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**STATE OF HAWAII**  
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EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE SENATE COMMITTEE ON WAYS AND MEANS  
ON  
HOUSE BILL NO. 1841, H.D. 2, S.D. 1

**April 5, 2022**  
**10:30 a.m.**  
**Room 211 and Videoconference**

RELATING TO THE JUDICIARY

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 1841, H.D. 2, S.D. 1, aims to increase the number of people willing to serve as appointed counsel and guardians ad litem by raising their compensation and appropriating \$2,300,000 in general funds in FY 23 for the Judiciary for that purpose.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

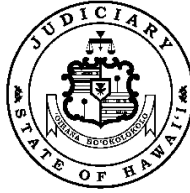
- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



*The Judiciary, State of Hawai'i*

**Testimony to the Thirty-First Legislature, Regular Session of 2022**

**Senate Committee on Ways and Means**  
Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Tuesday, April 5, 2022, 10:30 a.m.  
Conference Room 211 & Videoconference

by  
Matthew J. Viola  
Senior Judge, Deputy Chief Judge  
Family Court of the First Circuit

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** House Bill No. 1841, H.D. 2, S.D.1, Relating to the Judiciary

**Purpose:** Increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardian ad litem. Appropriates funds. (SD1)

**Judiciary's Position:**

The Judiciary offers this testimony in support of House Bill No. 1841, H.D. 2, S.D.1.

Guardians ad litem (GALs) perform a critical role in many family court cases, including, for example, child abuse and neglect cases, involuntary hospitalization proceedings, and assisted community treatment proceedings. The subjects of these proceedings are among the most vulnerable members of our community and they frequently are unable to advocate for themselves or meaningfully participate in court proceedings that may significantly impact their lives. It is in our community's interest to attract and retain competent individuals to act as GALs to represent their best interests. One important way to accomplish this goal is to ensure that GALs are adequately compensated for their work.



House Bill No. 1841, H.D. 2, S.D.1, Relating to the Judiciary  
Senate Committee on Ways and Means  
Tuesday, April 5, 2022 at 10:30 a.m.  
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Presently, GALs are paid at rates prescribed under Hawai'i Revised Statutes (HRS) § 571-87, which sets their compensation at \$60 per hour for out-of-court work and \$90 per hour for in-court work. An enhancement in the rates at which the Judiciary can compensate GALs should help to increase the pool of individuals willing and able to perform this critical work.

Paying GALs more will, of course, require additional funding. We therefore greatly appreciate the Committee on Judiciary's reinsertion of the increased hourly compensation rates contained in HB1841, H.D.2, S.D. 1, as well as the additional \$2.3 million appropriation to ensure that the increases in GAL compensation and parent-counsel contracts are adequately funded.

For the Committee's awareness, this does not address reductions (approximately \$2.75 million in the First Circuit alone) to budgets for guardians ad litem and court-appointed counsel that have been necessitated by reduced appropriations during the pandemic. We would of course be open to the restoration of that funding in whole or in part, if possible.

The Judiciary understands that the additional appropriations amount is not intended to supplant the Judiciary's existing funding and budget requests.

Thank you for the opportunity to provide testimony on this matter.

**HB-1841-SD-1**

Submitted on: 4/1/2022 1:01:13 PM

Testimony for WAM on 4/5/2022 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marilyn Yamamoto	Testifying for Hawaii Family Advocacy Team	Support	Written Testimony Only

Comments:

**I support this bill** and wish the compensation could be more, given that the impact upon the very lives of vulnerable children and adults depend upon diligent legal representation.

**TESTIMONY ON HB1841 SD2**

Committee on Ways and Means

Senator Donovan Dela Cruz, Chair  
Senator Gilbert Keith-Agaran, Vice-Chair

April 5, 2022 at 10:30 a.m.

The Legal Aid Society of Hawaii submits testimony in strong support of HB1841 SD1 – Relating to the Judiciary. This bill would increase the compensation to be paid to appointed counsel and guardian ad litem and provide an appropriation of funds for the purchase of service contracts for guardian ad litem and court-appointed counsel. We ask that the appropriation of funds also include funds to restore previously reduced contracts.

Legal Aid provides guardian ad litem services on ‘Oahu, Hawai‘i Island and in Maui County and also provides court-appointed counsel representation to parents on Kauai, Hawai‘i Island and in Maui County. We have been providing these services to the state for almost 25 years and are the only statewide agency providing this breadth of services. These contracts provide a critical piece in ensuring the safety of children in child welfare cases by providing an independent fact finder in child welfare cases who is sole interest is the welfare of the child as required by state and federal law.

We are in support of this bill as contracts to provide these services were significantly cut in FY21 and continue be in FY22. In the First Circuit, where contracts for guardian ad litem services are provided by courtroom, the contract was cut by 30%, retroactively to July 1, 2020 in January 2021. This cut resulted in a significant loss of funding to provide services and an effective drop in rate to approximately \$29/hour with respect to the actual hours our dedicated staff commits to providing these services. This cut also lead to the loss of independent guardian ad litem who we contracted to provide services in conflict cases, as they could no longer afford to provide this critical service.

