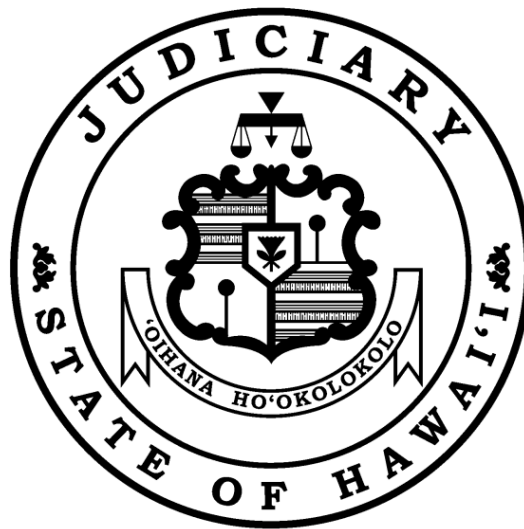


REPORT TO THE TWENTY-EIGHTH LEGISLATURE

ON

**ACT 218, SESSION LAWS OF HAWAI'I 2014
RELATING TO THE ENVIRONMENTAL COURTS**



Submitted by

The Office of the Chief Justice

The Judiciary, State of Hawai'i

December 2014

**REPORT AND RECOMMENDATIONS TO THE CHIEF JUSTICE
SUPREME COURT, STATE OF HAWAI'I**

**IMPLEMENTATION OF ACT 218, SESSION LAWS OF HAWAI'I 2014
ON ESTABLISHMENT OF THE ENVIRONMENTAL COURTS**

**SUBMITTED BY
THE ENVIRONMENTAL COURT WORKING GROUP
THE JUDICIARY, STATE OF HAWAI'I**

DECEMBER 2014

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Act 218, Session Laws of Hawai'i 2014, Relating to the Environmental Courts Implementation Report

INTRODUCTION AND PURPOSE:

The purpose of Act 218, Session Laws of Hawai'i 2014 (Act 218) is to promote and protect Hawaii's natural environment through consistent and uniform application of environmental laws by establishing environmental courts. The Act establishes environmental courts as divisions of the circuit courts and district courts of the State to hear proceedings, including certain chapter 91, Hawai'i Revised Statutes (HRS), proceedings arising from certain environmental laws by the judge or judges of the respective environmental courts.

REQUIREMENTS OF ACT 218:

Pursuant to Act 218, the Judiciary shall:

- Convene a working group, with members to be appointed by the Chief Justice of the Supreme Court, to make recommendations to the Chief Justice regarding the implementation of environmental courts within the Circuit and District Courts of the State;
- Conduct a study to determine the number of environmental-related cases filed in the circuit courts in each of the past five years and report these findings to the 2015 Legislature; and
- Prepare a report describing the implementation of environmental courts, including any further legislation that may be necessary, to the legislature no later than twenty days prior to the convening of the regular session of 2015; and

Attached as Appendix A is a copy of Act 218 and the Conference Committee Report for Senate Bill No. 632, SD2, HD1, CD1, Relating to Environmental Court.

ESTABLISHMENT OF ENVIRONMENTAL COURT WORKING GROUP (ECWG):

In response to Act 218, Chief Justice Mark E. Recktenwald consulted with the Chief Judges and Chief Court Administrators in all four circuits to determine the procedures necessary to implement environmental courts in the district and circuit courts of each circuit as well as to identify the anticipated impacts of this new Act. Chief Justice Recktenwald appointed Associate Justice Michael Wilson to serve as Chair of the Environmental Court Working Group (ECWG) and asked the Chief Judges from all circuits to assign lead district and circuit judges to serve as environmental court judges and members of the ECWG. Chief Court Administrators, or their designees, were also asked to participate in the ECWG.

ECWG Members:

Supreme Court:

Associate Justice Michael Wilson, Chair
Elizabeth Zack, Supreme Court Staff Attorney
Alden Kau, Judicial Assistant to Justice Michael Wilson

First Circuit:

The Honorable Barbara Richardson, Deputy Chief Judge, District Court
The Honorable Jeannette Castagnetti, Circuit Court Judge
Lori Okita, Chief Court Administrator
Calvin Ching, Deputy Chief Court Administrator

Second Circuit:

The Honorable Joseph Cardoza, Chief Judge
The Honorable Adrienne Heely, District Court Judge
Colin Rodrigues, Deputy Chief Court Administrator

Third Circuit:

The Honorable Ronald Ibarra, Chief Judge, Circuit Court (Kona)
The Honorable Greg Nakamura, Deputy Chief Judge, Circuit Court (Hilo)
The Honorable Barbara Takase, Deputy Chief Judge, District Court (Hilo)
The Honorable Melvin Fujino, District Court Judge (North Kohala, South Kohala & Hamakua)
Lester Oshiro, Chief Court Administrator (Hilo)
Wes Suwa, Deputy Chief Court Administrator, District Court (Hilo/Kona)

Fifth Circuit:

The Honorable Trudy Senda, Deputy Chief Judge, District Court
Alton Amimoto, Deputy Chief Court Administrator

Administration:

Iris Murayama, Deputy Administrative Director of the Courts
Karen Takahashi, Special Projects Coordinator

To assist the ECWG, an internal committee (IECC) was created to gather information, including updated statewide caseload statistics, for use in its deliberations. The Judiciary met and collaborated with the Department of Land and Natural Resources (DLNR) Administration and Division of Conservation and Resource Enforcement (DOCARE) Administrators to better understand DLNR's enforcement process, issues and operational concerns, and the administrative hearings process that is currently being developed; to explore the feasibility of establishing and collaborating with DLNR to develop environmentally-related community service work site options/opportunities for defendants; and to obtain Hawai'i Revised Statutes (HRS) / Hawai'i Administrative Rules (HAR) caseload information from DLNR for cross-referencing with caseload

statistics extracted from the Judiciary's case management systems. DLNR also agreed to assist the Judiciary in the development of a training curriculum for judges and staff.

The IECC has worked with various Judiciary programs (i.e., Information and Technology Services Department, Judiciary Information Management System, Research Statistics Office, Law Library, Supreme Court, Adult and Juvenile Services Programs, and the Judicial Education Office) to develop statistical reports for planning and reporting purposes; to explore environment-related community service work sites as sentencing options; to initiate the development of judicial training; and to work out operational issues prior to the implementation of environmental court calendars on July 1, 2015.

ACTIVITIES OF ENVIRONMENTAL COURT WORKING GROUP:

ECWG Meetings:

On July 18-19, 2014, prior to the first meeting of the ECWG, several judges and Judiciary representatives attended the Hawai'i Marine Resources Enforcement Conference, co-sponsored by the Environmental Law Program, William S. Richardson School of Law; Division of Conservation and Resource Enforcement, Hawai'i State Department of Land and Natural Resources; Hawaii Fish Trust, Conservation International; Harold K.L. Castle Foundation; The Nature Conservancy of Hawai'i; and the Department of the Prosecuting Attorney, City and County of Honolulu. This conference examined how Hawaii can better enforce state laws that protect the precious and life-giving coral reefs that surround the islands as well as the health of the state's near-shore fisheries.

The ECWG met four times between 8/4/14 and 12/16/14 to discuss issues and concerns relating to the implementation of Act 218 and to develop final recommendations to Chief Justice Recktenwald relating to the implementation of environmental courts within the circuit and district courts of the State.

At the initial meeting, ECWG members were provided an overview and the requirements of Act 218. A tentative timetable was developed for meetings and internal deadlines were set. ECWG members also identified issues, concerns, and implementation tasks that needed to be discussed in each of the respective circuits.

It was recommended that meetings with key stakeholders be initiated in each circuit; meetings were scheduled throughout October and November, 2014. Once completed, updates were provided to the ECWG on each circuit's meeting with stakeholders. ECWG members also met with Judge Merideth Wright of Vermont's Environmental Court who provided a presentation on Vermont's Environmental Court at the Hawaii State Bar Conference. ECWG members also provided input relating to proposed procedural changes, statistics, community service work options, and civil information sheet modifications for tracking purposes.

Meetings with Stakeholders:

The organizational meetings throughout the state reflected enthusiastic support. Second Circuit Chief Judge Joseph Cardoza expressed the view widely-shared among those who attended the state-wide meetings when he described the environmental court as "historic". As one of the most senior members of the judiciary, Judge Cardoza amply represents the widespread commitment of the Judiciary, County Prosecutors, Corporation Counsel, Public Defender, Attorney General's Office, Department of Land and Natural Resources and the University of Hawai'i Law School to the successful implementation of the Hawai'i State Environmental Court.

