



*The Judiciary, State of Hawai‘i*

**Testimony to the Senate Committee on Judiciary**

Senator Karl Rhoads, Chair  
Senator Glenn Wakai, Vice Chair

Tuesday, February 5, 2019, 9:00 am  
State Capitol, Conference Room 016

By

Christine E. Kuriyama  
Deputy Chief Judge, Senior Family Judge  
Family Court of the First Circuit

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**Bill No. and Title:** Senate Bill No. 1464, Relating to Judicial Proceedings.

**Purpose:** Establishes certain positions in the Department of the Attorney General, Judiciary, and Department of Health dedicated to the preparation, filing, defense, and adjudication of assisted community treatment petitions, related guardianship petitions, and other legal filings. Appropriates funds.

**Judiciary's Position:**

The Judiciary takes no position on this bill, but has strong concerns regarding sections 5 and 7 of the bill.

Section 5 deletes the numbered designation of judges set forth in HRS §603-3 (page 5, lines 10-15 of SB1464). The deletion does not seem to be necessary based on the language in the preamble of the bill. Such changes appear to alter the statutory structure governing the appointment and organization of the circuit, district, and district family courts. Doing so would be problematic because it could have unintended consequences. The Judiciary is unaware of any concerns with the current statutory structure. To the extent there is a perceived need to revise the statutes referred to in this measure, the Judiciary would be willing to undertake such study and report to the Legislature before the 2020 Legislative Session.

Section 7 establishes and funds a social worker position in the Office of the Public Guardian (OPG) that is “dedicated to handling petitions and actions brought on behalf of



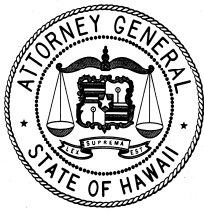
homeless individuals with severe mental illness, including coordinating with private service providers and other interested parties.”

Under chapter 551A, Hawai‘i Revised Statutes (HRS), OPG serves as a guardian of incapacitated individuals who lack relatives or friends willing and able to act as their guardian. OPG, however, does not itself file petitions for guardianship. Agencies such as the Department of Human Services or Department of Health, or private parties, such as hospitals, petition the court to appoint OPG as a guardian for the incapacitated person. Further, under HRS §551A-2, OPG is specifically prohibited from petitioning for its own appointment as the incapacitated person’s guardian. This prohibition is consistent with the recommendations of a national study on public guardianship and with the practices of public guardianship programs in other jurisdictions. For the above reasons, we respectfully submit that OPG is not the appropriate agency to handle petitions and actions brought on behalf of homeless individuals with severe mental illness.

Other than the forgoing, the Judiciary takes no position on this bill but provides the following considerations.

1. The Judiciary requires more judges and appreciates the Legislature’s recognition of this need. We would request that the proposed creation of and appropriation for new judicial positions in the District Court and District Family Court in the First Circuit be in addition to the Judiciary’s current budget requests, as the work to be done by these proposed positions is in addition to the needs that the Judiciary is currently facing.
2. Although recognizing the needs of the community as set out in the bill, the Chief Justice must retain the discretion and the responsibility to assign judges according to the demands on the Court at a particular time. The proposed newly created positions cannot be solely dedicated to hearing assisted community treatment petitions and guardianship petitions. The Chief Justice and all of the Chief Judges and Deputy Chief Judges, including the Senior Family Court Judge, should have the discretion to decide the court dockets assigned to each judge. The needs of the community do not remain static. It is highly foreseeable that if a single judge is required to be dedicated to just one case type, that judge may either be so inundated with cases that delays in the proceedings may ensue or the judge may not have enough cases to fill a calendar.

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



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2019**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 1464, RELATING TO JUDICIAL PROCEEDINGS.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, February 5, 2019                      **TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Erin LS Yamashiro, Deputy Attorney General

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill, and provides the following comments.

The purpose of this bill is to assist the public in pursuing petitions for assisted community treatment orders, as well as related petitions for legal guardianship and involuntary administration of medication, by creating dedicated state positions for these matters. These positions include a deputy attorney general, a family court judge in the first circuit, and an office of the public guardian social worker.

