



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Second State Legislature, 2023 Regular Session

Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Tuesday, March 21, 2023, 9:35 a.m.

Hawai‘i State Capitol

Conference Room 016 & Videoconference

by

Tom Mick

Policy and Planning Department Director

Bill No. and Title: House Bill No. 382, H.D. 1, Relating to the Judiciary.

Purpose: To provide biennium operating and capital improvement appropriations for FYs 2024 and 2025.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No. 382, H.D. 1, which reflects the Judiciary's resource requirements for FYs 2024 and 2025.

The Judiciary recognizes that after the difficult down years due to the effects of COVID-19, Hawaii's economy has continued to gradually recover and move forward. As the Judiciary was preparing its budget requests for submission to the Governor and the Legislature, this economic improvement was confirmed at the Hawai'i Council on Revenues meeting in January 2023 which raised the growth rate projected at its September 2022 meeting from 4% to 5% for FY 2024 and maintained its forecast of 3.5% for FYs 2025-2029, although it did lower its FY 2023 forecast from 6.5% to 5.5%.

Accordingly, after considering this, the Judiciary moved forward with requests for eight new permanent positions and \$7.8 million in FY 2024 and \$6.9 million in FY 2025. Our requests centered on new facilities, new permanent positions, client services, restoration of funding for defunded positions, and some miscellaneous but important priority items.



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Senate Committee on Judiciary
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The Judiciary is very grateful to the House Committee on Finance (FIN) for providing four new permanent positions and \$6.25 million for FY 2024 and \$5.76 million for FY 2025 for our biennium budget requests. This included funding for: (1) network circuits, phone lines, and associated telecommunications equipment for the new Wahiawā Courthouse scheduled to open in Spring 2025; (2) security, janitorial, and common area maintenance services at Hale Hilina‘i, the new and revitalized juvenile services and shelter facility on Alder Street; (3) two bailiff positions for Third Circuit to support all the technical requirements the go with the new hybrid of remote and in-court proceedings; (4) guardian ad-litem/court-appointed counsel services Judiciary-wide; (5) mediation services where caseload has more than doubled from what is called for in the contract; (6) residential and other therapeutic programs that allow children to remain with mothers on probation while in these programs; (7) salaries for justices and judges set by the 2019 Commission on Salaries and approved by the legislature; (8) replacement of the Judiciary’s 4Gov accounting system; (9) our share of increased costs for the State’s risk management program; and (10) a no-cost temporary to permanent position conversion for a forensic interview specialist at Children’s Justice Center.

Also included in the above amounts, again for which we are very thankful to FIN, are some \$1.5 million in FY 2024 and \$1.6 million in FY 2025 to restore funding for some 29 defunded positions – 14 in the First Circuit, 4 in the Second Circuit, 7 in the Third Circuit, 1 in the Fifth Circuit, and 3 in the Office of Public Guardian.

However, the Judiciary is concerned regarding the lack of funding and support by FIN for five of our requests – \$361K for FYs 2024 and 2025 for new positions for a First Circuit District Court Judge and three support staff, \$257K in FY 2024 and \$261K in FY 2025 to restore funding for positions for a First Circuit Court Judge and an Adult Client Services Branch Judicial Clerk, \$447K in FY 2024 and \$452K in FY 2025 to restore funding for positions for two Second Circuit District Court Judges and a Per Diem Judge, and \$61K in FY 2024 and \$63K in FY 2025 to restore funding for a Fifth Circuit Social Worker position.

Without the funding for an additional District Court Judge and staff for First Circuit, the Judiciary will not be able to increase the size of its Honolulu District Court pool of judges that serve on a rotational schedule for the four rural courts – Kāne‘ohe, Wahiawā, ‘Ewa, and Wai‘anae. This, in turn, would make it difficult for the District Court to be able to increase its capacity to serve the rural courts, to develop additional court calendars based on caseload or other priorities, or to increase flexibility to better manage court dockets and be more responsive to the needs of court users and the communities they serve.

