



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third State Legislature, 2025 Regular Session

Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Thursday, March 13, 2025 at 9:45 a.m.

Hawai‘i State Capitol, Conference Room 016 & Videoconference

by

Dyan M. Medeiros

Senior Judge, Deputy Chief Judge

Family Court of the First Circuit

Bill No. and Title: House Bill No. 398, HD1 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. 398, HD1.

Guardians Ad Litem (“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 be appointed to represent the best interests of children in child custody and visitation matters, such as in divorce and paternity cases. They may also be appointed to represent the interests of a defendant in a divorce, annulment, or separation case if the court believes the defendant is not fully competent pursuant to HRS § 580-6. They may be appointed for incapacitated adults or minor children in guardianship 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. They are sometimes appointed to represent minors in CPA cases as well. They are also required under federal law to protect the interests of absent military members in all cases if a default is being requested.

The work court-appointed GALs and attorneys perform in family court cases is extremely important. The cases can be extremely complex. The work 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 cases. There is only one individual who is consistently willing and available to be appointed as a GAL in assisted community treatment cases down from two individuals last year. There are three attorneys (down from four) who are consistently willing and available to take on juvenile law violator cases without limitation. (Other attorneys may be able to take on cases but limit the types of cases they will accept.) 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 four attorneys who are under contracts to represent parents (down from six last year), and we are concerned that number may drop even more. There is one attorney who is not under contract but it is unclear whether he will continue to accept cases. 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. A local non-profit law firm has graciously agreed to accept appointments as counsel in CPA cases but they can only represent Native Hawaiian parents and the number of cases they can accept is limited by the fact that they only have one attorney to accept the appointments.

While these efforts have had some success, 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 encourage attorneys to be willing to undertake this demanding work is to ensure that they are adequately compensated for that work.

The last time the statutory compensation rates for family court appointed attorneys and GALs was increased was in 2007, approximately eighteen 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. In contrast, attorneys in private practice who specialize in family court cases routinely charge between \$250 and \$450 per hour regardless of whether they are working in court or out of court.

A significant increase 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 this critical work. (Out of court work includes but is not limited to drafting court pleadings, preparing clients for court, making sure parents in CPA cases are following their service plan, etc.) This, in turn, will ensure that the parties in these important cases have access to representation and will allow the family courts to hear these cases without unnecessary delay.

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



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

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

Thursday, March 13, 2025, 9:45 a.m.
State Capitol, Conference Room 016 and Videoconference

by

Robert D.S. Kim
Chief Court Administrator, Third Circuit Court

Bill No. and Title: House Bill No. 396, HD1, Relating to Compensation for Court-Appointed Counsel; House Bill No. 398, HD1, Relating to Compensation for Court-Appointed Representation

Purpose: HB396, HD1 – Increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel in criminal proceedings. Appropriates funds.

HB398, HD1 – Increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardians ad litem in family proceedings.

Judiciary’s Position:

Chair Rhoads and Vice Chair Gabbard, and Members of the Senate Committee on Judiciary. I am the Chief Court Administrator for the Third Circuit on the Island of Hawai‘i. I had previously served as Chief Judge for the Third Circuit.

On behalf of the Third Circuit, I am earnestly requesting your support for HB396, HD1 and HB398, HD1, which would increase the rate of compensation for court-appointed counsel in criminal cases, and the rate of compensation for guardians ad litem and appointed counsel in family court matters. These measures would also increase the maximum cap on the total fees allowed in each case. These bills are critically important



to ensuring the fair administration of justice in the Third Circuit, and their importance cannot be overstated.

We are experiencing an unchecked crisis in the Third Circuit, where the number of attorneys willing to accept court appointments has dwindled to only a handful. The Third Circuit courts are struggling to secure counsel for some of the most vulnerable members of our community, including indigent criminal defendants, indigent parents, and guardians ad litem (“GAL”) for children. GAL’s are a vital component in our legal system as they independently represent the interest of children. Family court judges rely on the GAL’s to conduct investigations, check on the well-being, health, and safety of the children who do come before the court. GAL’s insure that at all proceedings, the best interest of the children is being advocated and advanced. The shortage of court-appointed attorneys and GALs has led to significant delays in proceedings; to tremendous waste of judicial resources; and to many individuals, including children, going unrepresented for extended periods of time, despite having a constitutional or statutory right to representation.

We are facing a crisis in our criminal courts. The situation in West Hawai`i is particularly serious, where a severe staffing shortage at the Kona public defender’s office has resulted in an influx of cases requiring the court to appoint counsel. To illustrate the extent of the present crisis, there are currently eighty-six (86) criminal cases needing court-appointed counsel in Kona District Court. At the end of February, this number was at a staggering 137 cases needing counsel. Luckily, a pair of Maui attorneys recently agreed to take twenty (20) DUI cases each. Many of these defendants have been waiting several months to have a lawyer appointed—some have even been waiting as long as six (6) months, and have had five (5) or more continuances of their cases for the purposes of finding counsel. A few cases in the Kona District Court have even been dismissed, simply because of the inability to find court-appointed counsel. Most concerning, a number of defendants have chosen to waive their right to counsel and proceed without an attorney, rather than wait an indefinite period of time for the court to find a lawyer to represent them. In other words, some defendants are feeling pressured to give up their constitutional rights because of this situation.