The bill, as written, should be clarified because it appears that the Legislature intends to establish a district family court judge. However, the bill amends section 603-3, Hawaii Revised Statutes (HRS), to add a circuit court judge position. If the Legislature intends to establish a circuit court judge position, then this should be clearly stated in the bill. If the Legislature intends to add a district family court judge, then section 5, p. 5, lines 6-16 should be replaced as follows:

SECTION 5. Section 604-1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“[(b)] There shall be appointed one or more district judges for each judicial circuit. The district court of the first circuit shall consist of [~~fourteen~~] fifteen judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, [~~and~~] fourteenth, and

fifteenth judge, respectively. One of the district judges shall hear landlord-tenant and small claims matters, provided that when in the discretion of the chief justice of the supreme court the urgency or volume of cases so requires, the chief justice may authorize the judge to substitute for or act in addition to or otherwise in place of any other district judge of the district court of the first circuit. The district court of the second circuit shall consist of three judges, who shall be styled as first, second, and third judge, respectively. The district court of the third circuit shall consist of three judges, who shall be styled as first, second, and third judge, respectively. The district court of the fifth circuit shall consist of two judges who shall be styled as first and second judge, respectively. The chief justice may designate a judge in each circuit as the administrative judge for the circuit.”

Pursuant to section 571-8(b), HRS, the Chief Justice of the Supreme Court may designate any district judge of the district court to act as a district family judge within that circuit. Alternatively, the Legislature may simply delete section 5, p. 5, lines 6-16. Section 571-8(b), HRS, does not limit the number of district family judges appointed by the chief justice of the supreme court; therefore, an amendment to section 571-8(b), HRS, is not necessary.

The Department of the Attorney General also notes that the established deputy attorney general would only handle matters pertaining to assisted community treatment cases, and the related legal guardianship and involuntary administration of medication. We suggest deleting “dedicated to” and replacing with “for” in section 1, p. 2, line 8, and deleting “dedicated” in section 3, p. 3, line 21. This would allow the attorney in the newly created position to handle other matters, if necessary, but still carry out the Legislature’s intent for the attorney to be responsible for all the assisted community treatment cases.

In addition to a deputy attorney general position, support staff, including a paralegal and a legal clerk, are needed to assist with preparing and processing court documents. The cost for office space and related offices expenses must be determined as well. If the Legislature’s intent is to provide statewide assistance for these matters, it should also consider the related travel costs, including transportation. Finally, to make

certain there is adequate court representation throughout the State, the Legislature should consider establishing two attorney positions instead of one. With these additional considerations, we suggest that the amount of money needed to accomplish this bill's purpose is \$332,000, which includes a one-time cost of \$24,000 to set-up an office.

Additionally, section 2 of the bill makes the Department of the Attorney General responsible for petitions brought pursuant to section 334-123, HRS. If the Legislature intends to pass this bill, it should replace "responsible" with "assist" to be consistent with sections 334-60.3 and 334-60.5, HRS, which are sections related to involuntary commitment matters. Accordingly, section 2, p. 3, lines 15-19, should be replaced as follows:

"(4) The department of the attorney general shall assist with petitions brought pursuant to section 334-123, Hawaii Revised Statutes, unless the private provider or other interested party declines assistance."

Finally, the Department of the Attorney General suggests that this Committee consider adding a position for the Office of the Public Defender. Pursuant to section 334-126, HRS, a court-appointed counsel or public defender shall represent the Subject. If there is an increase of these types of cases as the Legislature anticipates, the Office of the Public Defender would require more resources.

## Helping Hawai'i Live Well

To: Senator Karl Rhoads, Chair, Senator Glenn Wakai, Vice Chair, Members, Senate Committee on Judiciary

From: Trisha Kajimura, Executive Director

**Re: TESTIMONY IN SUPPORT OF SB 1464 RELATING TO JUDICIAL PROCEEDINGS**

**Hearing: THURSDAY February 5, 2019, 9:00 am, CR 016**

Thank you for hearing SB 1464, which appropriates funds for and establishes the positions of deputy attorney general, family court judge in the first circuit, and a staff position in the office of the public guardian dedicated to the preparation, filing, defense, and adjudication of assisted community treatment petitions, related guardianship petitions, and other legal filings.

Mental Health America of Hawaii is a 501(c)3 organization founded in Hawai'i 77 years ago, that serves the community by promoting mental health through advocacy, education and service.