ECWG Chief Judges in each circuit assisted Justice Wilson by scheduling meetings with key stakeholders affected by Act 218 (i.e., Police, Prosecuting Attorney, Public Defender, Private Defense Bar, Corporation Counsel, Attorney General, DLNR/DOCARE, Court Administrators, Chief Judges, District and Circuit Court judges assigned to environmental courts). The meetings helped to identify concerns and specific needs of each stakeholder, enlist support, and open up communication amongst all stakeholders.

For the First Circuit, Justice Wilson arranged a meeting with Honolulu Prosecutor Keith Kaneshiro, Public Defender Jack Tonaki, DLNR/DOCARE Administrator Randy Awo, and designated environmental court judges for the First Circuit's District and Circuit Courts. Discussions centered around where the O'ahu environmental cases would be heard (i.e., Honolulu District Court, all rural courts), with concerns raised regarding staffing and limited resources, and the need to build expertise in handling environmental cases. Follow-up meetings with Deputy Chief Judge Barbara Richardson (District Court) and Judge Jeannette Castagnetti (Circuit Court) were held to further discuss issues relating to the number of calendars to be scheduled, where and when the environmental court cases will be heard, the number of judges that will be required, training, and alternative sentencing. The First Circuit judges and the stakeholder group subsequently met to continue to work out logistical and operational issues.

In the Second Circuit, Justice Wilson met with Chief Judge Joseph Cardoza, Judges Richard Bissen, Rhonda Loo, Kelsey Kawano, Blaine Kobayashi, and Adrienne Heely, Chief Court Administrator Sandy Kozaki and Deputy Chief Court Administrators Gail Nakamae and Colin Rodrigues, Joanne Bista, and Ernest DeLima from the Judiciary; DLNR/DOCARE Maui Branch Supervisor Brooks Tamaye; Maui Police Department Lieutenant Jeraul Pladera and Sergeant Harry Matsuura; Deputy Public Defender Jasmine King; Corporation Counsel Deputies Patrick Wong, Richelle Thomson, Brian Bilberry, and Michael Hopper; Maui Prosecutor John Kim and First Deputy Prosecutor Byron Fujieda; Private Counsel Anthony Ranken, Lance Collins, Janet Ashman, Craig Nakamura, Jack Breen, Chris Heckman, and Timothy McNulty; Jan Dapitan, Barbara Fernandez, John DeJesus of Community Work Day/Malama Nui; and Sean O'Keefe of Alexander and Baldwin.

In the Third Circuit, Justice Wilson met with Chief Judge Ronald Ibarra, Judges Greg Nakamura and Melvin Fujino, Chief Court Administrator Lester Oshiro, Deputy Chief Court Administrators Wesley Suwa and Dawn West, Lani Ng and Cheryl Salmo from the Judiciary; Prosecutor Mitch Roth and First Deputy Prosecutor Dale Ross; Deputy Public Defenders Austin Hsu, Catherine Gibson, and Jeffrey Ng; Private Counsel John Olson, Michelle Kanani Laubach, and Stanton Oshiro; Hawai'i Police Assistant Chief Paul Kealoha and Major Randy Apele; and DLNR/DOCARE representatives Verl Nakama, Lino Kamakau, and Teri Botelho.

In the Fifth Circuit, Justice Wilson met with Chief Judge Randal Valenciano Judges Kathleen Watanabe and Trudy Senda; Deputy Chief Court Administrator Alton Amimoto and Kimberly Foster from the Judiciary; Deputy Prosecuting Attorneys George White and Jenna Tatsey; Deputy Public Defender Stephanie Sato; Deputy Attorneys General Ramsey Ross (Oah'u) and Kathleen Ho (Oah'u) and Russell Goo; Sheriff Kevin Tabura of the Department of Public Safety; Francis Mission of DLNR; Alfred Castillo, Ian Jung, MaunaKea Trask, Andrea Suzuki, Jodi Higuchi Sayegusa, Mona Clark, Nicolas Courson, Stephen Hall, Phillip Dureza, and Adam Roversi of Kauai County; and Private Counsel Emiko Meyers, Angela Anderson, Laura Barzilai, Russell Goo, Glen Hale, Margaret Hansen, Lorna Nishimitsu, and Jonathan Chun.

ECWG Review of Existing Process:

Based on pertinent statutes identified in Act 218, the predominant number of environmental cases fall within District Court's jurisdiction. Cases falling within Circuit Court's jurisdiction are generally administrative agency appeals, declaratory judgments, or other civil actions. The following descriptions provide an overview of how environmental cases currently flow in each of the respective courts:

District Court cases

A person may either be arrested or given a citation in lieu of arrest for violation of any of the laws designated in Act 218¹. In Honolulu and the First Circuit Rural District Courts, the scheduling of cases depends on the court date given by the law enforcement officer (DLNR/DOCARE, Police Departments, Sheriff, hereafter collectively referred to as "LEO").

If the person who violates a law enumerated in Act 218 is being held in custody, the person is almost always brought to the Judiciary's criminal arraignment court on the

¹ (b) **Offenses other than felony.**

(1) ARRAIGNMENT. In the district court, if the offense charged against the defendant is other than a felony, the complaint shall be filed and proceedings shall be had in accordance with this section (b). A copy of the complaint, including any affidavits in support thereof, and a copy of the appropriate order, if any, shall be furnished to the defendant. If a defendant is issued a citation in lieu of physical arrest pursuant to Section 803-6(b) of the Hawai'i Revised Statutes and summoned to be orally charged as authorized by Rule 7(a) of these rules, a copy of the citation shall be filed and proceedings shall be had in accordance with this section (b). ...

next business date after arrest and booking. If the person posts bail, then s/he is given a court date to appear by the LEO (generally this is HPD). Whether the defendant remains in custody or not after arrest, it is the prosecutor who initiates the case by eFiling a written complaint and that office chooses and enters the particular statutory section they are charging the defendant with violating (e.g., HRS § 190-1²). The case is set on the general criminal arraignment calendar in the division in which the offense occurred (e.g., Courtroom 7C at 8:30 in Honolulu District Court or on the criminal arraignment calendars in the rural courts).

If the person is given a citation in lieu of arrest, the LEO gives the person a date/time/place to appear for arraignment depending on where the violation occurs. In the case of citations, the court staff inputs the statutory section that the LEO alleges was violated and all criminal cases are set on the arraignment calendar. The staff enters whatever statute the LEO writes on the citation.

Thus, the court dates are set by LEOs and the court has no control over the date/time/courtroom settings. This means that a defendant will not be on a designated “environmental court calendar” at the initial appearance. If the defendant wants to plead No Contest/Guilty (NC/G) at arraignment, this will be handled by the judge who happens to be sitting in the arraignment court at the time – it is assumed that the judges will not force a defendant to return to court on an environmental court date. However, if the defendant is referred to the Public Defender and arraignment is continued and/or the defendant wants a trial date, then the court can set the case on an environmental court calendar. This assumes that the Prosecutor (and/or the Judge) knows that the charge falls within the statutory scheme of Act 218.

For the District Courts, both the First and Third Circuits will also experience difficulties in designating only one judge to hear all environmental court cases. It is unreasonable to require defendants and witnesses to travel to a central location for all these cases. It is also unreasonable and impractical for one judge to travel to all the Honolulu and Rural Courts (and the Hilo, Kona and other Rural Courts on the Big Island) to hear these cases. Therefore, it seems the only solution is to have several judges designated as environmental court judges.

² **§190-1 Conservation area; administration.** All marine waters of the State are hereby constituted a marine life conservation area to be administered by the department of land and natural resources subject to this chapter and any other applicable laws not inconsistent herewith or with any rules adopted pursuant hereto. No person shall fish for or take any fish, crustacean, mollusk, live coral, algae or other marine life, or take or alter any rock, coral, sand or other geological feature within any conservation district established pursuant to this chapter except in accordance with section 190-4 and rules adopted by the department pursuant hereto. [L 1955, c 192, §2; RL 1955, §21-131; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §190-1; am L 1981, c 16, §1]

Circuit Court cases

Upon implementation of Act 218, circuit court civil and criminal matters arising under the chapters specified in the Act will be assigned to the environmental court judge. Upon implementation of Act 218, the courts will instruct filing parties to designate the case as an “environmental case” on the revised Civil Information Sheet. This designation will serve as a trigger for the Legal Documents Section to divert environmental cases to the assigned environmental court judge. In the event that the case has not been designated as an environmental case, the civil judge may reassign the case to the EC judge.

Criminal cases covered under Act 218, that fall within the jurisdiction of circuit court will be assigned to the environmental court judge. These include felony charges and any District Court criminal environmental cases where the defendant is entitled to and requests a jury trial. In the event that the case has not been designated as an environmental case, the case judge will be reassigned.

REVIEW OF CASELOAD STATISTICS:

With the assistance of the Judiciary’s Research Statistics Office and Law Library, a statewide statistical report including the relevant HRS/HAR sections identified in Act 218 has been prepared for the last five years, broken down by the number of cases in each circuit. (See Attachment B – Caseload statistical report).

