

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

Hearing Before the House Committee on Judiciary March 15, 2:00pm

I support SB2740, SD1. This bill will help assure sufficient Guardians ad Litem (“GAL”) are available for Assisted Community Treatment (“ACT”) 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.

Our ACT law is a model statute in our nation in many ways, and is a step in the right direction of helping provide a kinder and more effective system for responding to the needs of our mentally ill residents who have no decisional capacity for treatment or self-preservation. But the system can't operate the way it is designed when fees are so low that GALs can't be found to serve, causing cases to be delayed or not heard. For some of our homeless neighbors, a one-time intervention through a GAL and ACT, allowing administration of long-acting stabilizing medication, can mean the difference between life and death. This intervention can help a young schizophrenic person get the treatment they need for a productive long life, instead of a lifetime living on the street. Chronically homeless persons can become stabilized so as to rebuild mental capacity and family relationships necessary to becoming higher functioning.

The proposed amendment by 2740 is minor (pertains only to GALs for ACT cases) and 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, in a least restrictive environment. This bill strikes the right balance for those goals. Please approve this bill.

SB-2740-SD-1

Submitted on: 3/12/2022 11:29:03 AM

Testimony for JHA on 3/15/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
David Morimoto	Individual	Support	Written Testimony Only

Comments:

Aloha House Committee on Judiciary & Hawaiian Affairs,

I strongly support passage of SB2740 SD1 as this bill will ensure sufficient Guardians Ad Litem ("GALs") are available for Assisted Community Treatment (ACT) cases. A GAL, by attending with or on behalf of the person who is the subject of a mental health petition, will be able to decrease delays in the court's review of the petition and ensure that the person, who might be absent or otherwise unable to meaningfully participate in the proceedings, has a representative available who will act in their best interest.

Currently, statutory fees for court-appointed GALs are \$60/hour for out-of-court work and \$90 an hour for in-court work. By contrast, court appointed attorneys in Hawaii are paid \$90/hour under state law and over \$100/hour for federal courts. Private sector attorneys' fees are also substantially higher than GAL fees. The result is that when ACT petitions are filed for persons who are in imminent risk of danger to self or others, GALs are in short supply, and cases are being delayed in getting a hearing date.

Assuring sufficient GALs for this process can help stop the revolving door faced by too many severely ill persons who are homeless, and who get shuttled between police, courts and emergency rooms without a guardian to help secure effective treatment to address their condition. These GALs can help provide interventions that can save lives and save needless costs and burdens to our medical systems. Early intervention for conditions like schizophrenia can save lives and offer a hope for a very productive life in the future.

I respectfully ask for your support of this critical bill.

Mahalo,

David Morimoto

2324 Halekoa Dr, Honolulu HI 96821



The Judiciary, State of Hawai‘i

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

House Committee on Judiciary & Hawaiian Affairs

Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

Tuesday, March 15, 2022 at 2:00 p.m.
Conference Room 325 & Via Videoconference

WRITTEN TESTIMONY ONLY

by

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

Bill No. and Title: Senate Bill No. 2740, S.D. 1, 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 7/1/2050. (SD1)

Judiciary's Position:

The Judiciary strongly supports Senate Bill No. 2740, S.D. 1. An appropriation of additional funds will greatly assist members of our community who are suffering from mental illness. It is important to highlight that the measure states “[I]t is not the legislature's intent that the requested funds supplant the judiciary's existing funding or budget requests.”



Senate Bill No. 2740 S.D. 1, Relating to Guardians Ad Litem
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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 the Senate Ways and Means Committee retained an appropriations clause in Senate Bill No. 2740, S.D. 1. We urge the House Committee on Judiciary and Hawaiian Affairs to reinsert the original amount of \$100,000 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.

Testimony of Anthea Wang, MD, MPH

Regarding SB 2740 SD1 relating to:

Guardian Ad Litem Program; Judiciary; Appropriation

March 12, 2022

Dear Chair, Vice Chair, and committee members,

Thank you for the opportunity to provide testimony for SB2750 SD1, which makes an appropriation to allow the judiciary to compensate Guardians Ad Litem (GALs) for Involuntary Hospitalization and Assisted Community Treatment petitions at a rate higher than existing statutory guidelines.

I support SB2740 SD1 and urge you to approve it.

As you know, GALs are crucial to support persons being considered for Involuntary Hospitalization or Assisted Community Treatment, who are at their most vulnerable state. However, the current GAL compensation is inadequate to attract enough GALs for these cases. Court appointed attorneys are compensated more under state law and even more for federal courts; and private sector attorney fees are substantially even higher. As a result, when petitions for Involuntary Hospitalization or Assisted Community Treatment are filed for persons who are in imminent risk of danger to self or others, there is an inadequate supply of GALs and the hearing dates for these cases are delayed.