Not providing funding for restoration of a Circuit Court Judge for the First Circuit means that the Judiciary will continue to have an empty judge position in its 18th Division. This results in increased workload for all the other circuit judges as they have to absorb this Division’s workload, and can become somewhat burdensome as caseloads continue to trend back towards pre-pandemic



levels. Further, without this judge position being filled, it is unlikely that First Circuit can alleviate the backlog of cases caused by the inability of the Judiciary to conduct jury trials during the pandemic and in the same number and manner as before the pandemic. Similarly, the non-support for funding the Judicial Clerk position means that other positions in the Clerical Unit have to assume the burden and workload relative to expediting temporary restraining orders and processing and preparing probation motions, reports, and other case files.

The non-restoration of funding for the Second Circuit District Court Judge, District Family Court Judge, and per diem judge positions is troublesome as the importance of these positions is evidenced by the fact that Second Circuit reallocated funds from other staff vacancies and operating needs to temporarily fund these positions. At some \$450K to restore funding for these judge positions, if we were to assume average funding for a position is about \$50K, than as many as nine other funded vacant positions (or any number less than that offset by other operating funds) are not being filled so as to fund the judge positions. This diversion of funds from other vacant positions or operating needs cannot continue indefinitely as it leads to inadequate staffing in other court units, can delay court processes, and eventually compromise the overall integrity and accountability of court operations in Second Circuit.

For the Fifth Circuit, no restoration funding for the Social Worker position that is responsible for preparing pre-sentencing investigation reports prior to sentencing individuals for their offenses and making sentencing recommendations to judges is especially concerning as the number of investigations and reports approach pre-COVID numbers. This lack of funding negates the likelihood that Fifth Circuit could (1) increase the number of reports assigned to this Pre-Sentencing Investigation Unit, reports which take some eight to twelve weeks to prepare, and (2) shorten the time between conviction and sentencing.

Lastly, we are quite concerned that FIN eliminated not only \$425K in operating funding for **position** related furniture, fixtures and equipment (FF&E) for the new Wahiawā Courthouse, but also \$775K in Capital Improvement Program (CIP) or bond funding for **non-position** related FF&E. Without such funding in FY 2024, it would be unlikely that this FF&E could be ordered, received, and installed in time to meet the currently planned Spring 2025 occupancy date for the new courthouse. It should be noted that when we have previously constructed new courthouses, a separate CIP/bond funded request has been submitted and approved by the Legislature for **both** position and non-position related FF&E. However, recent guidance from the Department of Accounting and General Services indicates that position related furniture no longer qualifies for bond funding so two separate requests must now be submitted – one general fund request for loose, position related FF&E such as desks and desk chairs and one bond funded request for non-position related FF&E such as conference tables and courtroom benches.

Relative to our other CIP requests, we are very appreciative of the \$15,450,000 provided by FIN to upgrade and modernize the elevators at Ka‘ahumanu Hale in First Circuit, address condensate



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discharge matters at Hoapili Hale in Second Circuit; complete the reroofing and related improvements at Pu‘uhonua Kaulike in Fifth Circuit, continue air conditioning replacement work at Ali‘iōlani Hale, and address both continuing and emergent building issues statewide with lump sum monies. And while we also appreciate the \$6 million in CIP funding added by FIN to plan, design, and construct a new facility for CJC, we would not want this funding to supplant any other items in our CIP request and do have some concerns whether we could use and encumber all funds before funds lapse.

One other technical point – FIN in House Bill No. 382, H.D. 1, and the related worksheets inadvertently used an incorrect base amount of 226 permanent positions for JUD 601 (Administration) instead of the 227 shown in last year’s final Judiciary budget bill – House Bill No. 1536, H.D.2, S.D. 2, C.D. 1. With the approval of CJC’s position conversion in Administration by FIN, House Bill No. 382, H.D. 1, should show 228 permanent positions for JUD 601 rather than the 227 number shown.

In summary, the Judiciary is extremely grateful for all the support provided by FIN but also respectfully requests restoration of \$361K for FYs 2024 and 2025 for new positions for a First Circuit District Court Judge and three support staff, \$257K in FY 2024 and \$261K in FY 2025 for defunded First Circuit Court Judge and an Adult Client Services Branch Judicial Clerk positions, \$447K in FY 2024 and \$452k in FY 2025 for two defunded Second Circuit District Court Judge and a Per Diem Judge positions, \$61K in FY 2024 and \$63K in FY 2025 for a defunded Fifth Circuit Social Worker position, and \$425K in operating funding and \$775K in CIP funding for FF&E for the new Wahiawā Courthouse. With these changes and restoration of funding and positions, the Judiciary respectfully requests your support of House Bill No. 382, H.D. 1, the Judiciary’s biennium budget request.