The Judiciary reviewed and utilized these statewide caseload statistics to help determine for each circuit the number of judges/staff to be assigned and the number of environmental court calendars that will be required; how frequently environmental court calendars will need to be scheduled; and the court facilities that will need to be used to hear the calendared environmental cases.

In reviewing the case filings in each circuit over the past five years concerning the statutory provisions specified in Act 218, the majority of environmental-related case filings involve Title 12 (Conservation and Resources) of the Hawai’i Revised Statutes. Of these cases, the vast majority of cases are filed in the district courts of the state as criminal misdemeanor and petty misdemeanor cases and are not tried by a jury.

While environmental related cases in circuit court are fewer than district court, the circuit court civil cases involve complex legal and factual issues. Consequently, the record of an environmental related case can be voluminous and typically involve extensive legal briefing for the parties and the court. Examples of environmental related cases that were heard in the past by the circuit courts include Superferry, Rail, Kaloko Dam, placement of telescopes on Haleakala, and other similar types of cases.

FINDINGS AND RECOMMENDATIONS – IMPLEMENTATION OF ACT 218, SLH 2014

The ECWG makes the following findings and recommendations regarding the Judiciary's implementation of Act 218:

Environmental cases to be handled by Environmental Courts:

ECWG members agreed that although there are additional provisions of HRS and county ordinances that are not included in Act 218 which are environmental case types, **for the initial start-up of the Environmental Courts, the Judiciary will focus only on the HRS/HAR chapters stated in Act 218, SLH 2014 which include HRS Chapters 6D, 6E, 6K, 128D, 339, 339D, 340A, 340E, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, 343, 508C and Title 12. (Act 218, SLH2014, page 3, lines 10-13).**

In meeting with stakeholders it was brought to our attention that some environmental statutes are not included. To address these concerns, we note that Act 218 includes a provision which allows the Chief Justice to include cases not listed above to be heard in the Environmental Courts:

“provided that upon the motion of a party or sua sponte by the chief justice, the chief justice may assign to the environmental courts issues before the courts when the chief justice determines that due to their subject matter the assignment is required to ensure the uniform application of the environmental laws throughout the State or to otherwise effectuate the purpose of this chapter.”

The Judiciary does not believe any statutory changes are required at this time to allow the addition of these cases. However, upon implementation, the Judiciary will monitor closely if any statutory changes will be required.

Assignment of Judges to Environmental Court calendars

Each circuit reviewed their respective caseload statistics to determine the number of environmental court judges and environmental court calendars required as well as where and when the environmental cases would be calendared and heard. The Judiciary acknowledges the need to be sensitive to the different circuits and the unique districts and communities that need to be served by the environmental court. In discussions with the stakeholders it was agreed that it would be unreasonable and impractical to require defendants and witnesses to travel to a central location for these cases.

To this end, in the First Circuit, cases will be heard in the Honolulu and Rural District Courts. In the Second Circuit, the district cases will be heard at the courts on all islands while all circuit cases will be heard on Maui. In the Third Circuit, the district court cases will be heard at all district courts while the circuit cases will be heard in Hilo or Kona. In the Fifth Circuit, because there is only one circuit and one district court, all case will be heard at the courthouse in Lihue.

Based on the foregoing, the following sets out the arrangements that have been agreed to for each circuit's district and circuit handling of environmental cases:

- District Court, First Circuit – 5 (1 each assigned to Honolulu District Court and 4 Rural District Courts; with back up)
- District, Second Circuit – 2 (1 each assigned to travel to all District Court locations: Moloka'i, Lana'i, Hana, Lahaina, Maui; with back up)
- District Court, Third Circuit – 3 (1 each assigned to Hilo, Kona, Waimea District Courts; with back up)
- District Court, Fifth Circuit – 1 (Cases will be included in the regular calendar session; with back up)

For the Circuit Courts, the following number of judges will be utilized to implement Act 218 in each circuit:

- Circuit Court, First Circuit – 1 (1 each assigned to Honolulu Circuit Court; with back up)
- Circuit Court, Second Circuit -- 1 (1 each assigned to Wailuku Circuit Court; with back up)
- Circuit Court, Third Circuit -- 2 (1 each assigned to Hilo / Kona Circuit Courts; with back up)
- Circuit Court, Fifth Circuit -- 1 (1 each assigned to Kaua'i Circuit Court; with back up)

Court Rules

It has been determined that the existing rules for civil cases (Hawai'i Rules of Civil Procedure) and criminal cases (Hawa'ii Rules of Penal Procedures) will apply and do not need to be amended.

Modification of Court Forms

The ECWG will be amending the Circuit Court's Civil Information Sheet to include a check-off box for Environmental Cases (see Attachment C). **Form 2-A, Civil Information Sheet** is required for the purpose of initiating the civil docket sheet and for each civil complaint filed. The attorney/party filing a civil complaints required to complete the form.

Amendments were made to the form in **Section III. Nature of Suit** by adding a check-off box for "Environmental Cases" and adding an explanation that the Environmental Court box should be checked "**For cases arising under Chapters 6D, 6E, 6K, 128D, 339, 339D, 340A, 340E, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, 343, and 508C, and Title 12 (Chapters 171-200D) of the Hawai'i Revised Statutes**".

The proposed amendments to Form 2-A have been submitted to the Civil Procedures Committee for review and approval. Once approved, the form will become effective upon implementation of Act 218 on July 1, 2015. Public notice via a press release will be provided to practitioners and the general public.

Case Management System Modifications

The Judiciary is currently evaluating whether modifications must be made to the automated case management systems which would earmark cases as environmental cases (i.e., HAJIS, JIMS). This will allow information collection and the generation of reports for internal/management use and to the Legislature (i.e., creation of new case type code in HAJIS [EC], changes to case numbering system, etc.).

As noted earlier, in the past, the circuit courts did not keep track of civil case filings by the applicable statute. To enable the Judiciary to capture circuit court numbers for each statutory section contained within the new law, the Judiciary has revised court forms which will identify cases as EC cases.

Training of Judges / Staff / Key Stakeholders

One of the major points raised in stakeholder meetings was the need to provide training opportunities for judges, court staff, prosecutors, public defenders and others to ensure that they are more knowledgeable about specific environmental laws and sentencing alternatives so that the process is consistent, fair, and expeditious. The ECWG recommends that minimally, training should be offered to all judges, including per diem judges, who may be assigned to environmental cases in their respective courts.

Other training-related issues discussed included who will develop and conduct the training, what the training curriculum will include, how much the training will cost, and whether training will be offered through the Judicial Education Office (JEO).

To explore this further, Justice Wilson met with Professor Denise Antolini of the University of Hawaii's William S. Richardson School of Law to discuss the law school's involvement in collaborating with the JEO to develop the training curriculum for all environmental court judges. It was also recommended that input be solicited from external stakeholders (i.e., DLNR/DOCARE, Counties, Department of Health, communities, Offices/Departments of the Prosecuting Attorney, Public Defender and Attorney General) to tap their subject matter expertise and experience. It is envisioned that a one-day training will be held in early June 2015 at the University of Hawaii law school campus for all judges who will be handling environmental calendars. The Judiciary would cover lunch and travel expenses incurred by neighbor island environmental court judges who attend the training.

Information on the proposed training has been provided to JEO and the Judicial Education Committee to enlist their assistance in the development and review of the training curriculum for judges assigned to handle environmental cases/calendars.

The ECWG recommends that minimally, training should be offered to all judges/backup judges who will be assigned to environmental cases.

Development of Sentencing Alternatives – Community Service:

The ECWG recommends that the Judiciary and DLNR/DOCARE should collaborate and explore the development of environment-related community service work options for defendants who are ordered to perform community service as part of their sentence.

In order to facilitate this, a summary sheet of Judiciary community service work programs was developed and shared with DLNR/DOCARE administrators. The summary sheet included statewide contact information for juvenile and adult community service programs, program requirements, and sample documents required by the Judiciary for work-site providers. DLNR/DOCARE and Judiciary program administrators were encouraged to make contact with each other to discuss their program requirements and to determine the feasibility of establishing community service work sites with environment-related work as an option.

DLNR/DOCARE administrators have confirmed their interest in pursuing this recommendation. If endorsed by DLNR Administration, DOCARE administrators/field managers will be asked to review information provided by the Judiciary, in addition to a comprehensive list of environmentally-related community service programs developed by the Office of the Public Defender, to follow through on meeting the Judiciary's

requirements for work site providers, reporting requirements, and issuing a Memorandum of Agreements between DLNR and the Judiciary. Once arrangements have been developed and Memorandum of Agreement are in place, judges will be informed of this option available to them.