It regularly takes dozens of calls before court staff can find an attorney willing to take a single case—assuming court staff is able to find an attorney at all. Court clerks in the Third Circuit are now frequently cold-calling attorneys on other islands to try to find lawyers willing to take cases, because there are no longer any attorneys who reliably take



court appointments for certain types of cases, such as DUIs. Most attorneys outright state that they won't take appointments for DUI cases because of the fee cap. The lack of available attorneys is not limited to criminal matters. In one recent family court matter in Kona, a court clerk called over fifty (50) attorneys, before finally finding a lawyer willing to represent an indigent parent. While court staff was undertaking these efforts, this individual went without representation for over a month.

Many attorneys are unwilling to accept court appointments because they simply cannot afford to take these cases at the current compensation rates. The compensation for court-appointed attorneys in criminal cases has not increased in twenty (20) years, and the current rate of \$90 per hour is far below the average hourly rate charged by private defense counsel (who generally charge between \$350-\$400 per hour for private clients). It is even significantly less than the rate paid to court-appointed counsel in other jurisdictions. For example, in federal criminal cases, appointed attorneys are currently paid at a rate of \$175 per hour. Consequently, a number of defense attorneys who used to accept criminal appointments in the Third Circuit now primarily accept appointments from the federal court in Honolulu. Likewise, the compensation rates for court-appointed counsel and GALs in family court cases have not been increased for eighteen (18) years, and as such, the number of attorneys willing to serve as GALs or appointed counsel in the Third Circuit has shrunk to a small handful of attorneys.

While compensation rates have remained stagnant for decades, the costs of legal practice continue to rise. The majority of attorneys who take court appointed-cases and GAL appointments are solo practitioners who must pay for their own office expenses, staffing, taxes, professional liability insurance, and other overhead. After accounting for these costs, attorneys are often left with negligible income from court-appointments. Indeed, many attorneys who continue to take court appointments do so almost exclusively out of a sense of civic duty. While the commitment of these attorneys is truly commendable, the system cannot be sustained on their shoulders alone—they are too few, and they are burning out.

The consequences of failing to raise compensation rates are dire. Our system provides a right to court-appointed counsel for indigent and vulnerable individuals, because we recognize that competent representation is the only way that certain fundamental rights can be advanced and protected. If the court-appointed counsel system collapses, we risk our system becoming one where justice depends upon one's financial means instead of on fairness and due process.



House Bill No. 396, HD1, Relating to Compensation for Court-Appointed Counsel
House Bill No. 398, HD1, Relating to Compensation for Court-Appointed Representation
Senate Committee on Judiciary
Thursday, March 13, 2025
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By increasing the compensation for court-appointed attorneys and GALs, these bills will ensure that qualified lawyers remain willing to accept court appointments. I respectfully urge you to pass HB396, HD1 and HB398, HD1 and to show your support for a fee structure that adequately compensates court-appointed attorneys and GALs for the truly essential work that they do.

Thank you for your time and consideration.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



RYAN I. YAMANE
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
KA 'OIHANA MĀLAMA LAWELawe KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

March 11, 2025

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Ryan I. Yamane, Director

SUBJECT: **HB 398 HD1 – RELATING TO COMPENSATION FOR COURT-APPOINTED REPRESENTATION.**

Hearing: March 13, 2025, 9:45 a.m.
Conference Room 016 & Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the Judiciary's measure for funds to increase the compensation of court-appointed counsel and guardian ad litem in family court proceedings.

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. Effective 7/1/3000. (HD1)

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

- (1) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

The legal representation provided by court-appointed counsel and guardian ad litem is necessary at every point of decision-making, especially in child welfare cases pursuant to Chapters 587A and 346, Hawaii Revised Statutes. Increasing compensation will assist counsel

March 11, 2025

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with keeping up with the cost of doing business in Hawaii and may encourage more counsel to provide these essential services.

