



*The Judiciary, State of Hawai‘i*

**Testimony to the House Committee on Judiciary**

Representative Karl Rhoads, Chair

Representative Joy A. San Buenaventura, Vice Chair

Tuesday, February 16, 2016, 2:00 p.m.

State Capitol, Conference Room 325

by

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**Bill No. and Title:** House Bill No. 1649, Relating to the Judiciary.

**Purpose:** To provide supplemental operating and capital improvement appropriations for FY 2017.

**Judiciary's Position:**

The Judiciary strongly urges your support of House Bill No. 1649, which reflects the Judiciary's resource requirements for FY 2017.

The Judiciary recognizes that in spite of recent increases in general fund revenues, there are many competing demands for the limited resources available. Accordingly, the Judiciary has tried to be very prudent in its supplemental budget request and focus only on those items where we felt there was a pressing, demonstrated need to better serve the public, our employees, and our clients. Specifically, with these factors in mind, our general fund supplemental budget request for FY 2017 is for 24 new permanent positions and \$2.2 million in additional funding, an increase of just 1.4% over our current budget base.

The need for additional essential staffing is a major concern for the Judiciary, especially as workload continues to increase, and as additional demands and requirements are placed on judges and staff. This concern especially relates to Courts of Appeal which is requesting additional Staff Attorney and Appellate Court Clerk positions; to First Circuit which is requesting additional funding for an already authorized Family Court judge and three support staff positions; and to Second and Fifth Circuits which are requesting positions and funding for a District Court judge and a District Family Court judge, respectively, as well as related support staff. The Courts of



House Bill No. 1649 Relating to the Judiciary  
House Committee on Judiciary  
Tuesday, February 16, 2016, 2:00 p.m.  
Page 2

Appeal request is for \$152K for a Staff Attorney position and an Appellate Clerk position for the Intermediate Court of Appeals (ICA). With the restructuring of the appellate court system in 2006, almost all appeals are filed with and resolved in the first instance by the ICA. The number of appeals and motions filed has been increasing, as has the complexity and fundamental importance of the appeals, which together impose greater demands on judicial resources and the need for additional positions. Indeed, since the restructuring, the ICA's appeals caseload has almost doubled and its motions caseload has increased by more than ten times.

Funding of \$312K is being requested by First Circuit for a District Family Court judge and related staff positions provided by the 2007 Legislature. This would help address the heavy Family Court workload and the continual increase in the number and complexity of Family Court cases, as well as the backlog and delays in scheduling/hearing cases. This judge and staff would be assigned to the Domestic Division where litigants currently must wait four months for a hearing for settlement and trial settlement conferences, and an additional five months for trial. The current three Domestic Division judges were responsible for 6,668 cases in FY 2014 and 7,357 cases in FY 2015, an increase of 10%.

Second and Fifth Circuits are requesting an additional District Court judge and District Family Court judge, respectively, along with staff to address workload issues, case complexities, delays in scheduling and hearing cases, and the additional time required to handle the increasing numbers of self-represented litigants. For Second Circuit, the last District Court judge was added in 1982, more than 33 years ago, and the population in Maui County has more than doubled from 77,000 to 163,000 since then. New criminal filings in Maui County have increased from about 2,900 in FY 2011 to 4,200 in FY 2015, and traffic filings from 21,700 to 23,300. A new judge would also help address the growing needs and case numbers of the rural communities (Hāna, Lāna'i, Moloka'i). Fifth Circuit has only one District Court judge and one District Family Court judge, with the last judge being added in 1984. Compared to the second and third circuits, the current Fifth Circuit Family Court caseload per judge is much higher; specifically, the one District Family Court judge in Fifth Circuit was responsible for more than 6,700 cases in FY 2015 as compared to 2,400 and 2,800 cases per District Family Court judge in second and third circuits, respectively.

Three supplemental budget requests relate to our specialty courts/programs in the First Circuit. Specifically, funding and two positions each are being requested to sustain the Driving While Impaired (DWI) Court and the Hawai'i Zero to Three Program as permanent programs within the Judiciary, as grant funding is ending in summer 2016 for both of these. The DWI Court currently has 20 participants and 17 successful graduates to date, and was recently honored with the National Highway Traffic Safety Administration's top national award for public service at its 2015 Lifesavers Conference. The Hawai'i Zero to Three Program focuses on the unique needs of infants and toddlers who have been removed from parental custody due to abuse and/or neglect.