Thank you for the opportunity to testify on this measure.



TO: Senator Rhoads, Chair
Senator Gabbard, Vice Chair
Members of the Committee on Judiciary

FR: Nanci Kreidman, M.A.
Chief Executive Officer

RE: HB 382 HD1

Aloha! We submit this testimony for consideration in developing and adopting a budget that meets the needs of our community. The [Domestic Violence Action Center](#) is an active member of the **True Costs Coalition** – a consortium of est. 50 community based organizations whose work is in service to the needs of our people, culture and aina.

It has long been a challenge to our work that contract funds are insufficient to meet the costs of doing business. As small businesses, working to meet rising costs, maintaining efficiency, and keeping pace with inflation funds have not matched the increase in health insurance, electricity, mileage, pencils, xerox leases etc. Organizations across the spectrum of services are having difficulty recruiting and retaining staff. We are losing any competitive edge in the marketplace; frankly, the work we do is not for everyone. It is surely fulfilling, meaningful and in the best interests of all of us. Yet, having a balance in one's purpose and pocketbook is real.

We ask that you include in the budget for FY 2024, a 5% increase in purchase of service contract funds in the Judiciary budget to help begin to offset the shortfall that has been building for about a decade.

Thank you for your consideration.

Trever Asam
Board President

Rachel Figueroa
Executive Director



545 Queen Street, Suite 100
Honolulu, Hawai'i 96813
Phone: (808) 528-7050
Fax: (808) 524-2147
www.vlsh.org

**TESTIMONY IN SUPPORT OF H.B. 382, HD1
RELATING TO THE JUDICIARY
Committee on Judiciary – March 21, 2023 9:35 a.m.**

CHAIR RHOADS, VICE CHAIR GABBARD AND MEMBERS OF THE COMMITTEE ON JUDICIARY:

Volunteer Legal Services Hawaii supports the passage of H.B. 382, HD1.

This critical funding would go to funding civil legal services, including but not limited to the delivery of civil legal services to low- and moderate- income individuals in Hawaii.

In the last forty-two years, Volunteer Legal Services Hawaii has partnered with volunteer attorneys in the provision of civil legal assistance to individuals and families of Hawaii. While Volunteer Legal Services Hawaii's only office is on Oahu, we service residents of Hawaii statewide. In 2022, with only a staff of 8, Volunteer Legal Services Hawaii qualified over 900 individuals. Volunteer Legal Services provides legal checkups, educational presentations, clinics, brief services and/or full representations. Nineteen percent (19%) of those helped are homeless or at the risk of being homeless, 21% of those helped suffer from domestic violence, 1% of those helped were veterans, 26% of those helped are disabled, and 15% of those helped were aged 60 and over. If not for Volunteer Legal Services Hawaii, these individuals would have otherwise gone without legal help.

Volunteer Legal thanks the committee for the past support of legal services in the judiciary budget.

We respectfully request your passage of H.B. 382, HD1. Thank you for this opportunity to provide testimony.

Sincerely,
Rachel Figueroa, Executive Director



TESTIMONY
Senate Committee on Judiciary
Hearing: Tuesday, March 21, 2023 (9:35 a.m.)

TO: The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair

FROM: Rhonda Griswold
HSBA President

RE: House Bill No. 382 HD1
Relating to the Judiciary

Chair Rhoads and members of the Senate Committee on Judiciary, the Hawaii State Bar Association appreciates the opportunity to offer testimony in **STRONG SUPPORT** of House Bill No. 382 HD1, which sets forth the biennium budget requested by the Hawaii State Judiciary.