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

JON N. IKENAGA
STATE PUBLIC DEFENDER

DEFENDER COUNCIL
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAI'I 96817

HONOLULU OFFICE
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAI'I 96817

APPELLATE DIVISION
TEL. NO. (808) 586-2080

DISTRICT COURT DIVISION
TEL. NO. (808) 586-2100

FAMILY COURT DIVISION
TEL. NO. (808) 586-2300

FELONY DIVISION
TEL. NO. (808) 586-2200

FACSIMILE
(808) 586-2222



STATE OF HAWAI'I
OFFICE OF THE PUBLIC DEFENDER

HAYLEY Y.C. CHENG
ASSISTANT PUBLIC DEFENDER

HILO OFFICE
275 PONAHAHAWI STREET
SUITE 201
HILO, HAWAI'I 96720
TEL. NO. (808) 974-4571
FAX NO. (808) 974-4574

KONA OFFICE
75-1000 HENRY STREET
SUITE #209
KAILUA-KONA HI 96740
TEL. NO. (808) 327-4650
FAX NO. (808) 327-4651

KAUA'I OFFICE
3060 EIWA STREET
SUITE 206
LIHUE, HAWAI'I 96766
TEL. NO. (808) 241-7128
FAX NO. (808) 274-3422

MAU'I OFFICE
81 N. MARKET STREET
WAILUKU, HAWAI'I 96793
TEL. NO. (808) 984-5018
FAX NO. (808) 984-5022

**Testimony of the Office of the Public Defender,
State of Hawai'i to the Senate Committee on Judiciary**

March 13, 2025

H.B. 398 HD1: RELATING TO COMPENSATION FOR COURT-APPOINTED REPRESENTATION.

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

The Office of the Public Defender **strongly supports H.B. 398 HD1.**

This measure would increase the compensation that a court-appointed attorney and a court-appointed Guardian Ad Litem would receive for legal services in Family Court. This rate increase is necessary to ensure the quality and availability of attorneys willing and able to provide these essential services across the State of Hawaii. The current fee structure has rendered it difficult to recruit and maintain attorneys qualified to provide these services. The Judiciary and the criminal justice system need dedicated qualified attorneys to provide these constitutionally mandated services and we submit this measure is long overdue and necessary for the administration of justice.

Court-appointed attorneys and Guardian Ad Litem attorneys must be qualified and have the requisite specialized legal knowledge and skills to provide zealous and competent counsel to adults and juveniles charged with criminal offenses and law violations in every Family Court across our State. There is an acute shortage of attorneys available to provide these services based on a variety of factors – but the most pressing factor is the low pay. Attorneys who may be qualified and who have the requisite experience levels are refusing to accept court-appointments or they

have simply removed their names from the list of available counsel because they can find other work that pays a living wage and compensates them more fairly for their time and work. Attorneys are skilled professionals and the practice of criminal defense for adult defendants and juvenile defendants is highly specialized – requiring extensive knowledge on trial rules and procedures, evidentiary rules and objections, motions practice, practical knowledge on the workings of the different Family Courts, and the ability to communicate effectively with clients of all ages, all backgrounds, and levels of criminality.

Constitutionally mandated Due Process and the Right to Counsel require skilled competent professionals be made available to any person accused of a crime and it has become increasingly essential to provide legal services in other proceedings before the Family Courts. Court-appointed attorneys and court-appointed Guardian ad Litem attorneys deserve fair pay and should be compensated appropriately for their time, knowledge, skills, and dedication to the administration of justice. This measure is necessary to alleviate the acute shortage of attorneys able and willing to accept court-appointments in our Family Courts Statewide.

Thank you for the opportunity to comment on this measure.



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
STATE COUNCIL ON DEVELOPMENTAL DISABILITIES
'A'UNIKE MOKU'ĀPUNI NO KA NĀ KĀWAI KULA

PRINCESS VICTORIA KAMĀMALU BUILDING
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543

March 13, 2025

The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary
The Thirty-Third Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Rhoads, and Committee Members:

SUBJECT: HB398 HD1 Relating to Compensation for Court-Appointed Representation

The Hawaii State Council on Developmental Disabilities **SUPPORTS HB398 HD1**, which increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardians ad litem in family court proceedings. Effective 7/1/3000. (HD1)

The Council serves as an advocate and resource to ensure that individuals with intellectual and developmental disabilities (I/DD) in Hawai'i have access to services and supports that promote independence, self-determination, and community inclusion. Court-appointed counsel and guardians ad litem (GALs) play a critical role in protecting the rights of individuals with I/DD, particularly in cases involving guardianship, family court proceedings, and other legal matters where their interests must be represented.

For individuals with I/DD, the presence of qualified and adequately compensated legal representatives is essential. These professionals ensure that the unique needs, preferences, and rights of individuals with I/DD are appropriately considered in court decisions. Competitive compensation rates are vital for attracting attorneys and GALs with the specialized knowledge necessary to address the complexities associated with I/DD cases. Higher rates will also allow court-appointed representatives to dedicate the time and resources needed for comprehensive case preparation, resulting in better advocacy and outcomes for individuals with I/DD. Furthermore, well-compensated representatives can more thoroughly explore and present less restrictive alternatives to guardianship, such as Supported Decision-Making (SDM), ensuring that the autonomy and decision-making rights of individuals with I/DD are preserved whenever possible. Cases involving individuals with I/DD often intersect with sensitive family matters. Experienced representatives who are fairly compensated are better positioned to navigate these complexities and advocate effectively for the best interests of the individual.

Thank you for the opportunity to submit testimony in **support of HB398 HD1**.

