu Courthouse will open on time and operate fully as intended. The importance of the Judiciary in Kona and all of services that are provided cannot be emphasized enough. Kona needs a fully staffed and functioning centralized courthouse so that the West Hawai'i Bar Association attorneys can continue to achieve their goal of providing quality legal services in a safe, secure, and convenient location. Your time, attention, and consideration of this matter are highly appreciated.

Very Truly Yours,



R. Hermann Heimgartner
President, West Hawai'i Bar Association

MCBA

Maui County Bar Association

P. O. Box 1595, Wailuku, Maui, Hawaii 96793



TESTIMONY ON HB510 - RELATING TO THE JUDICIARY.

February 5, 2019

The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
and Members of the Committee on Judiciary

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Maui County Bar Association (“MCBA”) STRONGLY SUPPORTS H.B. 510, Relating to the Judiciary. The MCBA urges the Legislature to accept the budget in its entirety, which includes funding for additional judges and staff, and capital improvement projects for court facilities across the State.

Hoapili Hale, in Wailuku, is the main courthouse in Maui, serving three separate islands. H.B. 510 includes funding for necessary security improvements at Hoapili Hale, as well as parking structure, sewer, storm drain, air conditioning, and piping improvements at the complex. It is MCBA’s understanding that the security for the parking structure, entry, and perimeter, which were built in the 1980’s, no longer satisfies best-practice standards for courthouse security. We must ensure the safety of judges, staff, litigants, and the public in our court facilities. Access to justice can only be provided when the venue in which court proceedings takes place is secure.

H.B. 510 also includes funding for a critically-needed additional District Court judge position in the Second Circuit. MCBA strongly supports an additional District Court judge position, and will be submitting testimony in support of the Judiciary’s sister bill, S.B. 187. As Chief Justice Recktenwald has mentioned in his State of the Judiciary, the last time a District Court judge was added was in 1982, and Maui’s population has since more than doubled. Between 2012 and 2014, Maui County was the fastest-growing county in Hawaii, according to the U.S. Census Bureau. As the population increases, traffic and criminal case filings will continue to increase. This puts significant demands on the judges, who are overseeing what is already a saturated court calendar. In order to provide fair, timely, and efficient delivery of justice, it is critical that we continue to adapt and accommodate to our growing population

Thank you for the opportunity to provide testimony.

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TESTIMONY

House Committee on Judiciary

Hearing: Wednesday, February 6, 2019 (2:05 p.m.)

TO: The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair

FROM: Derek R. Kobayashi
HSBA President

RE: House Bill No. 510
Relating to the Judiciary (Supplemental Budget)

Chair Lee, Vice Chair San Buenaventura and Members of the House Judiciary Committee, thank you for the opportunity to offer comments from the Hawaii State Bar Association (HSBA) in **STRONG SUPPORT** of certain appropriations and capital improvement projects (CIP) requests included in House Bill No. 510.

In conjunction with this submission, we are mindful of and guided by our membership’s unified support of the first mission statement of the HSBA: “to unite and inspire Hawaii’s lawyers to promote justice, serve the public, and improve the legal profession.” A State court system with knowledgeable, impartial and fair justices and judges, and secure and safe facilities which are conducive to the conduct of judicial business, are essential to meeting HSBA’s core mission, and to serve the public in the facilitation of access to justice.

State court buildings funded with public resources should meet the needs of its users: judges, staff, litigants as well as the general public. Understandably, this goal must be accomplished without extravagance. Funding of personnel, judges and judicial staff, should be in line with the responsibilities these individuals must meet to fulfill the matters on their respective court calendars.

The HSBA is aware of limited funding to meet the competing needs of State government. We also firmly believe the funding requests we are supporting are necessary for the optimal delivery of judicial services.

First, the HSBA supports the noted additional staffing requests:

- First Circuit Family Court judge and staff;
- First Circuit District Court judge and staff;
- Second Circuit District Court judge and staff;
- Fifth Circuit Family Court judge and staff; and
- Intermediate Court of Appeals one staff attorney.