Assisted Community Treatment (ACT) was passed by the Legislature in 2013 and was intended to help people who are so sick from mental illness that they are unable to recognize the need for their own treatment. Without assisted community treatment, these are community members living in terrible conditions, often homeless, unable to care for themselves and their own basic physical needs, hallucinating and suffering needlessly. With the proper treatment as provided through an ACT order, they are capable of a much higher level of functioning and can recover from their illness.

ACT requires proper staffing and funding to be implemented successfully. Currently, private service providers, community organizations and families do not have the resources to navigate the complex and congested system. These positions will help to improve the ACT process and bring more people with untreated mental illness enter recovery, escaping homelessness and its lack of dignity and humanity.

***Please help us improve mental health in Hawaii by passing SB 1464.***

Thank you for the opportunity to submit this testimony. You can reach me at [trisha.kajimura@mentalhealthhawaii.org](mailto:trisha.kajimura@mentalhealthhawaii.org) or (808)521-1846 if you have any questions.

**SB-1464**

Submitted on: 2/2/2019 5:43:22 PM

Testimony for JDC on 2/5/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	No

## Comments:

We believe this is a good proposal and one that will help streamline the process for people who want to avail themselves of the assisted outpatient treatment law. If a dedicated position for the AG could be created it would help greatly.

**SB-1464**

Submitted on: 2/3/2019 7:56:09 PM

Testimony for JDC on 2/5/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Julie Yurie Takishima-Lacasa	Testifying for Hawai'i Psychological Association	Support	No

Comments:





# PARTNERS IN CARE

*Oahu's Continuum of Care*

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*Our mission is to eliminate homelessness through open and inclusive participation and the coordination of integrated responses.*

## Testimony in Strong Support of SB 1464: Relating to Judicial Proceedings

TO: Judiciary Committee  
FROM: Partners in Care (PIC)  
HEARING: Tuesday, February 5, 2018 at 9:00 a.m., Conference Room 016

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Dear Chair Sen. Karl Rhoads, Sen Glenn Wakai, Vice Chair, and members of the Judiciary Committee:

Thank you for the opportunity to provide testimony in strong support of SB 1464, which will establish dedicated positions to expedite the filing of Assisted Community Treatment (ACT) orders and related guardianship orders. Partners in Care (PIC)—a coalition of more than 50 non-profit, homelessness providers—strongly supports the bill as a critical component of a comprehensive plan to address homelessness in Hawai'i.

This bill is designed to obtain treatment for the most severely ill and vulnerable persons experiencing chronic homelessness. These are those individuals we see every day on our streets: psychotic, hallucinating, behaving erratically, with very poor hygiene and living in degrading and inhumane circumstances. They are extremely high utilizers of ambulance, police, ER, inpatient treatment, crisis services, arrest, and adjudication—at great expense; have been non-responsive to repeated homeless outreach attempts; are frequently victims of assault and, for women, rape; and do not understand that they are ill and therefore refuse treatment. Their untreated psychosis/schizophrenia causes brain damage, resulting in reduced brain functioning and decreased likelihood of recovery.

Such persons have a “right to treatment” in light of these circumstances, and desperately need it. One avenue for this is the Assisted Community Treatment (ACT) law, which enables the Court to order individuals like these, who meet very specific criteria, to receive treatment in the community; a related mechanism is that of obtaining guardianship.

SB1464 provides for a dedicated attorney general, a Family Court judge, and a staff position in the Office of Public Guardian. These positions are necessary to facilitate the issuances of ACT orders. Since the law was passed in 2013, the lack of such positions has hindered the ability of social service organizations and family members to obtain such Orders.

SB1464 will enable us as a community to address the plight of those homeless individuals who are severely mentally ill and in dire need of treatment. For these reasons, PIC urges the passage of SB1464.

Thank you for your consideration of this important issue.



## CATHOLIC CHARITIES HAWAII

### TESTIMONY IN SUPPORT SB 1464: RELATING TO JUDICIAL PROCEEDINGS

TO: Senator Karl Rhoads, Chair, Senator Glenn Wakai, Vice Chair; and Members,  
Committee on Judiciary

FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawai'i

Hearing: **Tuesday, 2/5/19; 9:00 am; CR 016**

Chair Rhoads, Vice Chair Wakai, and Members, Committee on Judiciary:

Thank you for the opportunity to provide testimony **in support** of **SB 1464**, which establishes positions in the Department of the Attorney General, Judiciary, and Department of Health dedicated to the preparation, filing, defense, and adjudication of Assisted Community Treatment (ACT) petitions, related guardianship petitions, and other legal filings, and appropriates funds. I am Betty Lou Larson, with Catholic Charities Hawai'i. We are also a member of Partners in Care.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 60 years. CCH has programs serving elders, children, families, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i. Catholic Charities Hawai'i has a long history of working in the areas of affordable housing and homelessness.