Sincerely,

Daintry Bartoldus
Executive Administrator

HB-398-HD-1

Submitted on: 3/8/2025 7:46:52 AM

Testimony for JDC on 3/13/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Testifying for Hawaii Coalition for Child Protective Reform	Support	Written Testimony Only

Comments:

Senator Rhoads and committee members,

On behalf of the Hawaii Coalition for Child Protective Reform, I fully support an increase in stipend for court appointed lawyers because a majority of parents in the child welfare system are low income. I would, however, like to comment.

For years, advocates for family defense have called for an increase in the stipend for court-appointed attorneys in child welfare cases. Hourly rates that do not measure up to standard fees are inadequate given the complexity of these cases. It is suggested that attorneys handling such cases typically manage between 50 and 150 cases, a workload that limits the time and resources they can devote to each one.

As a result, parents are often denied the legal representation they deserve, while Child Welfare Services (CWS) maintains a distinct advantage in court with exclusive testimony on the record.

More concerning, recent reports have revealed that federal funding has been available from 2022 to support legal services for both parents and children. However, both the Department of Human Services (DHS) and the Judiciary have failed to follow through with the application process for this critical funding. Please look into withdrawal of federal funding.

Without a reasonable hourly fee for parent and child legal services, quality representation will remain out of reach for many families. Adequate defense for parents in the child welfare system is not only a matter of fairness but is also proven to reduce unnecessary child removals and foster care placements. This, in turn, leads to a reduction in court costs and better long-term outcomes for children and families.



TESTIMONY
Senate Committee on Judiciary
Hearing: Thursday, March 13, 2025

TO: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

FROM: Mark M. Murakami, HSBA President

RE: HB 398, HD1 - RELATING TO COMPENSATION FOR COURT-APPOINTED COUNSEL

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

Thank you for this opportunity to testify in **STRONG SUPPORT** of HB 398, HD1 Relating to Compensation for Court-Appointed Representation. This measure would increase the rate of compensation for court-appointed counsel and guardians ad litem (GAL) in family court proceedings.

Qualified legal representation is necessary and critical in family court proceedings. The rates of compensation have remained stagnant for this critical work, which makes it increasingly difficult to recruit and retain qualified counsel to provide these services. Court-appointed counsel and GAL serve a critical role in ensuring children's best interests are served and family safety remains a priority.

Mahalo for this opportunity to provide testimony in strong support.

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Testimony to the Thirty-Third Legislature, 2025 Regular Session

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

Hearing: March 13, 2025, 9:45 a.m.

State Capitol Building
415 South Beretania Street
Honolulu, HI 96813

**Re: House Bill 401, HD 1 - Relating to District Court Judges
House Bill 396, HD1 - Relating to Compensation for Court Appointed Counsel
House Bill 398, HD1 – Relating to Compensation for Court Appointed
Representation**

Honorable Chair Rhoads, Honorable Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

As president of the West Hawaii Bar Association, I am testifying in support of three bills: HB 401, which would establish an additional district court judge in the Third Circuit, for the Kona District Court, and HB 396 and HB 398, which would increase the rate of pay for court appointed attorneys and guardians ad litem to \$150 per hour. As an organization, we passed two resolutions supporting these measures and I have attached them for your consideration.

The West Hawaii Bar Association is encouraged that these measures have come before the Senate Committee on Judiciary. We urge you to seriously consider the plight of the legal community in West Hawaii and pass these measures to the next phase of consideration.

The West Hawaii Bar is a small but close-knit legal community that covers from Hawi, North Kohala, all the way to Pahala, Ka'u – half of the largest island, servicing rural and urban populations of approximately 82,000 people as of the 2020 census. The Office of the Public Defender cannot represent everyone who needs a lawyer in the criminal justice system. Privately appointed counsel is asked to step in on a case-by-case basis by the judiciary, often at a moment's notice for arraignments or preliminary hearings. This includes appointments for new cases, children in juvenile delinquency proceedings, probationers, mental health cases, and also conflict matters where the Office of the Public Defender is ethically unable to proceed with representation.

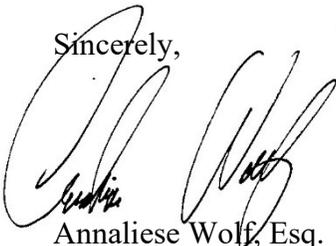
There are only a handful of attorneys available to take criminal cases, family court cases, and even fewer to act as guardian ad litem. Many attorneys are solo practitioners who carry significant overhead – office space, professional and personal insurance, travel expenses – all of which is not adequately covered within a rate of compensation of \$90/hour. That rate has not changed in 20 years; this has forced attorneys to decline court appointed cases so they can make a living outside court appointments. If the rate of pay does not increase, the situation will become even more dire; some attorneys are only taking federal criminal cases as appointments because

they pay \$175/hour which is almost double a state case. Given how few attorneys are available in West Hawaii, the rate of appointed pay makes finding counsel for anyone incredibly difficult. Raising the rate of pay for the hardworking attorneys in our community will encourage more attorneys to be available for court appointments and make it possible for other attorneys to relocate to our island.