As a practicing physician, I am involved in the care of vulnerable patients. I am also involved in the work of the Institute for Human Services for our homeless populations. I see all too often the revolving door faced by many severely ill persons who are homeless and get shuffled among the police, the courts, and the emergency rooms without a guardian representing their best interest and helping secure the effective treatment they need to address their condition. Ultimately, this measure not only provides needed care in a timely and lifesaving manner for vulnerable patients, but it also reduces needless costs and burdens to our medical, legal, and community systems.

Thank you,

Anthea Wang, MD, MPH

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HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Thirty-first State Legislature
Regular Session of 2022
State of Hawai`i

March 15, 2022

RE: S.B. 2740, S.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.

The purpose of S.B. 2740, S.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 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. Thank you for the opportunity to testify on this matter.



TO: Honorable Representative Mark Nakashima
Chair, House Committee on Judiciary & Hawaiian Affairs

Honorable Representative Gilbert S.C. Keith-Agaran,
Vice Chair, House Committee on Judiciary & Hawaiian Affairs

FROM: Connie Mitchell MS, APRN, BC, Executive Director
IHS, The Institute for Human Services

SUBJECT: S.B. 2740, SD1 – RELATING TO GUARDIANS AD LITEM.

HEARING: March 15, 2022, 2:00 pm Via Videoconference, State Capitol

POSITION: IHS strongly supports the passing of S.B. 2740, SD1.

IHS, The Institute for Human Services has been a critical safety net of our community for over 42 years. We provide a full spectrum of services to help those in our community experiencing homelessness to achieve housing and those who are on the precipice of homelessness to remain stably housed. **IHS stands in strong support of S.B. 2740, SD1.** This bill will assure sufficient Guardians Ad Litem (“GAL”) are available to provide critical court hearings for severely mentally ill individuals for treatment under our Assisted Community Treatment (“ACT”) law.

The ACT law, HRS Chapter 334-121, provides a court-supervised process to assist in obtaining life-saving treatment for individuals suffering from mental illness or substance abuse, who have lost decisional capacity. Among the persons IHS serves, these are the most vulnerable.

In 2021, Act 58 was passed to require appointment of a GAL to improve the ACT process and assist with necessary medical treatment in these cases. Our experience at IHS is that the mandatory appointment of GALs has indeed significantly improved the ACT process and made it much more effective when hearings occur. However, the fee structure for GALs is so low that it does not create a sufficient supply of GALs for these cases. Individuals in dire need of help, are facing delays in getting promptly set for hearing.

Currently, statutory fees for court-appointed GALs are \$60/hour for out-of-court work and \$90 an hour for in-court work. By contrast, court appointed attorneys in Hawaii are paid \$90/hour under state law and over \$100/hour for federal courts. Private sector attorneys’ fees are also substantially higher than GAL fees. The result is that when ACT petitions are filed for persons who are in imminent risk of danger to self or others, GALs are in short supply, and cases are being delayed in getting a hearing date.

This bill would allow a court to provide higher payment to secure sufficient GALs for ACT cases, supported by an appropriation of a specific sum (\$100,000 is requested). This relatively modest change will help assure the ACT process occurs as it was designed.





The benefits of this bill are three-fold:

- (1) Prompt hearings with a GAL avoid tragic consequences caused by delays. One of our subjects of petition assaulted a police officer before the petition was brought to trial, further criminalizing him in order for him to access treatment. A female subject died as a result of being hit by a car while crossing a highway and yet another young man who already had his foot amputated due to self-neglect died in the hospital of septicemia that resulted from the infection of his wounds.
- (2) Prompt hearings with a GAL provide us with another tool in our tool box to help persons who are mentally ill and vulnerable. The ACT hearings can be a life-saver for young people who suffer from schizophrenia and anosognosia (being unaware of their own mental health condition or that they can't perceive their condition accurately). If stabilized early by long-acting medication that ACT can provide, these individuals could live a very productive life going forward, instead of becoming chronically ill and homeless on our streets.
- (3) Prompt hearings with a GAL can help prevent the revolving door of emergency interventions by police, social workers, hospitals and court, and thus save the massive unnecessary costs being incurred when these individuals do not promptly get the appropriate attention they need.

Thank you for considering my testimony, offered on behalf of IHS and the many homeless mentally ill people we continue to serve and protect across our island. We hope your Committee will see fit to pass S.B. 2740, SD1.

Mahalo.