Chronically homeless persons with severe mental illness are of grave concern to the State. This bill is designed to facilitate securing treatment for the most severely ill and vulnerable persons while at the same time providing a balance that respects their rights of self-determination. This very high need population is a tragic example of a system that has not been able to address their needs. They have usually been on the streets for many years since they are in such a state of psychosis that they refuse treatment since they do not comprehend that they are ill. As a result, they pose a significant risk to themselves.

We support SB 1464 since it provides a means to get the most severely mentally ill the services that are critical to their health and well-being. Creating a team of specially trained professionals to work on these cases, could enable these people who are chronically homeless to become more functional. Then they could be linked to housing and other homeless services to stabilize their lives in a safe and decent environment.

Thank you for listening to the needs of this very vulnerable population and taking action to enable them to get off the streets.

Please contact me at (808) 373-0356 or [bettylou.larson@catholiccharitieshawaii.org](mailto:bettylou.larson@catholiccharitieshawaii.org) if you have any questions.



**SB-1464**

Submitted on: 2/4/2019 6:51:37 AM

Testimony for JDC on 2/5/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kimo K. Carvalho	Testifying for IHS, The Institute for Human Services, Inc.	Support	No

Comments:

**SB-1464**

Submitted on: 2/4/2019 8:49:43 AM

Testimony for JDC on 2/5/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

**SB-1464**

Submitted on: 2/4/2019 3:01:26 PM

Testimony for JDC on 2/5/2019 9:00:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Goodman	Testifying for Hawaii Kai Homeless Task Force	Support	No

Comments:

**Testimony in Strong Support of SB1464 , Relating to Judicial Proceedings****TO: Senate Judiciary Committee (JDC)****FROM: Mike Goodman, Hawaii Kai Homeless Task Force & Member Partners in Care (PIC)****HEARING: Tuesday February 5, 2019 at 9am ., Conference Room 016**

Dear Chair Senator Rhoads and members of the Senate Judiciary Committee; Thank you for the opportunity to provide testimony in support of SB1464.

I'm Mike Goodman, Director of the Hawaii Kai Homeless Task Force, and a member of Partners in Care (PIC), which is a coalition of more than 50 non-profit homelessness providers. We strongly support this bill.

The chronic homeless, most of whom are mentally ill, or substance addicted, constitute a crisis within the homeless crisis. They are the most visible segment of the homeless population. They are also the most vulnerable, are virtually incapable of helping themselves, suffering horrific health consequences wrought by exposure and unsanitary conditions, while cycling between jails, hospitals and the streets. They are also the most difficult to serve; They often refuse services, because their mental impairments or addictions render it impossible for them to make rational decisions.

Severely mentally ill and substance addicted unsheltered homeless also impose the greatest burden on our communities. The aggregate cost for emergency medical services, law enforcement, repair and cleanup of property, and homeless sweeps is in the hundreds of millions a year. They also diminish the quality of life for residents and tourists. The Children's Discovery Center in Kaka'ako might close because untreated, mentally ill and substance addicted homeless persons make it difficult if not impossible for parents with small children to feel safe. Likewise, many Honolulu City Parks and Iolani Palace, will be closing at night to prevent property damage by this segment of the homeless population.

SB1464 is a crucial part of a series of bills including SB564, SB567, SB1124 and SB1465 which are contemplated to make critical improvements to the Assisted Community Treatment Program ("ACT"), to do a better job of serving severely mentally ill and substance addicted chronically homeless persons and get them off the streets. With an effective ACT program, we can end the suffering of impaired homeless individuals while saving taxpayers millions a year.

Thank you for the opportunity to testify.