Time is of the essence in these cases since the children are developing so quickly. Since 2008 when the program began, 63 families and 80 infants/toddlers have been served, and there are currently 14 active clients. Lastly, three positions are being requested to create a mental health unit in First Circuit, and for additional funding for mental health assessments and related client services. This unit would allow expansion of the Mental Health Court from 40 clients to the originally envisioned 60, and would provide services and intensive supervision to not only Mental Health Court clients but also conditional release clients with severe mental illness and other general population clients that are dual diagnosed with mental health and drug addiction issues. The overall goals are to bring more stability to our partnerships with other agencies involved in this area, increase our client referrals and population served, reduce recidivism, increase public safety, and decrease dollars spent on incarceration and hospitalization.

Another two requests are security related, that is, one for two additional contract security guards in Second Circuit and one for two additional bailiffs in Third Circuit. In 2013, the National Center for State Courts conducted a comprehensive security assessment of the courts on Maui. Based on that assessment and its recommendations, one additional contract guard is needed to enhance security and public safety at a central entry point to Hoapili Hale, the main court and administrative operations building on Maui. A second guard is needed for the Adult Client Services Branch which is located in an unguarded separate building with 32 employees of which 28 are social worker probation officers who routinely meet with clients, some of whom have serious felony convictions. For Third Circuit, one bailiff position is needed for Kohala/Hāmākua and another for Hilo Family Court which currently has only one bailiff to serve two Family Court judges. Bailiffs help with court security and with processing cases in court, among other things. Currently, bailiffs assigned to Hilo or Kona must make a two hour round trip to Kohala/Hāmākua whenever court is in session. Not only is this unproductive time, but additional mileage costs are incurred by the Judiciary, and other clerks in Hilo and Kona have to help absorb some of the bailiffs' duties when they are gone. It should be noted that the bailiff position in Kohala/Hāmākua was authorized in 2008 but was cut due to funding reductions during the recession.

The Judiciary also has two budget requests in the extremely important area of client services. The first is for three additional social worker positions at the Office of Public Guardian (OPG) to allow it to establish an intake unit for new clients and more effectively service its existing clients. As of December 31, 2014, OPG's ten social workers acted as court-appointed guardians for 715 incapacitated clients statewide and managed finances for 263 of these. More than 50% were developmentally disabled and 11% had severe mental illness. National Guardianship Association standards indicate that a caseload should allow a minimum of one visit per month for each client and regular contact with all service providers, a standard which is very difficult to achieve considering the caseload of each social worker (for example, the seven social workers on O'ahu currently average 85 clients each). The second request is to cover significantly increased costs for legal counsel services in Second Circuit and thereby comply with all laws and fulfill its



House Bill No. 1649 Relating to the Judiciary  
House Committee on Judiciary  
Tuesday, February 16, 2016, 2:00 p.m.  
Page 4

obligation to ensure the rights of parents in child protective proceedings. During the last four years, the budget allocation for legal counsel each year was \$125K, yet average annual expenditures over this period were \$292K leading to an average deficit of \$167K annually. In FY 2012, there were 65 legal counsel appointments; in FY 2015, there were 103.

The Judiciary has two final supplemental budget requests, one related to judges' training and one for a no-cost position conversion in the Third Circuit. The training request for judges is for funding for an annual two day judicial conference to especially focus on bias and cultural awareness and barriers to access to justice, in addition to new and revised laws, amended court rules, sentencing/treatment options, trends in criminal/civil/family law, federal and state court decisions that may impact the Judiciary, and innovative courtroom practices. The other request is for a no-cost conversion of a fiscal account clerk position in Kona from temporary to permanent. This position is important in filing and entering cases and financial transactions into the Judiciary Information Management System; collecting monies and tabulating monies received; and assisting with information requests. However, the temporary nature of this position has resulted in it being vacated seven times since 2006 with vacancies ranging from 63 to 193 days.

Capital Improvement Program (CIP) requirements continue to be a major item of concern as the Judiciary's infrastructure continues to age and deteriorate, and as the population served and corresponding demand for services provided by the Judiciary keep increasing. To that end, CIP funding totaling \$13.7 million is being requested to upgrade the fire alarm system to meet current codes and requirements, to begin elevator replacement, and to repair significant basement leaks at the Circuit Court Building in Honolulu; to replace an outdated fire suppression system at the Judiciary data center in the District Court Building in Honolulu; to repair the roof and exterior walls at the Līhu'e Courthouse; and for lump sum CIP monies to cover both emergency and emerging CIP needs.

The proposed supplemental budget is the Judiciary's best estimate of the resources necessary to maintain the integrity of the courts and to fulfill our statutory, constitutional, and public service mandates. The Judiciary respectfully requests your support of House Bill No. 1649, the Judiciary's supplemental budget request.

Thank you for the opportunity to testify on this measure.