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And second the HSBA supports the noted CIP funding requests for the health and safety of facility occupants and facility guests:

- First Circuit Kaahumanu Hale replacement of the fire alarm system and elevators for safety, and Code and ADA requirements;
- First Circuit Kaahumanu Hale repair of significant water leaks in basement including evidence locker and communications room;
- First Circuit Kaahumanu Hale address security vulnerabilities;
- First Circuit Aliiolani Hale repair of air conditioning system for health and safety;
- Second Circuit Hoapili Hale address security vulnerabilities in parking structure, entry and perimeter;
- Second Circuit Hoapili Hale repair piping of wastewater, chilled water, storm drainage and fire sprinkler for Code compliance;
- Fifth Circuit Puuhonua Kaulike continue and complete repair of leaking roof and damages to the building; and
- Administration lump sum CIP for unforeseen or unanticipated maintenance and repairs.

The HSBA greatly appreciates the prior planning and construction funding of the Kona Judiciary Complex this Committee and the Legislature has generously approved. We have been informed that the Judiciary has managed this project efficiently in keeping with previously approved funding phases and that the Complex is scheduled to open in the fall of 2019 as originally forecasted.

A statewide network of safe secure facilities conducive to the conduct of judicial business is essential to the access to justice for the public.

Thank you for your review and consideration

Respectfully submitted,



DEREK R. KOBAYASHI
President, Hawaii State Bar Association



TESTIMONY
House Judiciary Committee
Hearing: Wednesday, February 6, 2019 at 2:05 p.m.

TO: The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair

FROM: Emiko L. Meyers
President, Kauai Bar Association

RE: HB 510 RELATING TO THE JUDICIARY

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee, thank you for the opportunity to submit testimony on HB 510, the proposed budget for the State Judiciary.

My name is Emiko L. Meyers and I am the President of the Kauai Bar Association. I write today on behalf of the Kauai Bar Membership regarding the above bill. The Kauai Bar **STRONGLY SUPPORTS** funding for an additional, and much-needed, family court judge position on Kauai, along with accompanying staff, as well as funding for much-needed repairs to the Kauai Judiciary complex.

The current Fifth Circuit Family Court is overwhelmed by the sheer number of cases that come before it. The Judge and his staff handle the flow the best they can, but the result is that cases are taking a much longer time to wind their way through the judicial process. The effect of these long delays is detrimental for Kauai families. For example, Kauai parents, who have grave concerns about visitation, custody, or safety issues regarding their keiki, are unable to have their concerns addressed without waiting at least 6 months. First, one party must file a motion to obtain a remedy. The initial return date on that Motion is scheduled approximately 2 months after the initial filing. Then, because we only have one full-time Family Court Judge on Kauai, at the initial return date, the motion gets set for an evidentiary hearing which is usually an additional 3-5 months later. As a result, a client who wants to address concerns that are happening in the present will not be able to have the concerns addressed by the Court for more than 6 months. Often, we are unable to complete a hearing in the time allotted and another hearing is schedule an additional 2 months out. Consequently, families are held in limbo for months, unable to make decisions for their children or themselves, all because they are unable to access the judicial system. Not only does this deprive are families of meaningful access to justice, our kids' well-fare is being left behind through no fault of their own.

Furthermore, the Kauai Bar continues to support the inclusion of the much-needed CIP request for repairs and improvements to the Kauai Judiciary Complex. The building is one of the nicest public buildings in the State and it would be a shame to let it fall to disrepair.

Thank you for your time and consideration.

Sincerely,

/s/Emiko L. Meyers,
Attorney & President, Kauai Bar Association



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February 5, 19

House Judiciary Committee

Re: Testimony – Supporting HB 510 Relating to the Judiciary Budget
Hearing Wednesday, February 6, 2019, at 2:05pm

Aloha,

Chair Lee and Vice Chair San Buenaventura, and Members of the Committee, thank you for the opportunity to submit testimony on HB 510, the proposed budget for the State Judiciary.

My name is Kai Lawrence and I am the Kauai Director on the HSBA Board. After meeting with the Kauai Bar Leadership, I write today personally and on behalf of the Kauai Bar regarding the above bill. The Kauai Bar **STRONGLY SUPPORTS** funding for an additional, and much-needed, family court judge position on Kauai, along with accompanying staff, as well as funding for much-needed repairs to the Kauai Judiciary complex.

