



*The Judiciary, State of Hawai'i*

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

**Senate Committee on Ways and Means**  
Senator Donovan M. Dela Cruz, Chair  
Senator Sharon Y. Moriwaki, Vice-Chair

Wednesday, April 3, 2024 at 10:30 a.m.  
Conference Room 211 & Videoconference  
by

Ronald G. Johnson  
Deputy Chief Judge, Criminal Administrative Judge  
Circuit Court of the First Circuit

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** House Bill No. 1914, H.D. 1, S.D. 1, Relating to Compensation for Court-Appointed Counsel.

**Purpose:** Increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel in criminal proceedings. Appropriates funds. Effective 7/1/2024. (HD1 SD1)

**Judiciary's Position:**

The Judiciary **strongly supports** this measure. Over the last decade there has been a dramatic decrease in qualified applicants to the court-appointed lists of each circuit, which has in turn caused a shortage of available qualified and competent counsel to take indigent defendant criminal cases statewide. The primary factor driving this reduction is the low hourly rate of pay offered for these cases. In order to attract skilled and experienced individuals to serve as appointed counsel for these defendants, we must ensure that appointed counsel are adequately compensated for their work. This measure will greatly aid in recruiting and retaining counsel who are qualified, experienced, and willing to be appointed in criminal proceedings.

Most indigent criminal defendants have a right to representation by competent counsel appointed by the court. Once qualified, these defendants are usually represented by the Office of the Public Defender. However, in cases where there is, or there arises, a conflict between the defendant and the Office of the Public Defender, the defendant has a right to the appointment of a private defense counsel. These private defense counsel are appointed by the court from lists of qualified applicants maintained by the court. The courts maintain separate lists for appellate cases, misdemeanors, “A”, “B”, and “C” felonies, sexual assaults, and murder cases. Private counsel are placed on the list, or lists, appropriate to their level of skill and experience. Currently there are only 17 qualified attorneys on the Circuit Court of the First Circuit’s “A” felony list (there are substantially less qualified attorneys willing to take sexual assault or murder cases) and only 30 qualified attorneys on our largest list, which are those willing to take “C” felony cases. There are simply not enough qualified attorneys willing and able to take indigent criminal cases, especially the serious felony cases.<sup>1</sup> The situation on the outer islands is even more serious, with courts in the other circuits often forced to appoint, and pay the travel costs, for attorneys from the First Circuit in order to meet the demand for court-appointed counsel.

The current rate of pay has not been adjusted in almost twenty years. For comparison, on the federal level during that same time period, the rate has been increased every year and currently the non-capital case rate is \$172 per hour and \$220 per hour in capital cases, with maximum per-case amounts of \$13,400 for felony cases, \$3,800 for misdemeanors, and \$9,600 for appeals.<sup>2</sup> There are several private attorneys who will only take federal court appointed cases for this very reason. This measure raises the compensation rates and maximums to those similar to the federal rates in order to safeguard the rights of indigent State defendants, by ensuring the demand for competent court-appointed private counsel can be met.

Thank you for the opportunity to testify on this measure.

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<sup>1</sup> In 2023, there were 1500 Circuit Court Criminal cases filed and 1073 Family Court Criminal cases filed. Therefore, not counting District Court misdemeanor and petty misdemeanor cases, there were at a minimum 2573 cases filed in the First Circuit where a defendant had the constitutional right to counsel. The vast majority of these defendants qualify for court appointed counsel.

<sup>2</sup> There is no maximum in capital cases on the federal level.



**TESTIMONY**

Senate Committee on Ways and Means  
**Hearing: Wednesday April 3, 2024 (10:30 AM)**

TO: Senator Donovan M. Dela Cruz, Chair  
Senator Sharon Y. Moriwaki, Vice Chair

FROM: Jesse K. Souki, HSBA President

RE: HB 1914, SD1 - RELATING TO COMPENSATION FOR COURT-APPOINTED COUNSEL

Chair Dela Cruz, Vice Chair Moriwaki and members of the Committee:

The Hawaii State Bar Association (HSBA) appreciates the opportunity to offer testimony in **STRONG SUPPORT** of HB 1914, SD1.

I am writing to express my strong support for increased rates for court-appointed public defenders in Hawaii, as proposed in Chapter 802 of the Hawaii Revised Statutes. Adequate compensation for public defenders is essential to ensuring the fair administration of justice and upholding the constitutional right to legal representation for all individuals, regardless of their financial means.

Appointed counsel represent indigent criminal defendants in cases where there is, or there arises, a conflict between the defendant and the Office of the Public Defender. These private defense counselors are appointed by the court from a list of qualified applicants and have committed to ensuring that every person receives a fair trial, which is a Constitutional right and fundamental to the principles of justice and due process.

The current compensation rates for court-appointed counsel in Hawaii does not reflect the challenging nature of their work, the time and effort invested in each case, and the significant responsibilities they shoulder. Accordingly, there has been a dramatic decrease in available court-appointed private counsel to represent indigent defendants throughout the state.

For these reasons, HSBA **STRONGLY SUPPORTS** HB 1914, SD1 to increase the compensation of court-appointed counsel as provided in the bill. Mahalo for your consideration.

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