



The Judiciary, State of Hawai‘i

**Testimony to the Thirty-Second State Legislature
2024 Regular Session**

Committee on Finance

Representative Kyle T. Yamashita, Chair
Representative Lisa Kitagawa, Vice Chair

Thursday, February 22, 2024 at 11:30 a.m.
Hawai‘i State Capitol, Conference Room 308

by

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

Bill No. and Title: House Bill No. 1913, H.D. 1, Relating to Compensation for Court-Appointed Representation.

Purpose: Increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardians ad litem in family court proceedings.

Judiciary's Position:

The Judiciary offers this testimony in strong support of House Bill No. 1913, H.D. 1.

GALs perform a critical role in a wide range of family court cases. They represent the best interests of children who have been abused or neglected in Child Protective Act (CPA) cases brought under Hawai‘i Revised Statutes (HRS) Chapter 587A. They are appointed in many involuntary hospitalization proceedings initiated pursuant to HRS § 334-60.3 and in all assisted community treatment proceedings initiated pursuant to HRS § 334-123. They may also be appointed to represent the best interests of children child custody matters, such as in divorce and paternity cases. 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. GALs give a voice to and advocate



for their best interests.

Court appointed attorneys play a similarly critical role in family court cases. They provide constitutionally-mandated representation to individuals whose parental rights are at stake in CPA cases and to minors who have been charged with law violations.

The work family court appointed GALs and attorneys perform in cases that can be quite complex is extremely important. It requires expertise and experience. It is in our community's interest to attract and retain highly competent individuals to serve as GALs and attorneys in family court cases.

The pool of individuals who are willing and able to serve as GALs and court appointed attorneys is small. For example, in the first judicial circuit, there are only two individuals who are consistently willing and available to be appointed as GALs in involuntary hospitalization or assisted community treatment cases. There are four attorneys who are consistently willing and available to take on juvenile law violator cases. In CPA cases, the limited number of attorneys who are willing to serve as parent counsel is particularly concerning. In the first judicial circuit, for example, there are only six attorneys who are under contracts to represent parents, and we are concerned that number may drop. The other judicial circuits have similarly limited pools of available GALs and attorneys.

The Judiciary has taken steps to recruit more GALs and court-appointed attorneys. For example, the family court, in partnership with several government and community-based organizations and attorneys, has held training sessions for potential GALs in assisted community treatment cases and for parent counsel in CPA cases.

While those efforts have been marginally successful, the need is still significant. The Judiciary is very concerned that, unless the number of individuals who are willing and available to serve as GALs and court-appointed attorneys increases, there will be delays in these cases. In addition, we are concerned that increasing the workload of the available GALs and attorneys may negatively impact the quality of the representation they are able to provide.

The number of individuals and attorneys who are willing and able to serve as family court appointed GALs and attorneys needs to increase. One important way to help accomplish this goal is to ensure that they are adequately compensated for their work.

The last time that the statutory compensation rates for family court appointed attorneys and GALs was increased was in 2007, more than fifteen years ago. Presently, family court appointed attorneys and GALs are paid at rates prescribed under HRS § 571-87, which sets their compensation at \$60 per hour for out-of-court work and \$90 per hour for in-court work.

A significant enhancement in the rates at which the Judiciary can compensate GALs and attorneys and the elimination of the compensation distinction between in-court and equally valuable out-of-court work should help increase the pool of individuals willing and able to perform



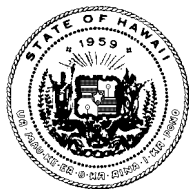
House Bill No. 1913, H.D. 1, Relating to Compensation for Court-Appointed Representation.
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this critical work. This, in turn, will allow the family courts to hear these cases without unnecessary delay.

Paying GALs and attorneys more will require additional funding. The Judiciary sincerely appreciates the Legislature's recent and generous increases in the appropriations to the Judiciary to pay GALs and court appointed counsel. We respectfully request an additional sum of \$1,500,000, (which is not intended to supplant the Judiciary's existing funding or budget requests. We believe this additional amount will be sufficient to fund the proposed increase in the statutory compensation rates.

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

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

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TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

February 20, 2024

TO: The Honorable Representative Kyle T. Yamashita, Chair
House Committee on Finance

FROM: Cathy Betts, Director

SUBJECT: **HB 1913 HD1 – RELATING TO COMPENSATION FOR COURT-APPOINTED REPRESENTATION.**

Hearing: February 22, 2024, 2:00 p.m.
Conference Room 325, State Capitol & Video Conference

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports increasing the compensation of court-appointed counsel who represent parents and guardian ad litem who represent the best interest of children involved in child welfare cases. The legal representation provided by court-appointed counsel and guardian ad litem is necessary at every point of decision-making in the child welfare process; increasing compensation will assist counsel with keeping up with the cost of doing business in Hawaii and may encourage more counsel to provide these essential services.

