



*The Judiciary, State of Hawai‘i*

**Testimony to the Senate Committee on Judiciary**

Senator Karl Rhoads, Chair

Senator Jason Keohokalole, Vice Chair

Tuesday, January 28, 2020, 10:00 a.m.

State Capitol, Conference Room 016

by

Judge Kelsey T. Kawano

Circuit Court, Second Circuit

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**Bill No. and Title:** Senate Bill No. 2117, Relating to District Court Judges.

**Purpose:** To increase the number of district court judges in the Second Circuit from three to four judges by amending HRS Section 604-1.

**Judiciary's Position:**

The Judiciary strongly supports this bill which is part of the Judiciary's legislative package. This bill is an authorization request for an additional district court judge for the Second Circuit. The request for an appropriation is being included in the Judiciary's budget request.

An additional District Court judge is crucial to addressing the demands that have increased over the past 38 years since a Second Circuit District Court judge was last legislatively authorized. Equally important is having the ability to effectively address significant and specific needs. During the past two years, the Second Circuit has been meeting with different community stakeholders to develop a Community Court to address the problems faced by those less fortunate and struggling with homelessness and often co-occurring problems of mental illness and substance abuse. Also, this additional judge will build upon the existing dedicated District Court Mental Health docket to respond to the needs of those in the criminal justice system who are not homeless, but nonetheless suffer with mental health issues. Additionally, this additional judge will better enable the District Court to address the underlying cause of those operating a vehicle while under the influence of an intoxicant. Finally, this additional judge will enhance the response to domestic and community violence issues, including compliance hearings, in the outer districts of Hāna, Lahaina, Lāna‘i, and Moloka‘i. district hearings involving allegations of household or non-household violence given the deadlines associated with such hearings. Instead, the hearings are conducted via video conferencing to comply with statutory deadlines. This has



resulted in the judge not being able to observe all of the interaction between the parties despite the risk and intimidation and/or physical violence by one or both the parties. An additional judge would allow the Second Circuit to have a judge physically present during such hearings. An additional judge is essential to meeting all of these needs.

The Second Circuit serves the islands of Maui, Moloka'i, and Lāna'i. At the present time, the District Court has three (3) full-time sitting judges to serve the entire circuit. The additional judgeship is needed to address the increase in criminal and traffic cases as well as the time required to schedule and hear cases on the court calendars.

The last Second Circuit District Court Judgeship was legislatively authorized in 1982, 38 years ago. The authorization increased the number of District Court judge positions from two to three. Since that time, the population of Maui County has more than doubled, from about 77,000 in 1982 to more than 167,000 in 2018. From 2011 alone, the population increased by 10,000 or some 6.6%. Present indicators suggest that this population growth will continue, especially with Maui's demand as a desired tourist destination. Indeed, the foregoing statistics do not take into account the high de facto population in the Second Circuit.

The Second Circuit has been experiencing an increase in criminal and traffic filings that have resulted in court calendars often taking all day to complete. New criminal filings have increased by 19.0% from 2,859 cases in FY2011 to an average of 3,401 cases in the last three years, and new traffic filings by 15.9% from 21,694 to an average of 25,136 cases during the same period (note that these numbers include traffic criminal filings which increased by 24.9% from 3,311 to an average of 4,134 during this period). These increases in cases make it extraordinarily difficult for District Court Judges to timely attend to other essential judicial duties such as requests for finding of probable cause for extended restraint of liberty of warrantless arrestees (Judicial Determination of Probable Cause or JDPC); requests for review and approval of charging by felony information packet; requests for orders pertaining to bail; requests for execution of search warrants; requests for order to show cause; requests for approval of temporary restraining orders and protective orders; review of civil traffic written statements; review of traffic notices of discrepancies; and review and action on ex-parte and non-hearing motions.

District Court judges are "on-call" every night of the week to respond to the needs of law enforcement agencies. In the past, after hours requests were limited to only "emergency" situations, weekends, and holidays. However, due to recent changes in police investigative procedures, judges must now be routinely available to review "after hours" search warrant and arrest warrant applications, hear telephonic requests for issuance of search warrants or arrest warrants and to screen pre-arrest requests for arrest warrants made during any of the three police department work shifts, "24/7." In the past, these JDPC's were either not required by law or were attended to during court business hours if and when a judge was available. The additional judge is needed to satisfy the law enforcement needs of the community.



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The District Court convenes in Hāna and Lāna‘i only once a month, in Moloka‘i only three times a month, and in Lahaina three days a week. These calendars are insufficient to keep up with the growing number of cases being filed in the rural courts and off-island courts. Community needs also warrant the expansion of the Lahaina District Court to a full-time court. The additional judge and staff will allow for such expansion; will allow the District Court to work on initiatives such as jail diversion for mentally ill offenders; and add needed calendars in Wailuku, as well as its rural courts in Hāna, Lahaina, Lāna‘i, and Moloka‘i.

The additional judge will assist in addressing the specific twenty-first century needs of the community in the areas of homelessness, mental health, intoxicated driving, and domestic and community violence, while dealing with the increased caseload in criminal and traffic filings, and accommodating the needs of our rural communities that are underserved at present.

Thank you for the opportunity to testify on this measure.

**SB-2117**

Submitted on: 1/27/2020 9:53:50 AM

Testimony for JDC on 1/28/2020 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Damir Anver Kouliev	Testifying for Maui County Bar Association	Support	No

Comments:

Aloha Senate Judiciary Committee,

The Maui County Bar Association (MCBA) endorses this bill.

Creating another District Court Judge position in the Second Circuit would do a great deal to facilitate smooth court operations, ease the strain on the judges valiantly handling these overloaded calendars, and expand access to justice, especially to underserved rural populations in Hana, Lanai and Molokai.

Thank you for your consideration.

Damir Kouliev, MCBA President