Public Notice of Implementation of Act 218

Prior to implementation of Act 218, the Judiciary will work through its Communications and Community Relations Office to provide notice to all stakeholders and the general public notice as well as to update the Judiciary's internet website.

Other Recommendations/Proposed Legislation:

At this point in time, it is difficult to determine whether the implementation of these dedicated environmental calendars will have any fiscal or operational impacts on the Judiciary (i.e., impact to court's workload, need for additional staffing/resources, etc.). It is recommended that monitoring reports be designed to track caseload as well as fiscal and operational impacts. In the event the Judiciary's caseload and/or workload is impacted, additional resources/staffing may be requested.

DLNR / DOCARE Education / Special Fund

The ECWG believes that violators should be educated about the impact/consequences of their behavior on the environment. It was suggested that DLNR/DOCARE should explore the establishment of a new special fund that is under the auspices of DLNR/DOCARE, and where a portion of the fees collected from violations would be deposited into the special fund and earmarked to cover the cost of a special class for violators and/or public education.

DLNR Administrative Process

The Judiciary is in support of the proposed Civil Resource Violations System (CRVS), which is currently under development by DLNR to realign enforcement actions and distribute cases (civil and criminal) through an administrative process. As explained by DLNR, the goal of this administrative process is to get people to change their behavior and establish community-based management of resources rather than enforcement actions in certain cases.

DLNR's current process has DLNR/DOCARE enforcement officers issuing citations to violators and processing these violations through the court process. As envisioned, the proposed administrative process would enable respondents to answer or comply within 21 days or face higher fines. Respondents would be able to waive contesting the citation and pay the full amount, waive contesting the citation and request mitigation, or

contest the citation and request a hearing. If complying, after submitting one's answer, the respondent would include payment of the full amount cited, along with additional requirements and leading to the case being concluded. If requesting mitigation, the respondent would submit an answer, including a statement and evidence showing mitigating circumstances which would be reviewed by an administrative hearings officer, with a decision being rendered without holding a hearing. Sanctions may be adopted, modified, or reversed and the decision may not be appealed or contested. If the citation is contested, the respondent would submit an answer with the statement along with evidence showing reasons for contesting included. An administrative hearing officer would be assigned to the contested case and a decision would be rendered which could be appealed to the Board of Land and Natural Resources (BLNR), which could hear the oral argument, take further evidence, and render a decision. The respondent could appeal BLNR's decision as an agency appeal heard in Circuit Court.

Although it is not clear when this administrative process will be fully implemented by DLNR, it would enable the more serious violations and/or cases that have moved through CRVS to be heard at District Court or appealed to Circuit Court. If/when this administrative process is operational, the Judiciary will monitor the impacts and determine if any changes will be required.

CONCLUSION:

The Judiciary will be ready to adjudicate charges on July 1, 2015, pursuant to Act 218, SLH 2014. Start-up costs, if any, will be absorbed via the Judiciary's budget. Case volume, however, is determined by the charging agencies (i.e., Office of the Prosecuting Attorney, DLNR, etc.), so it is premature to assess the need for additional resources. Once implemented, the Judiciary will monitor operations, caseload, and workload to determine if additional statutory amendments or resources will be required or if procedural changes need to be made.

ATTACHMENT A

**Act 218, Session Laws of
Hawai'i 2014**

and

**Conference Committee
Report No. 101-14 on
SB 632, SD2, HD1, CD1,
Relating to the
Environmental Courts**



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

GOV. MSG. NO. 1328

July 7, 2014

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813


The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 7, 2014, the following bill was signed into law:

SB632 SD2 HD1 CD1

RELATING TO THE ENVIRONMENTAL COURTS
ACT 218 (14)

Aloha
Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO THE ENVIRONMENTAL COURTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that environmental
2 disputes are currently dealt with in a variety of courts. This
3 organizational structure inadvertently promotes inconsistent
4 application of the wide variety of environmental laws.

5 The legislature also finds that the continued maintenance
6 and improvement of Hawaii's environment requires constant
7 vigilance and continued stewardship to ensure its lasting
8 beauty, cleanliness, uniqueness, and the stability of its
9 natural systems, all of which enhance the mental and physical
10 well-being of Hawaii's people.

11 The legislature further finds that Hawaii's natural
12 resources are compromised every day resulting in numerous
13 violations of the law. An environmental court will better
14 ensure that the State upholds its constitutional obligation to
15 protect the public trust for the benefit of all beneficiaries.

16 The purpose of this Act is to promote and protect Hawaii's
17 natural environment through consistent and uniform application
18 of environmental laws by establishing environmental courts.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 ENVIRONMENTAL COURTS

6 § -1 Environmental courts; establishment. (a) The
7 environmental courts shall be created as divisions of the
8 circuit courts and district courts of the State and shall not be
9 deemed to be other courts as that term is used in the state
10 constitution. An environmental court shall be held at the
11 courthouse in each circuit, or other duly designated place, by
12 the judge or judges of the respective environmental courts.

13 (b) The chief justice of the supreme court shall designate
14 an environmental judge or judges for each circuit and for a
15 district court in each circuit, as may be necessary; provided
16 that if the volume of environmental cases in the circuit or
17 district in which an environmental judge presides is not
18 adequate to provide an environmental court judge with a full
19 time docket, the judge may hear cases arising from other areas
20 of law. In any circuit that has more than one judge designated
21 for the environmental court, the chief justice shall designate
22 one of the judges as senior judge. The chief justice may



1 temporarily assign an environmental court judge to preside in
2 another circuit when the chief justice determines that the
3 urgency of one or more cases in the circuit court or district
4 court or the volume of the cases in the circuit court or
5 district court so requires.

6 **§ -2 Jurisdiction.** (a) The environmental courts shall
7 have exclusive, original jurisdiction over all proceedings,
8 including judicial review of administrative proceedings and
9 proceedings for declaratory judgment on the validity of agency
10 rules authorized under chapter 91, arising under chapters 6D,
11 6E, 6K, 128D, 339, 339D, 340A, 340E, 342B, 342C, 342D, 342E,
12 342F, 342G, 342H, 342I, 342J, 342L, 342P, 343, and 508C, and
13 title 12; provided that upon the motion of a party or sua sponte
14 by the chief justice, the chief justice may assign to the
15 environmental courts issues before the courts when the chief
16 justice determines that due to their subject matter the
17 assignment is required to ensure the uniform application of
18 environmental laws throughout the State or to otherwise
19 effectuate the purpose of this chapter.

20 (b) In any case in which it has jurisdiction, the
21 environmental courts shall exercise general equity powers as
22 authorized by law. Nothing in this chapter shall be construed



1 to limit the jurisdiction and authority of any judge, designated
2 as judge of an environmental court, to matters within the scope
3 of this chapter.

4 **§ -3 Rules.** The supreme court shall adopt rules
5 regarding the administration, operation, and procedures of the
6 environmental courts."

7 SECTION 3. Section 91-7, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Any interested person may obtain a judicial
10 declaration as to the validity of an agency rule as provided in
11 subsection (b) [~~herein~~] by bringing an action against the agency
12 in the circuit court or, if applicable, the environmental court,
13 of the county in which the petitioner resides or has its
14 principal place of business. The action may be maintained
15 whether or not the petitioner has first requested the agency to
16 pass upon the validity of the rule in question."

17 SECTION 4. Section 91-14, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) Except as otherwise provided herein, proceedings for
20 review shall be instituted in the circuit court or, if
21 applicable, the environmental court, within thirty days after
22 the preliminary ruling or within thirty days after service of



1 the certified copy of the final decision and order of the agency
2 pursuant to rule of court, except where a statute provides for a
3 direct appeal to the intermediate appellate court, subject to
4 chapter 602. In such cases, the appeal shall be treated in the
5 same manner as an appeal from the circuit court to the
6 intermediate appellate court, including payment of the fee
7 prescribed by section 607-5 for filing the notice of appeal
8 (except in cases appealed under sections 11-51 and 40-91). The
9 court in its discretion may permit other interested persons to
10 intervene."

11 SECTION 5. Section 91-15, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§91-15 Appeals.** Review of any final judgment of the
14 circuit court or, if applicable, the environmental court, under
15 this chapter shall be governed by chapter 602."

16 SECTION 6. The judiciary shall conduct a study to
17 determine the number of environmental-related cases filed in the
18 circuit courts in each of the past five years. The judiciary
19 shall report findings to the legislature no later than twenty
20 days prior to the convening of the regular session of 2015.

21 SECTION 7. The judiciary shall convene a working group,
22 with members to be appointed by the chief justice of the supreme



1 court, to make recommendations to the chief justice regarding
2 the implementation of environmental courts within the circuit
3 and district courts of the State. The judiciary shall prepare a
4 report describing the implementation of environmental courts,
5 including any further legislation that may be necessary, to the
6 legislature no later than twenty days prior to the convening of
7 the regular session of 2015.

