

**STATE OF HAWAI‘I**  
**OFFICE OF THE PUBLIC DEFENDER**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the House Committee on Judiciary & Hawaiian Affairs  
and House Committee on Agriculture & Food Systems**

January 31, 2024

H.B. 1913: RELATING TO COMPENSATION FOR COURT-APPOINTED REPRESENTATION.

Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The Office of the Public Defender strongly supports the intent of H.B. 1913.

This measure would increase the compensation that a court-appointed attorney and a court-appointed guardian ad litem would received for legal services in Family Court. This rate increase is necessary to insure the quality and availability of attorneys willing and able to provide these services across the State of Hawaii. The current fee structure has rendered it difficult to recruit and difficult to maintain attorneys qualified to provide these services. The Judiciary is in need of qualified attorneys to provide these essential services and we submit this measure is long overdue and necessary for the administration of justice.

Thank you for the opportunity to comment on this measure.



*The Judiciary, State of Hawai‘i*

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

**Committee on Judiciary and Hawaiian Affairs**  
Representative David A. Tarnas, Chair  
Representative Gregg Takayama, Vice Chair

Wednesday, January 31, 2024 at 2:00 p.m.  
Hawai‘i State Capitol, Conference Room 325

by

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

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

**Purpose:** Increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardian ad litem in family court proceedings. Appropriates moneys. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025.

**Judiciary's Position:**

The Judiciary offers this testimony in strong support of House Bill No. 1913.

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



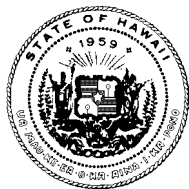
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valuable out-of-court work should help increase the pool of individuals willing and able to perform this critical work. This, in turn, will allow the family courts to hear these cases without unnecessary delay.

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

STATE OF HAWAII  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF HUMAN SERVICES**  
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TRISTA SPEER  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'OKELE

January 18, 2024

To: The Honorable Representative David A. Tarnas, Chair  
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

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

Hearing: January 31, 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 guardian ad litem in family court proceedings. Appropriates moneys. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025.

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

**HB-1913**

Submitted on: 1/29/2024 10:05:07 PM

Testimony for JHA on 1/31/2024 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Sean Hartlieb       | Individual          | Support                   | Written Testimony Only |

Comments:

Aloha,

I'm an attorney on Kauai who has done court appointments for CPS cases for almost the last four years. I have represented both parents and children when serving as a guardian ad litem. These cases do take time and commitment, such that it comprises a fair amount of work for attorneys with already a busy amount of cases. Some of these CPS cases can go on for years. The longest cases that I've been on have been up to three years. With the amount of time invested into these matters, the hourly compensation should be increased for attorneys who have to devote a significant portion of their time, especially when having to regularly check on children as a guardian ad litem, or be regularly encouraging parents to do well on their service plan. It's not a matter of just updating the court on the status or progress of a parent or child in these cases, but it also involves a lot of emotional energy that can at times be the same that is invested in other family law matters like divorce and custody proceedings where emotions are high between the parties. Lastly, to increase the compensation would incentivize attorneys to take more of these cases, and therefore more attorneys would be available for being appointed to CPS cases. Overall, given what is required of an attorney on these matters, the hourly rate of compensation should be increased.

Mahalo,

Sean Hartlieb