**LATE**



HAWAII HEALTH  
& HARM REDUCTION CENTER  
*The New Chapter for Life Foundation and The CHOW Project*

## TESTIMONY IN SUPPORT OF SB 1464: RELATING TO JUDICIAL PROCEEDINGS

**TO:** Senator Karl Rhoads, Chair; Senator Glenn Wakai, Vice Chair; Senate Committee on Judiciary

**FROM:** Heather Lusk, Executive Director of the Hawaii Health and Harm Reduction Center

**RE:** Hearing on Tuesday, February 5<sup>th</sup>, 2019 at 9:00 A.M. Room 016

Dear Chair Rhoads, Vice Chair Wakai and members of the Judiciary Committee:

Thank you for the opportunity to provide testimony in strong support of SB 1464, which will establish dedicated positions to expedite the filing of Assisted Community Treatment (ACT) orders and related guardianship orders.

It is inhumane to leave people with severe mental illness languishing in the streets. We cannot simply ignore people's needs when they are in such a state of psychosis that they are refusing treatment and assistance because they do not understand they are ill, and as a result are posing a serious risk to themselves. While we have had increased access to ACT in recent years, lack of capacity within the system has made it challenging to implement.

I support SB 1464 because it addresses this issue in a balanced way. By creating a team of specially trained professionals to work on cases involving the possibility of court-ordered treatment for people with severe mental illness, SB 1464 ensures that people's rights of self-determination are respected while at the same time providing a means to get people the services that are so critical to their health and well-being.

The Hawaii Health and Harm Reduction Center works to reduce harm, promote health, create wellness and fight stigma in Hawaii and the Pacific. We focus our efforts on those disproportionately affected by social determinants of health, including but not limited to: people living with and/or affected by HIV, substance use, homelessness, mental illness and the transgender, LGBTQ and the Native Hawaiian communities.

Thank you for this opportunity to express my support for SB 1464, we need more tools to support people struggling with severe and persistent mental illness.

Sincerely,

Heather Lusk  
Executive Director

**SB-1464**

Submitted on: 2/3/2019 8:56:43 PM

Testimony for JDC on 2/5/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Diane S. Martinson	Individual	Support	No

## Comments:

I strongly support this bill. Those of us in the downtown area regularly encounter a core group of people who are in a disheveled, unhealthy state, who are mostly incoherent, who wander aimlessly around the neighborhood, and who do not recognize that they have mental health problems. They need help to think clearly, and they have a right to that treatment.

Diane Martinson



**SB-1464**

Submitted on: 2/4/2019 8:03:00 AM

Testimony for JDC on 2/5/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ellen Godbey Carson	Individual	Support	No

Comments:

Please approve this bill to improve options for helping mentally ill homeless persons who can no longer make competent decisions for themselves. It will dedicate an attorney from AG's office to petition, a guardian in Office of Public Guardian to assist, and psychiatry services, which will go a long way to helping us make court ordered treatment more commonplace and help some long-time homeless persons get off the street and receive treatment.

Thank you.

Ellen Godbey Carson

**From:** [Lawrence Chun](#)  
**To:** [JDCTestimony](#)  
**Subject:** Testimony in SUPPORT of SB 1464  
**Date:** Sunday, February 3, 2019 8:59:29 PM

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TESTIMONY IN SUPPORT OF SB 1464: Relating to Judicial Proceedings

TO: Senate Judiciary Committee

HEARING: Tuesday, February 5, 2019 at 9:00 a.m., Conference Room 016

FROM: Lawrence Chun

Dear Chair Sen. Karl Rhoads, Sen Glenn Wakai, Vice Chair, and members of the Judiciary Committee:

Thank you for the opportunity to provide testimony in strong support of SB 1464, which will establish dedicated positions to expedite the filing of Assisted Community Treatment (ACT) orders and related guardianship orders.

It is inhumane to leave people with severe mental illness languishing in the streets. We cannot simply ignore people's needs when they are in such a state of psychosis that they are refusing treatment and assistance because they do not understand they are ill, and as a result are posing a serious risk to themselves.

I support SB 1464 because it addresses this issue in a balanced way. By creating a team of specially trained professionals to work on cases involving the possibility of court-ordered treatment for people with severe mental illness, SB 1464 ensures that people's rights of self-determination are respected while at the same time providing a means to get people the services that are so critical to their health and well-being.

Thank you for this opportunity to express my support for SB 1464.

Names on Form Letter (LATE)

- 1 Sam Millington
- 2 Phil Augustus Acosta
- 3 C. Malina Kaulukukui
- 4 Lynnette Mau
- 5 Connie Mitchell
- 6 Amber Chong
- 7 Rebecca Kandell
- 8 Brandee Menino
- 9 Patrick Hurney

**LATE**