8 SECTION 8. Chapters 6D, 6E, 6K, 128D, 339, 339D, 340A,
9 340E, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J,
10 342L, 342P, 343, and 508C, and title 12 of the Hawaii Revised
11 Statutes are amended by substituting the term "environmental
12 court", or like term, wherever the term "court", "circuit
13 court", "district court", or like term, appears, as the context
14 requires.

15 SECTION 9. Matters pending in any state court as of the
16 effective date of this Act may be transferred to the
17 environmental courts as directed by the chief justice of the
18 supreme court, in the chief justice's sole discretion.

19 SECTION 10. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 11. This Act shall take effect on July 1, 2015;
22 provided that sections 6 and 7 shall take effect upon approval.

S.B. NO. 632
S.D. 2
H.D. 1
C.D. 1

APPROVED this 7 day of JUL , 2014

A handwritten signature in black ink, reading "Neil Abernethy". The signature is written in a cursive style with a large, decorative initial "N".

GOVERNOR OF THE STATE OF HAWAII

ATTACHMENT B

**Statistical report relating
to the number of
environmental-related
cases filed in the
statewide Circuit and
District Courts 2009-2013**

Chapters of the Hawaii Revised Statutes Specified in Act 218

Chapter Nature of Action

- 6D Protection of Caves*
- 6E Historic Preservation*
- 6K Kaho'olawe Island Reserve*
- 128D Environmental Response Law*
- 339 Litter Control
- 339D Electronic Waste and Television Recycling and Recovery Act*
- 340A Solid Waste*
- 340E Safe Drinking Water*
- 342B Air Pollution Control*
- 342C Ozone Layer Protection*
- 342D Water Pollution
- 342E Nonpoint Source Pollution Management and Control*
- 342F Noise Pollution*
- 342G Integrated Solid Waste Management
- 342H Solid Waste Pollution
- 342I Special Waste Recycling*
- 342J Hazardous Waste
- 342L Underground Storage Tanks*
- 342P Asbestos and Lead*
- 343 Environmental Impact Statements*
- 508C Uniform Environmental Covenants Act*

Title 12 Conservation and Resources

- Subtitle 1 Public Lands*
 - Ch 171, 172, 173, 173A
- Subtitle 2 Water and Land Development; Flood Control*
 - Ch 174, 174C, 179, 180, 180C
- Subtitle 3 Mining and Minerals*
 - Ch 181, 182
- Subtitle 4 Forestry & Wildlife; Recreational Areas; Fire Protection
 - Ch 183, 183B, 183C, 183D, 184, 185, 186
- Subtitle 5 Aquatic Resources and Wildlife
 - Ch 187A, 188, 188F, 189, 190, 190D
- Subtitle 6 General and Miscellaneous Programs*
 - Ch 193, 194, 195, 195D, 195F, 196, 196D, 197, 198, 198D
- Subtitle 7 Enforcement*
 - Ch 199, 199D
- Subtitle 8 Ocean Recreation and Coastal Areas
 - Ch 200, 200D

Note: *No cases were filed under these provisions

Filings in District Courts (Criminal), July 1, 2009 through June 30, 2014

Hawaii Administrative Rules, Title 13

	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	Total Counts	Charge Severity
All Counts Filed	1,571	1,502	502	484	4,059	
Division of Aquatic Resources						
Part I: Marine Life Conservation Districts						
HAR 13-29-2 Kealakekua Bay - Prohibited activities			1		1	PM
HAR 13-30-2 Prohib - Environment		16			16	PM
HAR 13-31-3 Molokini Shoal - Prohibited activities			2		2	PM
HAR 13-32-2 Honolua-Mokuleia Bay - Prohibited activities		11			11	PM
HAR 13-32-2(1) Molokini Shoal -Prohibited activities fishing		2			2	PM
HAR 13-32-2(3) Molokini Shoal -Prohibited activities spear		2			2	PM
HAR 13-33-2 Lapakahi - Prohibited activities			2		2	PM
HAR 13-34-2 Pupukea - Prohibited activities	9				9	PM
HAR 13-34-2(1) Pupukea - Prohibited activities fishing	4				4	PM
HAR 13-34-2(3) Pupukea - Prohibited activities spear trap net	7				7	PM
HAR 13-35-2 Wailea Bay - Prohibited activities			13		13	PM
HAR 13-35-2(3) Wailea Bay - Prohibited activities spear trap			5		5	PM
HAR 13-36-2 Waikiki Marine Life - Prohibited activities	2				2	PM
HAR 13-36-2(1) Waikiki Marine Life - Prohibited activities	2				2	PM
HAR 13-36-2(3) Waikiki Marine Life - Prohibited activities	7				7	PM
HAR 13-37-2 Old Kona Airport - Prohibited activities			4		4	PM
HAR 13-37-2(1) Old Kona Airport - Prohibited activities fishing			2		2	PM
HAR 13-37-2(3) Old Kona Airport - Prohibited activities spear			1		1	PM
HAR 13-38-3 Waiopae Tidepools - Prohibited activities			10		10	PM
HAR 13-38-3(1) Waiopae Tidepools - Prohibited activities			6		6	PM
Part II: Marine Fisheries Management Areas						
HAR 13-47-2 Hilo Bay etc. Prohibited Activities			1		1	PM
HAR 13-48-3 Diamond Head Shoreline - Prohibited activities	7				7	PM
HAR 13-48-3(1) Diamond Head Shoreline - Prohibited	4				4	PM
HAR 13-48-3(2) Diamond Head Shoreline - Prohibited	1				1	PM
HAR 13-48-3(3) Diamond Head Shoreline - Prohibited	1				1	PM
HAR 13-48-3(4) Diamond Head Shoreline - Prohibited	4				4	PM
HAR 13-51-2 Kahului Harbor - Prohibited Activities		14			14	PM
HAR 13-51-2(a)(1) Kahului Harbor - Unlawful use of net		7			7	PM
HAR 13-51-2(a)(2) Kahului Harbor - Unlawful use of net		2			2	PM
HAR 13-51-2(a)(2)(A) Kahului Harbor - Bag limit <50 marine		7			7	PM
HAR 13-52-2 Kailua Bay - Prohibited activities		1	3		4	PM
HAR 13-52-2(1)(B) Kailua Bay - Prohibited activities snag			2		2	PM

(Title 13 Filings, District Court, Continued)	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	Total Counts	Charge Severity
HAR 13-54-2 Puako Bay and Puako Reef - Prohibited activities			1		1	PM
HAR 13-55-2(a)(3) Kawaihae Harbor - Prohibited activities			2		2	PM
HAR 13-57-2 Keauhou Bay - Prohibited Activities			9		9	PM
HAR 13-60-3 Kiholo Bay - Prohibited Activities			13		13	PM
HAR 13-60.3-5(g)(1) Northwestern Hawaiian Islands Marine Refuge - Lay nets Puako-Anaehoomalu			3		3	PM
Part III: Freshwater Fisheries Management Areas						
HAR 13-62-3(1) Wahiawa Public Fishing Area - Prohibited	3				3	PM
HAR 13-62-3(2) Wahiawa Public Fishing Area - Prohibited	3				3	PM
HAR 13-62-3(7) Wahiawa Public Fishing Area - Prohibited	1				1	PM
HAR 13-63-2 Waiakea Public Fishing Area - Prohibited			1		1	PM
HAR 13-63-2(3) Waiakea Public Fishing Area - Prohibited			2		2	PM
HAR 13-63-2(8) Waiakea Public Fishing Area - Prohibited			2		2	PM
Part IV: Fisheries Resource Management						
HAR 13-74-2 Freshwater game fishing license & Permitting		1			1	PM
HAR 13-74-20 Freshwater game fishing license & Permitting			1		1	PM
HAR 13-74-42(a) Special Marine Animal License Required		1			1	PM
HAR 13-75-10 Throw Nets Violation	2	2			4	PM
HAR 13-75-10(a) Possession of Throw Net with mesh of < 2	34	60	4	9	107	PM
HAR 13-75-10(b) Possession of throw net with mesh of < 2	1				1	PM
HAR 13-75-12(a) Molokai - Lay Nets	1				1	PM
HAR 13-75-14 Use of Nets with stretched Mesh < 2 inch	4	2			6	PM
HAR 13-75-14(7) Monfilament Gill Net Fishing Restrictions		6			6	PM
HAR 13-75-15 Traps	1				1	PM
HAR 13-75-12.4 Lay Nets	20	18	5	15	58	PM
HAR 13-75-12.4(a)(1) Possess Lay Net	8		3	2	13	PM
HAR 13-75-12.4(a)(2)(A) Possess lay net >125 feet length >7		2			2	PM
HAR 13-75-12.4(a)(2)(B) Possess lay net <2 3/4 inch mesh	1	1		1	3	PM
HAR 13-75-12.4(a)(3) Posses Multipanel Lay Net		1		1	2	PM
HAR 13-75-12.4(a)(4) Possess Lay Net no ID Tags	1	1		1	3	PM
HAR 13-75-12.4(a)(5) Lay Nets	1				1	PM
HAR 13-75-12.4(b)(1) Lay Nets	2				2	PM
HAR 13-75-12.4(b)(9) Lay Nets	1		3		4	PM
HAR 13-75-12.4(f)(1) Lay Net - Kaneohe Bay		7			7	PM
HAR 13-75-12.5(a)(1) Molokai use lay net >750 feet length, >7		1			1	PM
HAR 13-75-12.5(a)(2) Molokai lay net stretched mesh <2 3/4		2			2	PM
HAR 13-75-12.5(b)(1) Molokai possess lay net no id tags		9			9	PM
HAR 13-75-12.5(b)(2) Molokai mark lay nets with surface		1			1	PM
HAR 13-84-1 Shellfishes - Prohibited activities Samoan Crab	14	1	2	16	33	PM

