



The Judiciary, State of Hawai'i

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

House Committee on Finance
Representative Sylvia Luke, Chair
Kyle T. Yamashita, Vice Chair

Monday, April 4, 2022, 2:30 p.m. – Agenda #2
State Capitol, Via Videoconference
Conference Room 308

by

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

Bill No. and Title: Senate Bill No. 2740, SD1, HD1, Relating to Guardians Ad Litem.

Purpose: Allows the judiciary to compensate guardians ad litem for involuntary hospitalization and assisted community treatment petitions at a rate higher than existing statutory guidelines. Makes an appropriation. Effective 1/1/2222. (HD1).

Judiciary's Position:

The Judiciary strongly supports Senate Bill No. 2740, SD1, HD1. An appropriation of additional funds will greatly assist members of our community who are suffering from mental illness. We appreciate that “it is not the legislature's intent that the requested funds supplant the judiciary's existing funding or budget requests.”



Senate Bill No. 2740, SD1, HD1, Relating to Guardians Ad Litem
House Committee on Finance
Monday, April 4, 2022 at 2:30 p.m.
Page 2

We are in full agreement that “guardians ad litem (GALs) have an important role in supporting persons who are being considered for involuntary hospitalization or assisted community treatment.” Additional funding is particularly crucial given the recently enacted statutory changes requiring the court to appoint GALs in all assisted community treatment cases. HRS section 334-123.5. Following these statutory changes, the number of assisted community treatment cases filed in the First Circuit Family Court has increased noticeably, which is a testament to the Legislature’s wisdom in enacting those recent changes.

Given the reasons for this bill, it was appropriate that House Committee on Judiciary and Hawaiian Affairs retained an appropriations clause in Senate Bill No. 2740, SD1, HD1 and requested that “the Committee on Finance give consideration to \$100,000 as the appropriate amount for the funds requested in this measure.” The Judiciary joins the House Committee on Judiciary and Hawaiian Affairs in urging the Committee on Finance to reinsert the original \$100,000 appropriation to ensure that there are a sufficient number of GALs to serve in involuntary hospitalization and assisted community treatment proceedings.

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

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

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

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

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 HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 2740, S.D. 1, H.D. 1

**April 4, 2022
2:30 p.m.
Room 308 and Videoconference**

RELATING TO GUARDIANS AD LITEM

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

Senate Bill No. 2740, S.D. 1, H.D. 1, proposes to increase the number of people willing to serve as guardians ad litem by raising their compensation to a higher rate than what is currently included in Section 571-87, HRS, Appointment of Counsel and Guardian Ad Litem; Compensation. Guardians ad litem are court appointees who are appointed by judges to represent people who are subject to mental health petitions and not able to make decisions in their own best interests during judicial proceedings. The bill makes an unspecified general fund appropriation in FY 23 for the Judiciary to compensate guardians ad litem and for other program costs for these purposes.

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.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515

STEVEN S. ALM
PROSECUTING ATTORNEY



THOMAS J. BRADY
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE
Thirty-first State Legislature
Regular Session of 2022
State of Hawai`i

April 4, 2022

RE: S.B. 2740, S.D. 1, H.D. 1, RELATING TO GUARDIANS AD LITEM.

Chair Nakashima, Vice-Chair Matayoshi and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of S.B. 2740, S.D. 1, H.D. 1.

The purpose of S.B. 2740, S.D. 1, H.D. 1 is to allow the Judiciary to compensate guardians ad litem for involuntary hospitalization and assisted community treatment petitions at a higher rate than existing statutory guidelines.

While the Department's primary function is to fairly and effectively prosecute criminal offenses, our overarching concern is public safety and welfare. In light of this, the Department actively supports many programs and initiatives that address some of the root causes for criminal behavior, such as mental health issues and substance abuse. To the extent people with serious, untreated mental health or substance abuse issues can receive needed treatment before any dangerous or potentially criminal acts are committed—while safeguarding their constitutional rights—the Department strongly supports these efforts.

The Department firmly believes that guardians ad litem (GAL) serve an integral role in assisting people who suffer from serious mental illness or substance abuse, or who pose an imminent danger to self or others. S.B. 2740, S.D. 1, H.D. 1 will help unlock the goals and objectives of Act 58 (2021) by ensuring that appropriate funding is allocated to appoint GALs in all assisted community treatment cases and provide the needed services for those seeking assistance while ensuring public safety.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu **supports** the passage of S.B. 2740, S.D. 1, H.D. 1. Thank you for the opportunity to testify on this matter.

Testimony of Ellen Godbey Carson In Support of SB2740, SD1, HD1

Hearing Before the House Committee on Finance, on April 4, 2022 at 2:30pm

I strongly support SB2740, SD1, HD1. This bill will help assure sufficient Guardians ad Litem (“GAL”) are available for Assisted Community Treatment (“ACT”) and involuntary hospitalization cases, by allowing courts to increase GAL fees where appropriate in order to obtain sufficient GALs for these cases. Currently, GAL fees are too low to attract enough GALs for these cases.

While I write as an individual, I have served as President and director of Institute for Human Services, President of the Hawaii State Bar Association, and President of Hawaii Women Lawyers, seeking to help improve our system of laws and community services to those in need.

The sad reality is that our statutory fees for court-appointed GALs are out-dated and insufficient to attract the numbers of people needed to do this work. As a result, human lives hang in the balance due to lack of GALs for ACT cases. The current GAL rate is \$60/hour for out-of-court work (which are most of hours spent) and \$90 an hour for in-court work. By contrast, court appointed defense attorneys in Hawaii are paid \$90/hour (for all work) under state law and \$158/hour for federal courts. Private-sector attorneys’ fees are also substantially higher than GAL fees, generally in the hundreds of dollars. The result is that the very low fee schedule that our state courts are constrained to use for GALs, fails to attract sufficient persons to serve as GALs. When there is not a GAL promptly available, these cases cannot be set for hearing and so fail to assist the individual who is in imminent risk of danger to self or others.

As a volunteer for IHS, I’ve been so impressed by its vision for an ACT process that can truly save lives. GAL appointments can finally provide the quality case-by-case attention we need to assist the courts in facilitating life-saving treatment for these vulnerable individuals.

SB2740 will have an appropriations amount set so as to limit budgetary impact. The severely mentally ill individuals served by this bill are our high-utilizers, incurring millions of dollars to our police, courts, hospitals, and social services in a revolving door system that isn't giving them effective treatment. These needless costs could be saved by having a prompt an efficient process for getting the treatment needed for these individuals. This bill strikes the right balance for those goals. Please approve this bill.