In addition, adjustments were made to the billing structure in the Third Circuit, which we understand led to the loss of a number guardian ad litem and parent counsel attorneys.

Guardian ad litem are appointed for a child to serve throughout the pendency of the child protective proceeding (HRS 587A-16). The statute further requires that guardian ad litem visit with the child at least once every three months as well as submit reports to the court every six months.

In actuality, depending on the status of the case or the breadth of concerns for the child, we may write reports on a more frequent basis (once every 2-3 months) or visit with the child multiple times per week or once a month. In addition to our meetings with the children, we participate in various meetings throughout the pendency of the case: Ohana Conferences, Department of Education IEP or 504 meetings, Department of Health treatment team meetings (which occur on a monthly basis). We also have regular contact with individuals relating to the child: their medical providers, educational contacts (counselors, teachers, principals), the resource caregivers, the social worker, attorney general and the parents (and parents’ counsel!) in the case.

The role of the guardian ad litem is critical to ensuring the safety of children entrusted to the state and who have been victims of child abuse and neglect. Not paying an adequate rate for these services, puts children at risk.

In addition, the role of parent counsel is important to helping parents who are also in crisis better understand their rights and responsibilities to create a safe family home for their children. Some of the most meaningful cases that our staff does is working with parents who take enormous steps to become clean, end relationships that have impacted the safety of their children, and make other gains to regain custody of their children and end state intervention. Paying adequate rates for counsel to really put in the time to help parents achieve these goals is also critically important.

As such, we ask that this Committee continue to support this bill and ensure that adequate funds are allocated for this increase as well as to restore previously cut contracts for guardian ad litem and court-appointed counsel services.

Thank you for this opportunity to provide testimony.

Sincerely,

M. Nalani Fujimori Kaina  
Executive Director



## TESTIMONY

Senate Committee on Ways and Means

Hearing: Tuesday, April 5, 2022 (10:30 a.m.)

TO: The Honorable Donovan M. Dela Cruz, Chair  
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair

FROM: Rhonda L. Griswold  
HSBA President-elect

RE: House Bill No. 1841, HD2, SD1  
Relating to the Judiciary

Guardians Ad Litem are appointed by a court to act in a court proceeding on behalf of an individual, usually a child or an adult who is deemed to be incapable of representing oneself. A Guardian Ad Litem is a factfinder for the court, not an advocate, and must always consider the best interests of the individual being represented. Guardians Ad Litem are instrumental in the fair, timely, and equitable disposition of matters of individuals identified by the court.

This bill reviews the hourly fees and the maximum case management fees of Guardians Ad Litem. Specifically, as recommended by the Senate Committee on Judiciary, the fees would be increased as follows:

- \$120 an hour for in-court services provided by a licensed attorney.
- \$90 an hour for out-of-court services provided by a licensed attorney.

In addition the subject matter Committee has included a \$2,300,000 general fund appropriation for FY 2022-2023.

Guardians Ad Litem covered by this bill would be those appointed to represent the interests of the following:

- Children; or
- Incapacitated adults in probate proceedings and family court matters, such as parentage, or divorce or separation proceedings.

Attorneys licensed to practice law in Hawaii have long been under-compensated for the vital work they do on behalf of individuals deemed by the court in need of neutral objective services. This measure is needed to maintain court lists of qualified and available individuals for appointment, especially on the Neighbor Islands where the private practice attorney populations are small in comparison to Oahu.

Thank you for the opportunity to submit comments in **STRONG SUPPORT** of this bill.

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**HB-1841-SD-1**

Submitted on: 4/4/2022 12:18:52 AM

Testimony for WAM on 4/5/2022 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Joseph E Cardoza	Testifying for Hawai`i Access To Justice Commission	Support	Written Testimony Only

Comments:

Chair: Hon. Donovan M. Dela Cruz, Chair

Vice Chair: Hon. Gilbert S.C. Keith-Agaran, Vice Chair

Committee: Senate Committee on Ways and Means

Testimony of: Joseph E. Cardoza, Chair

Organization: Hawai`i Access To Justice Commission

Hearing Date: Tuesday, April 5, 2022

Hearing Time: 10:30 a.m.

Place: Conference Room 211 and

Via Videoconference

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

House Bill: HB No. 1841, HD2, SD1

Position: Support of HB1841, HD2, SD1 Relating to The Judiciary

Dear Chair Dela Cruz and Members of the Senate Committee on Ways and Means:

The Hawai'i Access to Justice Commission strongly supports House Bill 1841, HD2, SD1, which would increase the hourly rate of compensation and the maximum allowable compensation per case for court-appointed counsel and guardians ad litem.

Section 571-87 of the Hawai'i Revised Statutes provides compensation for court-appointed counsel and guardians ad litem in Family Court cases. These cases are of critical importance to the community. Unfortunately, the compensation currently authorized by law jeopardizes the ability to secure the services of court-appointed counsel and guardians. While HB 1841, HD2, SD1 will not set compensation at a level that matches current market rates, it nevertheless will be an improvement over the existing levels of compensation.

The Commission appreciates the Committee hearing this Bill. Thank you for the opportunity to present this written testimony.

I do not plan to testify during the videoconference hearing on this Bill.