(Title 13 Filings, District Court, Continued)	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	Total Counts	Charge Severity
HAR 13-89-1(1) Shellfishes - Prohibited activities Spiny				2	2	PM
HAR 13-89-1(1)(A) Possession of Undersized Spiny Lobsters		7	1		8	PM
HAR 13-90-1 Nehu For Family Consumption	3				3	PM
HAR 13-90-1(2) Nehu - Prohibited activities one gallon limit	1				1	PM
HAR 13-92-1 Prohibited activities (Opihi)				1	1	PM
HAR 13-92-1(a) Opihi - Prohibited activities		2			2	PM
HAR 13-92-1(a)(1) Opihi - Prohibited activities shell	5	5		1	11	PM
HAR 13-93-2 Limu - Prohibited activities		12			12	PM
HAR 13-93-2(1) Limu - Prohibited activities holdfast		13			13	PM
HAR 13-93-2(2) Limu - Prohibited activities reproductive		13			13	PM
HAR 13-93-2(3) Limu - Prohibited activities family		10			10	PM
HAR 13-95-4 Taking and Selling - Awholehole	1	11	3	1	16	PM
HAR 13-95-5 Taking and Selling - Manini	8	12	5	1	26	PM
HAR 13-95-6 Moano		4			4	PM
HAR 13-95-7 Kumu		84			84	PM
HAR 13-95-8 Mullet	1				1	PM
HAR 13-95-8(a) Mullet size	2	4	2	6	14	PM
HAR 13-95-8(b) Mullet season	11	2	2	3	18	PM
HAR 13-95-10 Taking and Selling - Oio	3	3		1	7	PM
HAR 13-95-11 Taking and Selling - Bottomfish Mgmt - Kala	14	92	1		107	PM
HAR 13-95-12 Taking and Selling - Opelu kala	1	3			4	PM
HAR 13-95-16 Taking and Selling - Uhu	2	24	3		29	PM
HAR 13-95-20 lao		2			2	PM
HAR 13-95-22 Ulua		1			1	PM
HAR 13-95-22(a) Taking and Selling - Ulua take	2	4		2	8	PM
HAR 13-95-23(a) Taking and Selling - Moi take	1	3		3	7	PM
HAR 13-95-23(b) Taking and Selling - Moi daily take				1	1	PM
HAR 13-95-23(c) Taking and Selling - Moi season				2	2	PM
HAR 13-95-53(a) Spiny lobster take		7	1	1	9	PM
HAR 13-95-53(c) Spiny lobster sell		1		1	2	PM
HAR 13-95-53(d) Spiny lobster spear		5			5	PM
HAR 13-95-53(e) Spiny lobster sell speared		1			1	PM
HAR 13-95-54(a) Slipper lobster take	1				1	PM
HAR 13-95-54(d) Slipper lobster spear	1				1	PM
HAR 13-95-55 He'e		58		1	59	PM
HAR 13-95-70(a) Stony corals take		1	1		2	PM
Part V: Protected Freshwater Fisheries Resources						
HAR 13-99-1 Prohibited activities	1				1	PM
HAR 13-100-2(1) Prohibited activities take		2			2	PM
Division of Forestry and Wildlife: Rules regarding activities within forest preserves						
HAR 13-104-4(10) Preservation of public property and		1			1	MD
HAR 13-104-5(1) Litter and sanitation litter animal waste			1		1	MD
HAR 13-104-5(4) Litter and sanitation abandoned vehicle			2	1	3	MD
HAR 13-104-9 Firearms and other weapons		5			5	MD

(Title 13 Filings, District Court, Continued)	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	Total Counts	Charge Severity
HAR 13-104-11 Vehicles and transportation violation	1				1	MD
HAR 13-104-11(3) Vehicles and transportation designated		1		1	2	MD
HAR 13-104-11(6) Vehicles and transportation muffler license		2			2	MD
HAR 13-104-11(a)(3) Vehicles & Transportation				1	1	MD
HAR 13-104-11(b) Vehicles & Transportation				1	1	MD
HAR 13-104-19 Camping without a Permit in a forest reserve		2		4	6	MD
HAR 13-104-23 Access permits - Forest Preserves	5				5	MD
HAR 13-104-24 Commercial activities			2		2	MD
HAR 13-105-3(a) Prohibited entry restricted watershed			3		3	MD
HAR 13-121-3 Hunting prohibited	1				1	PM
HAR 13-121-3(a) Hunting prohibited	5				5	PM
HAR 13-122-3 Prohibited hunting		2			2	PM
HAR 13-122-4(b) Bag Limits/Hunting Days			1		1	PM
HAR 13-122-12 Conditions and restrictions			1		1	PM
HAR 13-122-12(a)(1) Carry Hunter's License			3		3	PM
HAR 13-122-12(b)(1) Conditions and restrictions firearms	1				1	PM
HAR 13-122-12(c)(1) Conditions and restrictions four-wheel		2			2	PM
HAR 13-122-12(c)(2) Conditions and restrictions roads		1			1	PM
HAR 13-122-12(c)(3) Conditions and restrictions loaded			4		4	PM
HAR 13-122-12(e)(1) Conditions and restrictions sell		1			1	PM
HAR 13-122-12(e)(3) Conditions and restrictions game bird			1		1	PM
HAR 13-122-12(f)(4) Conditions and restrictions intoxicating			1		1	PM
HAR 13-122-12(h)(3) Conditions & Restrictions Public Hunting		1			1	PM
HAR 13-123-3 Prohibited hunting	8	13	13	2	36	PM
HAR 13-123-3(2) Game Mammal Hunting - Proh. w/out	16				16	PM
HAR 13-123-3(5) Game Mammal Hunting Restrictions- Maui		12			12	PM
HAR 13-123-4 Bag limits, open seasons		1			1	PM
HAR 13-123-4(a) Game Mammals - Limits, open season &		7	1		8	MD
HAR 13-123-6 Hunting hours	3	4			7	PM
HAR 13-123-8 Game Mammals no hunting on State-owned	2				2	MD
HAR 13-123-22 Game - Conditions and restrictions	5	4	24	1	34	PM
HAR 13-123-22(a)(1) Game Mammals - Hunting		4	27		31	PM
HAR 13-123-22(a)(3) Hunting Unit Failure Check in	4	46	2	2	54	PM
HAR 13-123-22(b)(1) Conditions and restrictions hunting			13		13	PM
HAR 13-123-22(b)(2) Game Mammal Hunting - Weapons		2			2	PM
HAR 13-123-22(b)(3) Conditions and restrictions closed		1	1		2	PM
HAR 13-123-22(b)(4) Conditions and restrictions bag limit			4		4	PM
HAR 13-123-22(b)(5)(A) Conditions and restrictions rifles		1			1	PM
HAR 13-123-22(b)(10) Conditions and restrictions tracer		2	1		3	PM
HAR 13-123-22(c) Hunting dogs & guns		1			1	PM
HAR 13-123-22(d)(1) Hunt Conditions & Restrictions		1			1	PM
HAR 13-123-22(d)(3) ...on roads			1		1	PM
HAR 13-123-22(d)(4) ... loaded weapon		3			3	PM
HAR 13-123-22(e) safety zones		10			10	PM
HAR 13-123-22(f)(1) Conditions and restrictions remove		1	1		2	PM
HAR 13-123-22(g)(1) exterior garment	3	19			22	PM
HAR 13-123-22(i)(4) Conditions and restrictions archery			2		2	PM