The Kona District Court may hold the distinction of being the busiest district court in the entire state – as a single judge handles a caseload of almost 16,000 cases each year. Currently, because of a Circuit Court vacancy, the permanent district court judge is sitting in Circuit Court while per diem judges strive to manage a large, strained docket. Because of how many cases are before a single judge, there is a significant backlog which creates significant delays in setting cases for hearings or trial. This keeps people in custody longer, sometimes even past the maximum sentence they could serve on their charges. This also compounds the stress and emotional toll on all parties in a case – defendants, their counsel, witnesses or victims of a crime. Even civil matters are dragged out and people cannot receive resolution to restraining orders, evictions, small claims. District Court is truly the people’s court – it is where people from the community come to seek answers and redress, their personal encounters with the justice system. The quality of justice is diminished as judges, staff and attorneys and litigants are forced to choose between a quicker resolution or truly working through a case on the merits. I urge you to support this critical request to enhance the efficiency and fairness of our judicial system in the Third Circuit.

Please pass HB 401 for an additional District Court judge in Kona. Please pass HB 396 and 398 to increase the rate of pay for court appointed counsel in criminal and family law matters. These are crucial to increasing access to justice and appropriate representation on Big Island.

Sincerely,

A handwritten signature in black ink, appearing to read 'Annaliese Wolf', is written over a circular stamp. The signature is fluid and cursive.

Annaliese Wolf, Esq.

West Hawaii Bar Association President 2025



Resolution No.: 2025-01

Introduced by: Annaliese H. Wolf, WHBA President

Passed: February 19, 2025

**A RESOLUTION IN SUPPORT OF
HOUSE BILL 401, HD1;
SENATE BILL 267;
AND THE HAWAI'I STATE JUDICIARY'S
2025 GENERAL FUNDS REQUEST**

WHEREAS, the West Hawai'i Bar Association serves the public and legal community of West Hawai'i through its mission to expand legal resources and improve the legal profession;

WHEREAS, there has been only one District Court Judge sitting in the Kona District Court of the Third Circuit since the first Kona District Court judge was sworn in nearly forty years ago, notwithstanding the significant increase in the population of West Hawai'i and the corresponding increase in the Court's caseload;

WHEREAS, the aforesaid existing judicial resources are severely inadequate to handle the current overwhelming caseload of nearly 16,000 new cases docketed each year in the Kona District Court;

WHEREAS, the chronic backlog of cases in the Kona District Court has placed undue burdens on litigants, attorneys, court personnel, and the public at large, and has led to court congestion, delays in the resolution of cases, and has ultimately impeded access to justice in West Hawai'i;

WHEREAS, the addition of a second District Court Judge and support staff in the Kona District Court would alleviate this longstanding court congestion, enhance the Court's ability to manage its docket efficiently, and improve the delivery of justice to the West Hawai'i community; and

WHEREAS, the proposed legislation HB401, HD1 and SB267 currently pending before the Thirty-Third Legislature, 2025 Regular Session would establish one additional District Court Judge in the Third Circuit;

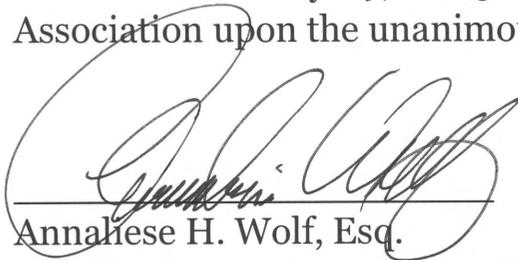
WHEREAS, the Judiciary's 2025 General Funds Request seeks funding for an additional District Court Judge position in Kona, including support staff; and

WHEREAS, the members of the West Hawai'i Bar Association recognize the critical need for increased judicial capacity to ensure the proper functioning of the legal system in West Hawai'i;

NOW, THEREFORE, BE IT RESOLVED, that the West Hawai'i Bar Association strongly supports HB401, HD1 and SB267, and the Judiciary's corresponding General Funds Request, and the members of the West Hawai'i Bar Association urge this Thirty-Third Legislature to approve these measures and General Funds Request; and

BE IT FURTHER RESOLVED, that copies of this Resolution shall be transmitted to members of the Thirty-Third Legislature and the Judiciary to express our unified support for the addition of an additional judge for the Kona District Court and our steadfast commitment to improving legal resources in West Hawai'i.

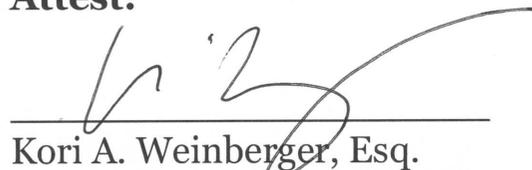
Passed: February 19, 2025 at the General Meeting of the West Hawai'i Bar Association upon the unanimous vote of all members present.



Annahese H. Wolf, Esq.

President, West Hawai'i Bar Association

Attest:



Kori A. Weinberger, Esq.

First Vice President, West Hawai'i Bar Association





Resolution No.: 2025-02

Introduced by: Annaliese H. Wolf, WHBA President

Passed: February 19, 2025

**A RESOLUTION IN SUPPORT OF
HOUSE BILLS 396, HD1; 398, HD1 and
SENATE BILL 263, SD1**

WHEREAS, the West Hawai'i Bar Association serves the public and legal community of West Hawai'i through its mission to expand legal resources and improve the legal profession; and

WHEREAS, court-appointed counsel in criminal cases and guardians ad litem in family law cases play a critical role in protecting the rights of indigent defendants, children, and other vulnerable individuals; and

WHEREAS, the compensation rate for court-appointed counsel in criminal cases has not increased in over 20 years, and the compensation rate for guardians ad litem has not increased in over 17 years; and

WHEREAS, the current compensation rates are so low that they fail to adequately compensate attorneys for their time, expertise, and professional obligations, thereby discouraging qualified attorneys from accepting these essential cases;

WHEREAS, the shortage of attorneys willing to accept these appointments has resulted in delay of resolution of these cases, increased caseloads for the few attorneys who do provide representation, and diminished the quality of legal representation available to indigent individuals and children in need; and

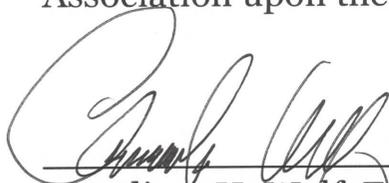
WHEREAS, the proposed legislation HB396, HD1, HB398, HD1, and SB263, SD1 currently pending before the Thirty-Third Legislature, 2025 Regular Session, seeks to address this pressing issue by increasing the compensation rates for court-appointed counsel and guardians ad litem to a level that reflects the professional responsibilities and dedication required for these roles; and

WHEREAS, the members of the West Hawai'i Bar Association strongly support the passage of legislation to increase the compensation rates for court-appointed counsel in criminal cases and for guardians ad litem in family law cases; and

NOW, THEREFORE, BE IT RESOLVED, that the West Hawai'i Bar Association strongly supports HB396, HD1, HB398, HD1, and SB263, SD1, and urges this Thirty-Third Legislature to approve these critical measures; and

BE IT FURTHER RESOLVED, that copies of this Resolution shall be transmitted to members of the Thirty-Third Legislature and the Judiciary to express our unified support for an increase in the rate of compensation for court-appointed attorneys in criminal cases and for guardians ad litem in family law cases.

Passed: February 19, 2025 at the General Meeting of the West Hawai'i Bar Association upon the unanimous vote of all members present.



Annaliese H. Wolf, Esq.
President, West Hawai'i Bar Association

Attest:



Kori A. Weinberger, Esq.
First Vice President, West Hawai'i Bar Association





Testimony to the Thirty-Third Legislature, 2025 Regular Session

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

Hearing: March 13, 2025, 9:45 a.m.

State Capitol Building
415 South Beretania Street
Honolulu, HI 96813

**Re: House Bill 396, HD1 - Relating to Compensation for Court Appointed Counsel
House Bill 398, HD1 - Relating to Compensation for Court Appointed
Representation**

Honorable Chair Rhoads, Honorable Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

I am submitting this testimony as a practicing attorney in Maui County. I support HB 396 and HB 398 which would increase the rate of pay for appointed counsel and guardian ad litem from \$90/hour to \$150/hour. In the past several years, there has been a dramatic decrease in the Second Circuit of available court-appointed counsel to represent indigent members of our community in criminal matters and to protect the interests of our keiki who require a guardian ad litem. Increasing the statutory rate of pay would help attract attorneys who want to live, work, and help in our community.

The Office of the Public Defender cannot represent everyone who needs a lawyer in the criminal justice system. Privately appointed counsel is asked to step in on a case-by-case basis by the judiciary, often at a moment's notice for arraignments or preliminary hearings. This includes appointments for new cases, children in juvenile delinquency proceedings, probationers, mental health cases, and also conflict matters where the Office of the Public Defender is ethically unable to proceed with representation.

Like most private defense attorneys who currently accept State court-appointed cases, I am a solo criminal defense attorney. My law firm is a small business. To continue serving the community, my firm must make enough profit to continue operating. On Maui, as on other islands, there is a shortage of private defense attorneys. It is not difficult to obtain higher paying private work in criminal defense and TRO cases. My hourly private rate is \$350/hour, which is on par with the average private defense rate in this State. Logically, to run a successful law firm, it makes

the most sense to bill as many hours as possible at the highest rate possible. Time is the most valued asset in the business of law.

However, I spend time on some court-appointed cases because access to justice is very important to me. I also deeply enjoy serving indigent and underserved clientele. But from a business perspective, it does not make sense to accept a high number of court-appointed cases. After business taxes and expenses are subtracted from the meager \$90/hour rate, the State is essentially asking experienced criminal defense attorneys to work at \$15-\$25/hour.