The Family Court of the Fifth Circuit is in dire need of another judge and staff. The caseloads continue to grow and the demands upon the local judiciary are extreme. Judicial economy is hard to achieve at present as the wait times at court continue to grow and local citizens and attorneys continue to express frustration. Although the current judge and staff are quite capable and efficient, the needs of the community have outgrown the current staffing allocation. The costs of the wait times are enormous considering that lengthy queues at court translate to higher bills for clients. The effect makes the already expensive costs of litigation significantly more prohibitive for local citizens. Adding a judge and staff will lighten the load, speed up wait times, and result in more persons gaining access to the court system.

Furthermore, the Kauai Bar continues to support the inclusion of the much-needed CIP request for repairs and improvements to the Kauai Judiciary Complex. The building is one of the nicest public buildings in the State and it would be a shame to let it fall to disrepair.

Thank you for your time and consideration.

Sincerely,

Kai Lawrence,
Attorney & HSBA Director for Kauai

TESTIMONY OF THOMAS D. FARRELL
Regarding HB 510, Relating to the Judiciary
Committee on Judiciary
Representative Chris Lee, Chair/Representative Joy San Buenaventura, Vice Chair
Wednesday, February 6, 2019 2:05 p.m.
Conference Room 325, State Capitol

Good afternoon Representative Lee and Members of the Committee:

I'm very sorry that I can't be here in person this afternoon, as I am in trial all day today. I'd like to be with you, but trial days in Family Court are as precious as gold, and my client can't afford to get this one continued.

I support HB 510, which is the Judiciary biennium budget request, and in particular, I urge your favorable action on those sections of the bill which will fund an additional family court judge on Oahu and another on Kauai.

They say that "justice delayed is justice denied," and as someone who practices in Family Court on a day-to-day basis, I can testify first-hand that this court is failing in its mission because it is simply overwhelmed and does not have the resources to deal with its caseload in a timely fashion.

The case which prevents me from being with you this afternoon is a good example. It is a child welfare case where DHS is alleging that my client's husband exposed himself to and propositioned my client's fifteen-year-old daughter---allegations which he denies and which my client believes are untrue. My client's husband has had to move out of the house on a temporary basis to prevent her children from being put into foster care. He's been out of the house since July of last year. We had a "return hearing" on July 24, and our trial was set to begin on December 11 for two days. The court can only give us two days at a time, so if we don't finish, we get two more, and that's what happened here. On December 12, at the conclusion of day two, we got two more days for February 5 and 6. Meanwhile, this family is in limbo.

Most of my work is on the divorce calendar. The problems are the same there. In divorce cases, there is an animal called a *Motion for Pre Decree Relief*, in which a party can ask for temporary orders pending trial. These are fairly common, when people need temporary custody and visitation orders, temporary child support, and perhaps certain other financial orders, like who's going to pay for the mortgage. In one of my divorce cases, the other side filed a *Motion for Pre*

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also handling national security cases involving revocation or denial of security clearances

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Decree Relief on August 13. We had a return hearing on September 12, at which time the court gave us a day of trial on October 18, and a half day on October 24. We didn't finish, so the court then gave us another half day on December 13, and a full day on January 11. We don't have a decision yet, and I frankly wonder how the judge is going to remember testimony delivered months ago, or when the judge will have time to consider four sessions spread out over four months, and render a decision. That judge is sitting on the bench every day and all day, so perhaps he can find time during lunch hour, after work, or on weekends, to figure out our case and render a decision. And I have no idea where we are in the line, but I can guarantee you that there are a few more ahead before the judge turns his attention to our case. Maybe in late March, we'll get a decision on a motion that was filed last August.