PURPOSE: This bill Increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardians ad litem in family court proceedings. Appropriates funds. Effective 7/1/3000. (HD1)

The Committee on Judiciary & Hawaiian Affairs amended the measure by:

- (1) Changing the appropriation to an unspecified amount;
- (2) Changing the effective date to July 1, 3000, to encourage further discussion; and

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(3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Thank you for the opportunity to provide testimony in support of this measure.

JON N. IKENAGA
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H.B. No. 1913 H.D. 1: RELATING TO COMPENSATION FOR COURT-
APPOINTED REPRESENTATION

Chair Kyle T. Yamashita
Vice Chair Lisa Kitagawa
Honorable Committee Members

The Office of the Public Defender **supports** this bill.

Public defenders represent juveniles caught up in the criminal justice system as well as defendants whose parental rights are in jeopardy. Court-appointed attorneys and guardians ad litem often are appointed to assist our clients. This bill increases the hourly rate to ensure competent attorneys willing to provide these much-needed services. The current fee structure has rendered it difficult to recruit and maintain attorneys and has not been updated for several years. It is far overdue.



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President, Board of Directors

TESTIMONY ON HB1913

Committee on Finance
Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice Chair

Thursday, February 22, 2024 at 11:30 a.m.

The Legal Aid Society of Hawaii submits testimony in support of HB1913 – Relating to Compensation for Court-Appointed Representation.

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 preserved. Parent counsel can play a critical role in helping to assert the rights of parents when a child is wrongfully removed and counseling parents to enter treatment, counseling, or other services in order to reunify with their children. When done right, with the right support, and 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. Increasing the rates of compensation will help continue ongoing quality services as well as increase the pool of private attorneys interested in providing these critical services.

Thank you for this opportunity to provide testimony.

Na‘u me ka ha‘aha‘a,

David Kauila Kopper
Executive Director



TESTIMONY

House Committee on Finance

Hearing: Thursday, February 22, 2024 (11:30 AM)

TO: Representative Kyle T. Yamashita, Chair
Representative Lisa Kitagawa, Vice Chair

FROM: Jesse K. Souki, HSBA President

RE: HB 1913, HD1 - RELATING TO COMPENSATION FOR COURT-APPOINTED REPRESENTATION

Chair Tarnas, Vice Chair Takayama and members of the House Committee on Judiciary & Hawaiian Affairs, the Hawaii State Bar Association (HSBA) appreciates the opportunity to offer testimony in **STRONG SUPPORT** of HB 1913, HD1.

Guardians Ad Litem are court appointed representatives that play a crucial role in legal proceedings on behalf of individuals, typically children or adults deemed incapable of self-representation. Operating as factfinders rather than advocates, Guardians Ad Litem are bound by the duty to always prioritize the best interests of the individuals they represent. Their involvement is instrumental in ensuring the fair, timely, and equitable resolution of matters identified by the court.

This bill addresses the hourly fees and maximum case management fees for Guardians Ad Litem, with recommendations from the Senate Committee on Judiciary for necessary adjustments, including:

- \$150 per hour for in-court services provided by a licensed attorney.
- \$100 per hour for out-of-court services provided by a licensed attorney.

Court appointed attorneys in Hawaii have historically faced inadequate compensation for their vital work in providing neutral and objective services on behalf of individuals designated by the court as needing assistance. This measure is crucial for maintaining a roster of qualified and available individuals for appointment, particularly on the Neighbor Islands where the private practice attorney populations are smaller than on Oahu. I appreciate the opportunity to express strong support for this bill and thank you for considering these comments.

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HB-1913-HD-1

Submitted on: 2/21/2024 11:16:00 AM

Testimony for FIN on 2/22/2024 11:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Madeline Tomasino-Reed	Individual	Support	Written Testimony Only

Comments:

Chair Yamashita, Vice-Chair Kitagawa, and members of the Committee:

I am writing in **strong support** of House Bill 1913 increasing compensation for Guardians *ad Litem* in Family Court proceedings.

I am an attorney who has worked as a court-appointed Guardian *ad litem* in the Third Circuit since 2010. I have served as GAL in both solo practice and as a firm member of The Legal Aid Society and The Children’s Law Project of Hawai`i, where I am currently the Managing Attorney.

Serving the court as a Guardian *ad litem* is a taxing and difficult role. It involves intervention in the life of a family during a time of profound crisis. It involves having difficult and often technical conversations with children of all ages, as well as their parents. The work requires a significant investment of time in establishing and maintaining trusting relationships, with not just the child, but also their caregivers, service providers, and the family as a whole. Emergencies occur on a regular basis, often requiring urgent action. On top of this difficult emotional landscape, child welfare cases by nature involve complex multi-party civil litigation involving an administrative agency. A deep pool of competent, well-prepared, properly-trained attorneys is essential for justice to be served for these children and their families. Currently, due in large part to the compensation structure, no such pool exists.

This bill represents a good starting place for meaningful positive change in this system. I appreciate your time in considering my **strong support** of the measure.