As Hawaii moves into an optimistic “endemic” phase after facing health and safety challenges of a historic magnitude, we understand that the Legislature, the Executive, and the Judiciary will be called upon to refocus efforts to continue and perhaps expand programs created to pivot in a time of crisis, and to restore budget restrictions where funds were diverted to meet immediate emergency needs. We have been informed that the State Judiciary accounts for approximately 2% of the overall State budget, and over the past decade the Judiciary’s share of the State budget has decreased even before the Covid pandemic. We believe the Judiciary has been and continues to be fiscally responsible.

Recent reports from community agencies and organizations indicate that there will be a greater need for judicial services for the upcoming biennium. There appears to be an unfortunate increase in criminal citations and complaints that must be handled on the court’s criminal calendar. In addition, the civil courts must now work through a backlog of civil cases that accumulated as criminal matters needed to be resolved first, necessitating the deferral of certain commercial and personal disputes. The Judiciary’s proposed biennium budget helps to ensure that it can meet these challenges.

GENERAL FUNDS APPROPRIATIONS

The HSBA requests restoration of funding for the following priorities:

- First Circuit-1 new District Court judicial position and three support staff to provide stability and continuity in rural courts.
- First Circuit-1 vacant Circuit Court judicial position.
- First Circuit-2 clerk positions.
- First Circuit-1 support staff position at the Children’s Justice Center.

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- Second Circuit-1 District Court judicial position, 1 District Family Court judicial position & 1 Per Diem position.
- Fifth Circuit-1 social worker position.

CIP APPROPRIATIONS

The HSBA requests restoration of funding (\$775,000) for non-position funding for the Wahiawa District Court. And the HSBA supports funding (\$6,000,000) for a new Children's Justice Center on Oahu.

The Judiciary plays a vital role in maintaining a fair and civil society. Individuals utilize court services during some of the most stressful times of their lives. Families rely on the Judiciary to settle disputes which tear at the fabric of their household. Business owners and entrepreneurs rely on the Judiciary to resolve contract or insurance issues which threaten their continued existence. Individuals who have been wronged, intentionally or unintentionally, by others rely on the Judiciary to make them whole. Those accused of crimes rely on the Judiciary to hear their "side of the story" and enforce speedy trial constitutional rights, and the government must have an opportunity to present its case on behalf of the public. The Judiciary needs full staffing and facilities in order to provide timely justice for all.

Thank you for the opportunity to submit these comments in **STRONG SUPPORT** of House Bill No. 382 HD1.



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Reply to: **STEVEN GUTTMAN, CHAIR**
220 SOUTH KING STREET SUITE 1900
HONOLULU, HAWAII 96813
TELEPHONE: (808) 536-1900
FAX: (808) 529-7177
E-MAIL: sguttman@kdubm.com

March 18, 2023

Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice Chair
Senate Committee on Judiciary

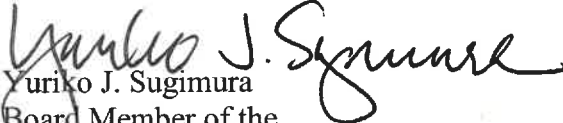
Re: Testimony in Support of HB 382, HD1
Re: Judiciary
Hearing: March 21, 2023, 9:35 a.m. Conf. Room 016

Chair Rhoads, Vice-Chair Gabbard and Members of the Committee:

The Collection Law Section of the Hawaii Bar Association wholeheartedly supports this bill and asks that you pass it out because:

- Many of our members practicing in Oahu have experienced and/or observed leaking roofs in the circuit court building and unreliable elevators at both the Honolulu district court and the circuit court buildings.
- Our members can also attest to the fact that remote and hybrid hearings that were implemented to allow court hearings to occur during the pandemic take longer than in-person hearings and have resulted in longer court hearings that can and do result in back-log of cases, and we recognize the need to restore judiciary support staff and add judicial positions so that the judiciary can efficiently and expeditiously address the needs of the community.
- Restoring judiciary support staff and adding judicial positions will also increase the capacity of the courts to address not only the basic needs of the community but would also promote a fully operational court system post-pandemic.

Thank you for allowing me to testify on this important issue.


Yuriko J. Sugimura
Board Member of the
HSBA Collection Law Section

****This testimony reflects the position/viewpoint of the Collection Law Section of the Hawaii State Bar Association only. The position/viewpoint has not been reviewed or approved by the HSBA Board of Directors.****

TESTIMONY ON HB382, HD1

Committee on Judiciary

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice-Chair

Tuesday, March 21, 2023 at 9:30 a.m.

The Legal Aid Society of Hawaii submits testimony in support of HB382, HD2 – Relating to the Judiciary. We are grateful for the support of the legislature for their past support of general civil legal services in the Judiciary budget and also write in support of making the restoration and increase in Guardian ad litem and Parent Counsel funding permanent.

In January 2021, guardian ad litem contracts in the First Circuit were cut by 40%, retroactively to July 1, 2020. These cuts were devastating and in doing so, many experienced guardian ad litem chose to leave this practice area and also impacted the ability for providers like us to provide these services. Additional cuts in other circuits, also led to the departure of attorneys willing to serve in these roles.

With the support of the legislature, in FY23, this funding was restored and an increase was provided which has significantly assisted in the maintenance and recruitment of guardian ad litem. We ask that the legislature make this funding permanent.

Guardian ad litem 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 whose sole interest is the welfare of the child as required by state and federal law.

Parent counsel is also critical to ensuring that the fundamental right of parents to raise their children is also preserved. Parent counsel can play a critical role in not only helping to assert the rights of parents when a child is wrongfully removed, but also to counsel parents to enter treatment, counseling or other services in order to reunify with their children. When done right with the right support and done with compassion, we've seen amazing changes and growth in parents who are now able to provide safe family homes for their children.

For over 20 years, Legal Aid has been providing guardian ad litem and parent counsel services across the state, assisting close to 4,000 children in the child welfare system and representing over 500 parents.

Thank you for this opportunity to provide testimony.

Sincerely,



Angela Lovitt
Interim Executive Director

HB-382-HD-1

Submitted on: 3/19/2023 11:03:47 PM

Testimony for JDC on 3/21/2023 9:35:00 AM

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

Comments:

Chair: Hon. Karl Rhoads, Chair

Vice Chair: Hon. Mike Gabbard, Vice Chair

Committee: Senate Committee on Judiciary

Testimony of: Joseph E. Cardoza, Chair

Organization: Hawai`i Access To Justice Commission

Hearing Date: Tuesday, March 21, 2023

Hearing Time: 9:35 a.m.

Place: Conference Room 016 & Videoconference

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

House Bill: HB No. 382, HD1

Position: Support of HB 382, HD1, Relating to The Judiciary

Dear Chair Rhoads and Members of the Senate Committee on Judiciary:

The Hawai'i Access to Justice Commission (Commission) supports House Bill 382, House Draft 1, the Bill that appropriates funds for the Judiciary for the fiscal biennium beginning July 1, 2023. Specifically, the Commission supports the funds requested for the purchase of civil legal services for low- and moderate-income persons, and guardians ad litem and court-appointed counsel in family court cases.

Several non-profit organizations provide critical civil legal services to persons who cannot afford a lawyer. The inability to access essential civil legal services can often lead to long-term consequences. Undoing the damage done by the inaccessibility to civil legal services is costly, both for the individual and society in general. The impact on the community is both social and economic.

Additionally, funding for guardians ad litem and court-appointed counsel in family court cases is essential. Children and adults who are parties in family court cases need these services to achieve successful outcomes. These services also serve the best interests of society because addressing serious family issues in the present is far more effective than doing so years later when it is often too late to undo the harm inflicted during childhood.

Thank you for the opportunity to present this written testimony.

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

MCBA



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Maui County Bar Association

P. O. Box 1595, Wailuku, Maui, Hawaii 96793

Senate Judiciary Committee

March 21, 2023

9:35 AM Conf. Room 106

Bill No. and Title: Support for House Bill No. 382, Relating to the Judiciary. **Purpose:** To provide biennium operating and capital improvement appropriations for FYs 2024 and 2025.

Members of the Senate Judiciary Committee:

The Maui County Bar Association (MCBA) requests your support of House Bill No. 382 relating to the Judiciary's biennium operating and capital improvement appropriations for FYs 2024 and 2025. Our organization represents all attorneys of Maui County and has over 220 dues-paying members.