Currently, we have three full time divorce judges on Oahu, and a fourth courtroom is kept going more or less full time by a series of part time "per diem" judges. At the end of FY 2018, the backlog of undisposed matters on the divorce calendar was over 5,000 cases. Now, granted, many of these cases will be settled without judicial intervention, but that's still far too many for the crew we have. We had just short of 3,500 divorce cases filed in FY 2018 (and that number doesn't include cases where the parties are already divorced and then file post-divorce motions). To get rid of the backlog, as well as keep up with current filings, you would have to move about ten thousand cases next year, and three judges and a handful of per diems just can't do it. So one more judge is a pretty modest request and one that was authorized several years ago, but never funded. It's about time.

These horror stories come out of Oahu, but believe it or not, things are even worse on Kauai. You have one Family Court judge on Kauai: Edmund Acoba. Judge Acoba has every calendar: divorce, child welfare, juvie, TRO's, and paternity. Now, I don't want to throw rocks at a drowning man, but Judge Acoba and his staff are absolutely overwhelmed. I was in a case where a *Motion to Reconsider* took over a year for him to rule on, partly because he wasn't even aware that it had been filed until many months after the fact. (He granted it, by the way.) I have an appeal pending where he was supposed to have filed *Findings of Fact and Conclusions of Law*, but he hasn't. We're just going to proceed without them. On August 2 of last year, I filed a post-divorce motion in his court. It is set for trial on April 2. That's eight months between the filing of a motion and a hearing on the merits. The worst thing about this is that all of the things I've just told you about happened in the same case. Honestly, I begin to wonder why people on Kauai even bother to go to court. They might as well just meet in a deserted parking lot, arm themselves with two-by-fours, and engage in trial by combat. And while Judge Acoba and I have had our differences from time to time, I want to make it clear that I'm not blaming him for this situation. This is what happens when you tell a man to move a mountain, and you give him a teaspoon to do it.

So, while I may be preaching to the choir when I'm speaking to the House Judiciary Committee, I ask you to continue to support these budget items as HB 510 moves on to your colleagues in Finance, and as it comes to the floor. Mahalo.

LATE

HB-510

Submitted on: 2/6/2019 2:38:58 AM

Testimony for JUD on 2/6/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

WE STRONGLY SUPPORT THIS BILL.

HB-510

Submitted on: 2/5/2019 9:19:10 AM

Testimony for JUD on 2/6/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
john knoebber	Individual	Support	No

Comments:

I write in support of HB 510. The new courthouse in Kona is much needed and has been long overdue. So many people have worked so hard to make it happen. It would be a shame to see it delayed unnecessarily. Personally, I recently moved my practice closer to the new location in anticipation of the opening; and it would inconvenience me if the opening were delayed.

Aloha,

John Knoebber, Attorney at Law

TESTIMONY
House Committee on Judiciary
House Bill 510, Relating to the Judiciary
Hearing: Wednesday, February 6, 2019 @ 2:05 p.m.

TO: Chair Chris Lee and Vice Chair Joy A. San Buenaventura and
Members of the House Committee on Judiciary

FROM: Carol Kitaoka
Kona Attorney

RE: HB 510 - Relating to the Judiciary (Budget)
*KONA JUDICIARY COMPLEX

Chair Lee, Vice Chair Joy San Buenaventura, and Members of the House Committee on Judiciary, I am an attorney residing in Kona currently in private practice and retired from the Hawaii County Prosecutor's Office. I am also the Hawaii State Bar Association Board Member representing West Hawaii. I am offering these comments in my personal capacity **IN STRONG SUPPORT** of the request for funds for janitorial, groundskeeper, maintenance, and security personnel for the Keahuolu Courthouse.

The community in West Hawaii is anticipating the opening of the Keahuolu Courthouse. The Courthouse will bring together all Judiciary services and agencies in one place. It will provide a safe and secure building for all court related business. We would like the Keahuolu Courthouse to open this Fall fully operational to provide the State of Hawaii with much needed services in a safe, secure, and convenient building.

In closing, the State of Hawaii and the Kona community need a fully functional Courthouse. I am requesting your favorable consideration for the inclusion of the funding requested for the janitorial, groundskeeper, maintenance, and security personnel. Thank you for your consideration of this request.

HB-510

Submitted on: 2/2/2019 12:45:00 AM

Testimony for JUD on 2/6/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments: