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

January 28, 2025

**S.B. 265: 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 the intent of S.B. 265.**

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 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-Third State Legislature, 2025 Regular Session**

**Senate Committee on Judiciary**

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Tuesday, January 28, 2025 at 9:15 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

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**Bill No. and Title:** Senate Bill No. 265, 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 Senate Bill No. 265.

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



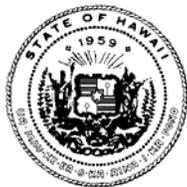
attorneys to be willing to undertake this demanding work is to ensure that they are adequately compensated for that work.

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.

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



RYAN I. YAMANE  
DIRECTOR  
KA LUNA HO'ŌKELE

JOSEPH CAMPOS II  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'ŌKELE

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'ŌKELE

January 23, 2025

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

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 265 – RELATING TO COMPENSATION FOR COURT-APPOINTED  
REPRESENTATION.**

Hearing: January 28, 2025, 9:15 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.

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 (Chapters 587A and 346, Hawaii Revised Statutes). 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.

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

**COUNTY COUNCIL**

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January 23, 2025

**TESTIMONY OF ADDISON BULOSAN  
COUNCILMEMBER, KAUAI COUNTY COUNCIL  
ON**

**SB 261, RELATING TO JURY DUTY,  
SB 262, RELATING TO PROSPECTIVE JURORS,  
SB 263, RELATING TO COMPENSATION FOR COURT-APPOINTED COUNSEL,  
SB 264, RELATING TO THE EXAMINATION OF CRIMINAL DEFENDANTS,  
SB 265, RELATING TO COMPENSATION FOR COURT-APPOINTED  
REPRESENTATION,  
SB 266, RELATING TO DISTRICT COURT JUDGES, AND  
SB 267, RELATING TO DISTRICT COURT JUDGES**

Senate Committee on Judiciary

Tuesday, January 28, 2025

9:15 a.m.

Conference Room 016  
Via Videoconference

Dear Chair Rhoads and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of SB 261, Relating to Jury Duty, SB 262, Relating to Prospective Jurors, SB 263, Relating to Compensation For Court-Appointed Counsel, SB 264, Relating to The Examination of Criminal Defendants, SB 265, Relating to Compensation for Court-Appointed Representation, SB 266, Relating to District Court Judges, and SB 267, Relating to District Court Judges. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of SB 261, SB 262, SB 263, SB 264, SB 265, SB 266, and SB 267, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of SB 261, SB 262, SB 263, SB 264, SB 265, SB 266, and SB 267. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

**ADDISON BULOSAN**  
Councilmember, Kaua'i County Council

AAO:slr



**LATE**

Committee: Judiciary  
Hearing Date/Time: Tuesday, January 28, 2025, at 9:15am  
Place: Conference Room 016 & Via Videoconference  
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of SB265  
Relating to Compensation for Court-Appointed Representation**

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

The ACLU of Hawai'i supports **SB265** which increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardians ad litem in family court proceedings funds.

In *Gideon v. Wainwright*,<sup>1</sup> the U.S. Supreme Court established the fundamental right to an attorney for people accused of crimes and facing incarceration, regardless of their wealth or poverty. Since *Gideon*, the right to counsel has been expanded to include [children](#) in juvenile delinquency proceedings, [probationers](#) in probation revocation proceedings, and people charged with [misdemeanors](#). The Supreme Court has established that the right includes an obligation for lawyers to correctly advise their clients about certain [immigration consequences](#) of criminal convictions, and that the right includes effective assistance of counsel during [plea bargaining](#).

The overwhelming majority of criminal cases in Hawai'i proceed against people who cannot afford to hire their own attorney, and disproportionately impacts Native Hawaiians and Pacific Islanders. **Roughly [four out of five](#) criminal defendants do not have the means to hire a lawyer and rely on public defenders or court-appointed lawyers.** Without adequate public defense, most people in the criminal legal system face the full force of government power with nothing more than illusory rights.

The right to counsel also protects other constitutional rights. When we don't protect the right to counsel, we also sacrifice our rights against unreasonable searches and seizures, against excessive bail, to confront one's accusers, to have prosecutors disclose exculpatory evidence before trial, and many others.

Court-appointed counsel protect the rights of indigent persons enshrined in our federal and Hawai'i Constitutions and deserve fair compensation.

Additionally, Guardian Ad Litem play a critical role within family court proceedings. Under Hawai'i Revised Statutes (HRS) Chapter 587A, they represent the best interests of children who have been abused or neglected in Child Protective Act (CPA) cases and on occasion, in child

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<sup>1</sup> <https://supreme.justia.com/cases/federal/us/372/335/>

custody matters. They are appointed in many involuntary hospitalization proceedings and should provide legal counsel to all persons subject to Assisted Community Treatment proceedings when involuntary treatment or forced medication is considered.

For these reasons, we respectfully request that you pass **SB265** and increase the rate of compensation and maximum allowable amount per case for court-appointed counsel in criminal proceedings and guardian ad litem in family court proceedings.

Sincerely,

**Carrie Ann Shirota**

Carrie Ann Shirota

Policy Director

ACLU of Hawai'i

[cshirota@acluhawaii.org](mailto:cshirota@acluhawaii.org)

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.*

**TESTIMONY**

Senate Committee on Judiciary

**Hearing: Tuesday January 28, 2025 (9:15 a.m.)**

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

FROM: Mark M. Murakami, HSBA President

RE: Senate Bill No. 265 - RELATING TO COMPENSATION FOR  
COURT-APPOINTED COUNSEL

Chair Rhoads and members of the Senate Committee on Judiciary, the Hawaii State Bar Association ("HSBA") appreciates the opportunity to offer testimony in **STRONG SUPPORT** of Senate Bill No. 265.

The Hawaii State Bar Association wholeheartedly endorses Senate Bill No. 265, 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 interest are served and family safety remains a priority. Therefore, The HSBA **STRONGLY SUPPORTS** Senate Bill No. 265, recognizing the imperative need for an increased rate of compensation for court-appointed counsel and guardians ad litem (GAL) in family court proceedings.

Mahalo for this opportunity to provide testimony in strong support.

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**SB-265**

Submitted on: 1/22/2025 3:00:37 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

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

Comments:

Senator Rhoads and committee,

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 since 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.

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.

Hawaii Coalition for Child Protective Reform



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SOCIETY OF HAWAII

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Regan Iwao  
President, Board of Directors

David Kauila Kopper  
Executive Director

**TESTIMONY OF THE LEGAL AID SOCIETY OF HAWAII TO THE  
SENATE COMMITTEE ON JUDICIARY ON SB265**

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

Tuesday, January 28, 2025 at 9:15 a.m.

The Legal Aid Society of Hawai'i **strongly supports** SB265 – Relating to Compensation for Court-Appointed Representation.

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 compensation for providers of these critical services is vital to ensuring that Hawai'i's 'ohana continue to receive the highest quality services by recruiting, retaining, and adequately compensating the attorneys and advocates who serve our communities through these roles.

Guardian ad litem contracts play a critical role in ensuring the safety and wellbeing of children in child welfare cases by providing an independent fact finder whose sole role is to safeguard the welfare and best interests of children as required by state and federal law. Parents' counsel services are also necessary to assert the rights of parents when a child is wrongfully removed, and also to counsel parents to enter treatment, counseling or receive other services to reunify with their children. When done right with the right support and compassion, we've seen amazing changes and growth in parents who are now able to provide safe family homes for their children.

This bill proposes to increase the current in-court and out-of-court hourly rates from \$90/\$60 to \$150/\$122, and the caps on the totals that can be paid. These increases are much needed and overdue. The last time the rates were raised was in 2007 (17 years ago), when Act 218 (2007) increased the rates to \$90/\$60 from \$60/\$40.

If the current rates were adjusted for inflation (based on the consumer price index), this measure increase those inflation-adjusted rates by \$13.20 and \$30.80, respectively. These are reasonable increases that will go directly to helping Hawai'i's 'ohana.

A comprehensive 2003 study into Hawai'i's guardian ad litem and court appointed counsel services underscores the need for this bill and still rings true today:

Adequate compensation for guardians ad litem is necessary to ensure adequate services are provided. To some extent, the amount spent reflects the priority put on the representation of children. Attorneys providing guardian ad litem services should be compensated equivalent to other "public service" attorneys. Insufficient compensation leads to guardians ad litem being overextended, as they take on more cases, but without adequate time and resources to devote sufficient attention to each case. This compromises the entire system of guardian ad litem services to children. States must set compensation at realistic levels that will result in the provision of decent services.

*Legislative Reference Bureau Report No. 2, 2003.* It also remains true that "sufficient resources" are vital to "ensure quality guardian ad litem services are provided to Hawaii's children."

Thank you for this opportunity to provide testimony.

Respectfully,

David Kauila Kopper, Executive Director  
Makia Minerbi, Managing Attorney, Family Unit  
For the Legal Aid Society of Hawai'i

**LATE**

**SB-265**

Submitted on: 1/27/2025 7:31:54 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nonohe Botelho	Testifying for Hawaii Coalition for Child Protective Reform	Support	Written Testimony Only

Comments:

In SUPPORT

**SB-265**

Submitted on: 1/25/2025 9:30:19 AM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Laura Miller	Individual	Support	Written Testimony Only

Comments:

Or this:

Testimony in Support of Adequate Compensation for Court-Appointed Attorneys

Thank you for the opportunity to testify on this important issue. I strongly support increasing compensation for court-appointed attorneys, but a \$7,500 cap is simply not enough to attract and retain the skilled legal professionals needed for complex cases like those involving child abuse.

To put this in perspective, legal fees in Hawai'i typically range from \$150 to \$500 per hour. Even decades ago, I paid \$200 for a highly experienced attorney—who later became a judge—for just a 10-minute court appearance to address child visitation. Fifteen years ago, I paid \$125 to have a power of attorney drafted. The costs of quality legal representation have always reflected the skill and expertise required, and today, those costs are even higher.

Child welfare cases, in particular, demand exceptional legal work. These cases are not just legally complex; they involve sensitive issues that have life-altering consequences for children and families. Attorneys need time to carefully review evidence, understand family dynamics, and prepare arguments that ensure a fair outcome. Offering what amounts to “minimum wage” for this level of responsibility is not only unfair to the attorneys but also to the children who rely on them for a voice in the courtroom.

Additionally, I am concerned that Hawai'i has not fully taken advantage of federal Title IV-E funding, which is specifically available to improve legal services in child welfare cases. This funding could ease the financial burden on the state while providing the resources necessary to improve outcomes for vulnerable children. It's a missed opportunity that deserves immediate attention.

If we are serious about protecting children and ensuring justice, we must commit to adequately compensating the attorneys who take on these critical cases. I urge the legislature to increase the stipend to a realistic amount and to fully leverage available federal funds. Doing so is not just an investment in legal services—it's an investment in the future of our children.

Thank You,

Laura Miller, Family Advocate