I firmly believe that the court-appointed attorney lists are shrinking because this is not a fair rate of compensation for the important work that court-appointed counsel provides. A business cannot survive, much less thrive, on such a low rate of compensation. There are not enough attorneys, particularly on the neighbor islands, who will be willing to accept a meaningful number of cases at this rate. Moreover, relying on attorneys from other islands to take court-appointments is not a strong plan either. It is taxing on time and energy for attorneys to travel to different islands for daily work. Again, time is money for attorneys. The neighbor islands, in particular, will suffer from the lack of quality court-appointed attorneys.

Moreover, collecting on court-appointed work is also cumbersome and time-consuming for court-appointed counsel. We cannot bill for the time it takes to submit payment requests. It is much easier and less time-consuming to collect payment from private clients. Oftentimes, after a bill is submitted to the State, payment is significantly delayed and not received for 2-3 months.

If access to justice is a priority to this Committee, then the rate of compensation must be increased in order to attract and keep more court-appointed counsel. Although \$150/hour pales in comparison to the \$350/hour average private billing rate, it is closer in the direction of an acceptable rate for court-appointed matters. The current compensation rate of \$90/hour does not adequately compensate an attorney for the significant responsibilities they shoulder while handling a criminal case or acting as a guardian ad litem, and it does not even cover the costs of overhead for many attorneys. The statutory rate of pay has not increased in almost 20 years. Federal cases pay a substantially higher rate, and as of January 2025, was at least \$175/hour. The rate of compensation must be raised to a viable wage to ensure that attorneys who live on Hawaii Island can afford to assist their community by providing representation to those in need.

Sincerely,



Joanne S.C. Hicks, Esq.

**Testimony of Emil A. Macasinag, Esq. to the Thirty-Third Legislature,
2025 Regular Session**

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

Hearing: March 13, 2025, 9:45 a.m.

State Capitol Building
415 South Beretania Street
Honolulu, HI 96813

**Re: House Bill 396, HD1 - Relating to Compensation for Court Appointed Counsel
House Bill 398, HD1 - Relating to Compensation for Court Appointed
Representation**

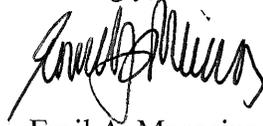
Honorable Chair Rhoads, Honorable Vice Chair Gabbard, and Members of the Senate
Committee on Judiciary:

I write to provide support for HB 396 and HB 398 which would increase the rate of pay
for court-appointed counsel and guardians ad litem from \$90/hour to \$150/hour.

I have been licensed to practice law in Hawaii since 2021, and in California since 2008. I
currently practice real estate and business litigation in Hawaii County. I have considered
expanding my practice to the areas addressed by HB 396 and HB 398, because there is a shortage
of attorneys willing to accept appointments. I appreciate my colleagues who take those court
appointments, because they provide a critical service to our community. I also know that those
practice areas are extremely challenging, and it would take a substantial investment of time and
money for me to competently practice in those areas. Ultimately, it does not make financial sense
for me to make that investment when the rate for those appointments is \$90/hour.

Please note that the pay rate for court-appointed commissioners to handle foreclosure
matters is \$200/hour. I have accepted those appointments because it is a way for me to help the
courts and serve the community, and it makes financial sense for me. I urge the Committee to
consider raising the rate for court-appointed criminal defense counsel and guardians ad litem to
at least \$200/hour. Doing so would not only incentivize qualified attorneys to accept those
appointments; but also encourage otherwise experienced attorneys to make the necessary
investment to expand their practices in order to competently represent indigent defendants,
children, and other vulnerable individuals.

Sincerely,



Emil A. Macasinag, Esq.

HB-398-HD-1

Submitted on: 3/11/2025 6:26:04 AM

Testimony for JDC on 3/13/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Frank Schultz	Individual	Support	Written Testimony Only

Comments:

I support this initiative.

MADLINE M. REED
ATTORNEY AT LAW



Testimony to the Thirty-Third Legislature
2025 Regular Session
Senate Committee on Judiciary

RE: House Bill 398, HD1 – Relating to Compensation for Court Appointed Representation

Honorable Chair Rhoads, Honorable Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

I am writing in **strong support** of House Bill 398 increasing compensation for Guardians *ad Litem* in Family Court proceedings.

I am an attorney who has worked as 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. In 2024, upon re-entry into private practice, I stopped accepting court-appointed Family Court cases because of the lack of reasonable compensation.

Serving the court as 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. Emergencies occur on a regular basis, often requiring urgent action. This urgent action usually takes the form of a home visit with a child, who in this circuit are often placed with families in the remote southern region of the island. Because the Judiciary does not pay for travel time, a one hour home visit, which is “out-of-court” and compensated at \$60 per hour, frequently takes five hours. This translates to an actual compensation of \$12 per hour, less than the state’s minimum wage.

On top of this difficult emotional and financial 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 vital for justice to be served for these children and their families. Currently, due in large part to the compensation structure, no such pool exists. In fact, the idea that you would ever maintain such a pool with the current pay structure is an obvious fiction.