(Title 13 Filings, District Court, Continued)	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	Total Counts	Charge Severity
HAR 13-123-22c(2) Conditions and restrictions dogs	1		1		2	PM
HAR 13-123-23 Game Mammal Hunting - Permit Tags Req'd		3			3	PM
HAR 13-123-24(5) Public and private property ground fires		1			1	PM
HAR 13-124-3 Endangered Species - Prohibited activities	1	2			3	MD
HAR 13-124-3(a)(1) Endangered Species - catch sell	1				1	PM
HAR 13-125-5(a) Prohibited entry wildlife sanctuary (repealed 2010)	1				1	MD
HAR 13-126-4 Wildlife Sanctuaries - Entry Prohibited	17				17	PM
HAR 13-126-5 Wildlife Sanctuaries - Entry Prohibited	1				1	MD
HAR 13-126-23(c) Animal Pets Proh. in Wildlife Sanctuaries	2				2	PM
HAR 13-126-26 Camping Prohibited	3				3	PM
HAR 13-130-24(1) Fire use ground structure	1				1	PM
HAR 13-130-28(a) Vehicles and transportation	2				2	PM
HAR 13-130-35 Commercial activity			1		1	PM
HAR 13-130-36 Failure to obt. trail and access activity permit			1		1	PM
HAR 13-130-37(2) Na Ala Hele Trails Permit conditions			2		2	PM
HAR 13-209-4 Prohibited activities		9	1		10	MD
HAR 13-209-4(3) Prohibited activities geological features		1			1	MD
HAR 13-209-4(11) Prohibited activities water vehicle		2			2	MD
HAR 13-209-4(14) Prohibited activities tools equipment		6			6	MD
HAR 13-209-4(16) Prohibited activities closed area		16			16	MD
HAR 13-209-4(17) Prohibited activities water vehicle		1			1	MD
Division of State Parks						
HAR 13-146-4 Closed Park Area	73	167	4	324	568	PM
HAR 13-146-4(a) Motorbike nondesignated road	124	20		5	149	PM
HAR 13-146-4(b) Closed Park Area		78	1		79	PM
HAR 13-146-7 Abandonment and unattended property	9		2		11	PM
HAR 13-146-7(a) Abandonment and unattended property	8				8	PM
HAR 13-146-9 Aircraft	1			1	2	PM
HAR 13-146-10 Animals stray	5		2	2	9	PM
HAR 13-146-10(a) Animals stray	2				2	PM
HAR 13-146-10(b) Animals prohibited areas	20		1		21	PM
HAR 13-146-12 Audio Devices Noise				1	1	PM
HAR 13-146-13 Boating Restrictions		2	1		3	PM
HAR 13-146-14 Camping	158	34	73	12	277	PM
HAR 13-146-17 Explosives		2			2	PM
HAR 13-146-19 Firearms and other weapons	1	2		3	6	PM
HAR 13-146-19(a) Firearms and other weapons	2				2	PM
HAR 13-146-20 Parks - Fires prohibit	13	1			14	PM
HAR 13-146-20(a) Fires in Wilderness Permit	6	1			7	PM
HAR 13-146-23 Destruction of geological features w/o permit			1		1	PM
HAR 13-146-25 Possess narcotic drug	13	4	13		30	PM
HAR 13-146-25(b) Possession of alcohol	32	4	12		48	PM
HAR 13-146-29 Parking			1		1	PM
HAR 13-146-31 Portable engines and motors	4		1	1	6	PM

(Title 13 Filings, District Court, Continued)	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	Total Counts	Charge Severity
HAR 13-146-32(b) Public property building sign equipment	1				1	PM
HAR 13-146-32(e) Public property damage plants			1		1	PM
HAR 13-146-34 Residence prohibited	4		5		9	PM
HAR 13-146-38(a) Swimming or nudity prohibited	1				1	PM
HAR 13-146-40 Vehicle and motorized bike operation	12	1	1		14	PM
HAR 13-146-40(a) Vehicle and motorized bike operation non-	26				26	PM
HAR 13-146-40(d) Vehicle & Motorized bike restrictions	2				2	PM
HAR 13-146-41 Injuring/killing wildlife or habitat prohibited	2		1		3	PM
HAR 13-146-51 Camping Permits	2			8	10	PM
HAR 13-146-54 State Park System - Special use permits				1	1	PM
HAR 13-146-65 Advertisements without permit			2	1	3	PM
HAR 13-146-66 Business operations without permit				6	6	PM
HAR 13-146-67(b) Still photography permit required		1			1	PM
HAR 13-146-68 Commercial activities without permit	5	6	9	4	24	PM
Land Division						
HAR 13-221-11 Public Lands - Animals Excluded	2				2	VL
HAR 13-221-11(a) Public Lands - Animals Excluded	2				2	VL
HAR 13-221-14 Public Lands - Boating	1	1			2	VL
HAR 13-221-15 Public Lands - Camping	321	51	14	3	389	VL
HAR 13-221-18 Public Lands - False Report			1		1	VL
HAR 13-221-20 Public Lands - Fires	1	3			4	VL
HAR 13-221-24 Public Lands - Intoxication	1	4	6		11	VL
HAR 13-221-26 Public Lands - Motor Vehicles	1	1		1	3	VL
HAR 13-221-26(a) Public Lands - Motor Vehicles	1	1			2	VL
HAR 13-221-30 Public Lands - Sanitation and Litter		3	1		4	VL
HAR 13-221-46 Public Lands - Business operations	1				1	VL
Division of Boating & Ocean Recreation						
Small Boat Harbors						
HAR 13-230-4 Small Boat Harbors - Penalties		2			2	VL
HAR 13-231-2 Permit for use of facilities	6	1	2		9	VL
HAR 13-231-3 Issuance of permits	5				5	VL
HAR 13-231-3(a)(1) Small Boat Harbors - Restrictions	1				1	VL
HAR 13-231-4 Small Boat Harbors - Restrictions	2	3			5	VL
HAR 13-231-17 Small Boat Harbors - Restrictions	78		4		82	VL
HAR 13-231-20 Houseboats prohibited except in Keehi	1				1	VL
HAR 13-231-21 Restrictions on mooring vessels	1				1	VL
HAR 13-231-28 Staying aboard vessel without permit	3				3	VL
HAR 13-231-28(a)(1) Small Boat Harbors - Staying Aboard	1				1	VL
HAR 13-231-41 Small Boat Harbors - Navigate/Moor Vessels		2			2	VL
HAR 13-231-44 Exceeding time limit in vessel loading zone	4	2			6	VL
HAR 13-231-51 Engaging in commercial activities without	2	2	6		10	VL
HAR 13-231-53 Displaying signs without permit		2			2	VL
HAR 13-231-57 Berthing in small boat harbors		1			1	VL
HAR 13-231-67 Commercial use of boat launching ramps			1		1	VL
HAR 13-232-6 Littering land areas prohibited	1	1			2	MD
HAR 13-232-7 Littering or polluting water prohibited		2			2	MD
HAR 13-232-23 Small Boat Harbors - Restrictions		3			3	MD

(Title 13 Filings, District Court, Continued)	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	Total Counts	Charge Severity
HAR 13-232-29 Small Boat Harbors - Restrictions			1		1	MD
HAR 13-232-41 Small Boat Harbors - Storage Restrictions	8	5	2		15	MD
HAR 13-232-52 Violation of restricted areas	1				1	MD
HAR 13-232-54 Swimming/diving prohibited where posted		1			1	MD
HAR 13-232-57 Dogs, cats or other domestic pets	1				1	MD
HAR 13-232-57(c) Dogs restrictions	2				2	MD
HAR 13-232-57(d) Dogs stray	2				2	MD
HAR 13-232-58 Sleeping camping prohibited - small boat	151		5	2	158	MD
HAR 13-232-60(a) Consumption of liquor proh - launch ramp		1	11		12	MD
HAR 13-233-2 No current license/safety inspect of vehicle	3		8	1	12	VL
HAR 13-233-6 Motor Vehicle & Parking Rules	4	1			5	VL
HAR 13-233-6(3) Motor Vehicle & Parking Rules	12		1		13	VL
HAR 13-233-6(4) Motor Vehicle & Parking Rules		1	1		2	VL
HAR 13-233-13(d) Parking in construction areas	3	1			4	VL
HAR 13-233-44(2) Motor Vehicle & Parking Rules	1				1	VL
HAR 13-234-34 Small Boat Harbors	21	67	41	7	136	VL
HAR 13-234-34(a) Small Boat Harbors - Fees & Charges	2				2	VL
HAR 13-234-34(b) Small Boat Harbors - Fees & Charges	1				1	VL
HAR 13-234-34(c) Small Boat Harbors - Fees & Charges			1		1	VL
HAR 13-234-34(d) Small Boat Harbors - Fees & Charges	3		1	1	5	VL
Boating						
HAR 13-241-1 Boating - Numbering of Vessels	3	6			9	PM
HAR 13-241-3 Numbering System			1		1	PM
HAR 13-241-4 Boating - Numbering of Vessels	8	5		1	14	PM
HAR 13-241-4(a) Boating - Numbering of Vessels	2				2	PM
HAR 13-241-4(b) Boating - Numbering of Vessels		1			1	PM
HAR 13-241-8 Boating - Numbering of Vessels	2	15	2	6	25	PM
HAR 13-241-10 Boating - Numbering of Vessels		5		2	7	PM
HAR 13-241-13 Vessel Registration sticker	9	5		3	17	PM
HAR 13-241-13(a) Vessel Registration sticker	3	2			5	PM
HAR 13-241-13(c) Display registration sticker - vessel sides	14	20	5		39	PM
HAR 13-242-4 Boating - Accidents, Reports, etc.	1				1	PM
HAR 13-242-15 Stop Vessels for Inspection		1			1	VL
HAR 13-243-1 Boating - Vessel Equipment Requirements	9	40	4		53	PM
HAR 13-244-7 Boats - Careless operation		4			4	PM
HAR 13-244-8 Reckless operation		1			1	PM
HAR 13-244-9 Speed Restrictions	9	4	1		14	PM
HAR 13-244-9(a)(7) Boats - Speeding		2			2	PM
HAR 13-244-19 Necessary application and authorization			1		1	PM
HAR 13-244-23 Manufacture's or builder's serial number	1	5			6	PM
HAR 13-244-32 Boating Ahihi-Kinaiu Ocean Waters		16			16	PM
HAR 13-244-33(b)(1) Pokai Bay - No Vessel	1				1	PM
HAR 13-244-35 Manele-Hulopoe MLC prohibited activities		11			11	PM
HAR 13-244-35(b) Manele-Hulopoe MLC prohibited activities		1			1	PM