MCBA urges you to consider the needs of our circuit, which serves the islands of Maui, Moloka'i, and Lāna'i. Without restoration and allocation of the requested funds (7.2 positions - \$699k, FY2024, \$715K, FY 2025 and CIP funds) the basic administration of justice in Maui County will be hampered.

Funding is needed for a District Court Judge position, a Family Court Judge position, and a per diem judge. In recent years, due to a lack of funding, these essential positions have been temporarily covered by cutting other positions. The result has been a reduction in access to justice for Maui County residents. Court proceedings have been delayed, orders take longer to enter, and the public's ability to access legal documents and in-person filing is diminished. All of this can be cured with adequate funding.

Unique to our circuit are the rural courts to be serviced (Lahaina, Hana, Moloka'i, Lāna'i) some of which require planes or ferries to reach. Access to justice for these rural communities requires basic staffing, such as a District Court Clerk in Lahaina and a Judicial Clerk on Moloka'i. These rural court positions have remained vacant for some time – requiring the limited staff from Wailuku to also fulfill these functions. This exacerbates the staffing shortages in Wailuku, results in greater delays for rural residents, and limits the provision of basic judicial services to these communities.

Two social worker assistant positions are also needed to support the Community Service Sentencing program, Monetary Restitution program, Guardian Ad Litem, Court Appointed Special Advocates, and Volunteers in Public Service.

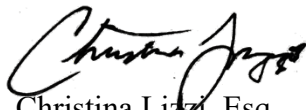
Maui County Bar Association

P. O. Box 1595, Wailuku, Maui, Hawaii 96793

Finally, Hoapili Hale is unfortunately out of compliance with revised Maui County requirements for A/C condensate discharge and requires upgrades to these systems. Failure to comply may impair the Second Circuit's ability to obtain needed permits in the future.

MCBA also supports the other measures presented in HB No. 382. The health of our appellate courts – with adequate staffing and safe, healthful work environments - affects every circuit. Similarly, many of our attorneys represent clients across the State and practice in in other circuits.

Thank you for the opportunity to provide testimony in **strong support** of HB No.382.



Christina Lizzi, Esq.

President

Maui County Bar Association

Appellate Section Hawaii State Bar Association

Hearing on H.B. No. 382, H.D. 1, Relating to the Judiciary
March 21, 2023, at 9:35 am

Senate Committee on Judiciary
Honorable Karl Rhoads, Chair
Honorable Mike Gabbard, Vice Chair

Dear Chair, Vice Chair, and Members of the Committee:

On behalf of our colleagues in the Hawaii State Bar Association's Appellate Section,¹ we write in **strong support** of H.B. 382. Members of the section are appellate practitioners, and we have a keen interest in the proper functioning of the State appellate courts and the State Judiciary as a whole.

H.B. 382 proposes a modest increase to the existing funding of the Judiciary for the next fiscal year, with emphasis on capital improvements for necessary courthouse maintenance requiring immediate attention. Given the tremendous efforts made by the Judiciary in past years to adapt to the many challenges posed by the COVID-19 pandemic and the resultant surge in the need for the Judiciary's services, all under prior statewide budget constraints, this proposal is reasonable.

During the pandemic, the Judiciary has ensured public court access alongside protection of the health and safety of litigants, counsel, jury members, court staff, and public safety personnel. Now on the backside of the pandemic, courts are servicing the public in greater numbers than ever before by continuing to provide both virtual appearance options as well as in-person hearings. With such increased demand, maintenance of judiciary facilities is imperative.

Thank you for the opportunity to testify in **strong support** of H.B. 382.

On behalf of the Appellate Section Board:
Deirdre Marie-Iha, Section Chair

¹ The views and opinions expressed here are those of the HSBA's Appellate Section. The HSBA Board has not reviewed or approved the substance of the testimony submitted.

HB-382-HD-1

Submitted on: 3/17/2023 4:47:25 PM

Testimony for JDC on 3/21/2023 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
L. Richard Fried, Jr.	Individual	Support	Written Testimony Only

Comments:

What is being requested is urgently needed. I have reviewed the requests and they are all necessary. As a trial lawyer in HI for 50 years, I have seen the changes in our physical plant and admin support. Without a fully functioning Court system, the citizens of HI will be denied full and fair justice. Please vote favorably on this bill. Thank you. Rick Fried