As representatives of our community, I know you are truly invested in the health of our social

MADLINE M. REED
ATTORNEY AT LAW



fabric. What happens to children and families experiencing foster care ripples throughout their lives and far beyond, especially in a place like Hawai'i, where we are all so deeply intertwined. Will these vulnerable individuals be well-supported, advocated for, and seen? Or will they be ignored? Taught that they don't matter? And what happens to people who are taught that they don't matter? What do they go on to do in life? What do they cost themselves, their families, and our society as a whole?

This bill represents a good starting place for meaningful positive change in this important and struggling system. I can say personally that I would immediately begin taking court appointments again in the Third Circuit if such a pay increase went into effect.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Reed', written in a cursive style.

Madeline M. Reed
madelinereedlaw.com

Testimony to the Thirty-Third Legislature, 2025 Regular Session

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

Hearing: March 13, 2025, 9:45 a.m.

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I am submitting this testimony as a practicing attorney in Hawaii County. I support HB 396 and HB 398 which would increase the rate of pay for appointed counsel and guardian ad litem from \$90/hour to \$150/hour. In the past several years, there has been a dramatic decrease in the Third Circuit of available court-appointed counsel to represent indigent members of our community in criminal matters and to protect the interests of our keiki who require a guardian ad litem. Increasing the statutory rate of pay would help attract attorneys who want to live, work, and help in our community.

The Office of the Public Defender cannot represent everyone who needs a lawyer in the criminal justice system. Privately appointed counsel is asked to step in on a case-by-case basis by the judiciary, often at a moment's notice for arraignments or preliminary hearings. This includes appointments for new cases, children in juvenile delinquency proceedings, probationers, mental health cases, and also conflict matters where the Office of the Public Defender is ethically unable to proceed with representation.

The current compensation rate of \$90/hour does not adequately compensate an attorney for the significant responsibilities they shoulder while handling a criminal case or acting as a guardian ad litem, and it does not even cover the costs of overhead for many attorneys. The statutory rate of pay has not increased in almost 20 years. Federal cases pay a substantially higher rate, and as of January 2025, was at least \$175/hour. The situation in the Third Circuit is so dire that judges are asking attorneys to come from other islands to assist our community. The rate of compensation must be raised to a viable wage to ensure that attorneys who live on Hawaii Island can afford to assist their community by providing representation to those in need.

Sincerely,

Kori A. Weinberger, Esq.

LATE

Testimony to the Thirty-Third Legislature, 2025 Regular Session

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

Hearing: March 13, 2025, 9:45 a.m.

State Capitol Building
415 South Beretania Street
Honolulu, HI 96813

**Re: House Bill 396, HD1 - Relating to Compensation for Court Appointed Counsel
House Bill 398, HD1 – Relating to Compensation for Court Appointed
Representation**

Honorable Chair Rhoads, Honorable Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

I am submitting this testimony as a practicing attorney in Family Court and District Court in Kona. I support HB 396 and HB 398 which would increase the rate of pay for appointed counsel from \$90/hour to \$150/hour and guardian ad litem from \$60 (out of court)/\$90(in court) to \$150/hour.

I have been practicing in Family Court in Kona for the past ten years. I represent children who are in foster custody, parents who have children in foster custody, and children whose parents are going through a divorce. As a guardian ad litem, I determine what is in the best interest of the child/children. This requires me to keep in contact with the child, speak with the child's resource caregivers (foster parents), speak to the child's teacher and counselor at school, get report cards, speak to the child's therapist, monitor whether the child is seeing a doctor and dentist and whether the child is receiving the care the child needs, check on the parent's progress with services, discuss the case with the child's social worker and Deputy Attorney General, discuss the case with the other attorneys involved in the case, attend Ohana Conferences, and when the child has special needs, which many of them do, attend Individualized Education Plan (IEP) meetings, attend monthly treatment team meetings with the Department of Health, and write reports to provide this information to the Court. These tasks are repeatedly done throughout the case. In addition, I file motions and responses to motions, and participate in adjudication hearings, review hearings, and termination of parental rights hearings that are often contested hearings in court that last for days, months, and, in a few cases, years.

In the past several years, there has been a dramatic decrease in the Third Circuit of available court-appointed counsel to represent children in foster care, parents whose children are in foster care, and guardian ad litem for children. This is due to the fact that the pay for guardian ad litem who do work in Family Court in the Third Circuit is not enough to sustain a law practice. Attorneys have chosen to work in other areas of law. Children need representation in court, so their needs are addressed, and they are not forgotten.

The current compensation rate of \$60/hour (out of court)/\$90/hour (in court) does not adequately compensate an attorney for the significant responsibilities they shoulder as a guardian ad litem, and it does not even cover the costs of overhead for many attorneys. The statutory rate of pay has not increased in almost 20 years. Federal cases pay a substantially higher rate, and as of January 2025, was at least \$175/hour. The situation in the Third Circuit is so dire that judges are asking attorneys to come from other islands to assist our community. The rate of compensation must be raised to a viable wage to ensure that attorneys who live on Hawaii Island can afford to assist their community by providing representation to children in need.

Sincerely,

Carol S. Kitaoka, Esq.