(Title 13 Filings, District Court, Continued)	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	Total Counts	Charge Severity
HAR 13-245-9 Boating Requirements	15	15	5		35	PM
HAR 13-245-9(a) Boating - Divers Flag Req		68	1		69	PM
HAR 13-245-9(d) Boating - Divers Flag Required		1			1	PM
HAR 13-245-10 Mooring vessels to buoys or beacons	2	1			3	PM
Ocean Waters, Navigable Streams & Beaches						
HAR 13-251-1 Catamaran etc. Captains: Operator permit	3				3	VL
HAR 13-251-47 Waikiki/Kaanapali Waters - Operation of	1				1	VL
HAR 13-251-66(a) Canoe operation, required crew	1				1	VL
HAR 13-251-76 Waikiki or Kaanapali Ocean Waters and Beach		6			6	VL
HAR 13-254-14 Point Panic Ocean Waters Restrictions						
HAR 13-254-14 Point Panic Ocean Waters - Surfboards	2				2	VL
	9				9	VL
HAR 13-256-15 Commercial Vessel Shoreline Access						
HAR 13-256-16(b) Thrill Craft Operations		2			2	PM
HAR 13-256-16(d) Thrill Craft - Certificate of Completion	1				1	PM
HAR 13-256-17 Recreational Thrill Craft Operation -	4		4	1	9	PM
HAR 13-256-17(a) Recreational Thrill Craft Operation -	1				1	PM
HAR 13-256-17(b) Recreational Thrill Craft Operations	1				1	PM
HAR 13-256-17(c) Recreational Thrill Craft Operation -	1		1		2	PM
HAR 13-256-22(f) Tow-In Surfing				1	1	VL
HAR 13-256-39(b)(8) Water Sports				1	1	PM
HAR 13-256-63(b)(1) Sharks Cove, Three Tables, Waimea Bay	2				2	PM
HAR 13-256-112 Maui - Humpback Whale protected waters		3			3	PM
HAR 13-256-143(d) Puhi Bay - Restrict Zone D			1		1	PM
HAR 13-257-3(b) Mooring Prohibited						
			1		1	VL
Kahoolawe Island Reserve						
HAR 13-261-10 Kahoolawe Island Reserve	1	14			15	PM
HAR 13-261-13 Kahoolawe Island Reserve		2			2	PM
HAR 13-261-13(a) Kahoolawe Island Reserve - Authorization		1			1	PM
HAR 13-261-14(a) Kahoolawe - Commercial Activity		1			1	PM
HAR 13-261-14(b) Kahoolawe - Fishing Gear		1			1	PM
HAR 13-261-14(b)(13) Kahoolawe - Fishing Gear		3			3	PM

Severity Code Key:

FA = Felony A

FB = Felony B

FC = Felony C

MD = Misdemeanor

PM = Petty Misdemeanor

VL = Violation

Filings in District Courts (Criminal), July 1, 2009 through June 30, 2014

Hawaii Revised Statutes Specified in Act 218

	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	Total Counts	Charge Severity
All Counts Filed	276	44	52	15	387	
HRS Chapter 12	201	44	51	15	311	
Subtitle 4: Forestry and Wildlife; Recreation Areas; Fire	64	21	48	5	138	
HRS 183D-21 Hunting License Required	51	16	19	2	88	PM
HRS 183D-25 Hunting License	2	3			5	PM
HRS 183D-26 Hunting License	2				2	PM
HRS 183D-26(a) Hunting	8	2	23	1	34	MD
HRS 183D-27 Hunting	1		6	2	9	MD
Subtitle 5: Aquatic Resources and Wildlife	95	22	1	10	128	
HRS 188-35 Fishing in certain waters	3			2	5	PM
HRS 188-40 Minimum sizes of fish	1				1	PM
HRS 188-40.7(a) Shark Fins prohibitions	2				2	PM
HRS 188-43 Hinana and oopu taking prohibited	1				1	PM
HRS 188-58.5(a) Crustaceans	3	12		8	23	PM
HRS 189-2 Commercial Marine License	75	3			78	PM
HRS 189-2(a) Commercial Marine License	6				6	PM
HRS 189-10 Commercial marine dealers to report		3	1		4	FB
HRS 189-11 Receipts in duplicate	4	4			8	MD
Subtitle 8: Ocean Recreation and Coastal Areas	42	1	2		45	
HRS 200-10(a)(1)(2) Moor vessel w/o permit/ownership	2				2	VL
HRS 200-16 Mooring unauthorized vehicle	36	1			37	VL
HRS 200-31 Vessels Registered/Numbered			1		1	VL
HRS 200-62 Trespass to vessel	4		1		5	MD
Other Hawaii Revised Statutes Specified in Act 218	75		1		76	
HRS 339-4 Litter Control	46		1		47	VL
HRS 339-4(a)(1) Litter Control	11				11	VL
HRS 339-4(a)(2) Litter Control	15				15	VL
HRS 342F-9(a) Noise Pollution	1				1	FC
HRS 342H-39(a) Solid Waste	1				1	PM
HRS 342J-9(c)(3) Hazardous Waste	1				1	MD

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Filings in Circuit Courts (Criminal), July 1, 2009 through June 30, 2014

Hawaii Revised Statutes and Hawaii Administrative Rules Specified in Act 218

	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	All Cases	Charge Severity
All Counts Filed	8	21	2	7	38	
Hawaii Revised Statutes Chapter 12	4	6	1	4	15	
Subtitle 4: Forestry and Wildlife; Recreation Areas; Fire Protection						
HRS 183D-0021 Hunting License	2	3	1		6	PM
HRS 183D-0026 Hunting on Private Land				1	1	MD
HRS 183D-0026/A Hunting on Private Land	2	3			5	MD
HRS 183D-0027 Night Hunting				3	3	MD
Other Hawaii Revised Statutes Specified in Act 218	1			1	2	
HRS 342D-0033 Water Pollution	1				1	FC
HRS 342H-0039 Solid Waste				1	1	FC
Hawaii Administrative Rules Title 13	2	11	1	2	16	
Division of Forestry and Wildlife: Rules regarding activities within forest preserves						
HAR 13-104-04/1 Kill Plant Life		1			1	MD
HAR 13-104-11 Forest Preserve, Prohibited Vehicle		1			1	VL
HAR 13-123-03 Game Mammal Hunting License Required		1			1	PM
HAR 13-123-04 Game Mammal Bag Limit		1			1	MD
HAR 13-123-06 Hunting Hours				1	1	MD
HAR 13-123-22 Hunting Restrictions		1	1	1	3	MD
HAR 13-126-04 Prohibited Entry into Wildlife Sanctuary	2				2	MD
HAR 13-209-4/11 Motorized Vehicles Prohibited		1			1	MD
HAR 13-209-4/13 Commercial Activities Prohibited		1			1	MD
HAR 13-209-4/14 Prohibited Tools/Equipment/Implements		2			2	MD
HAR 13-209-4/16 Prohibited to be present in closed area		2			2	MD
Division of Boating & Ocean Recreation	1	4			5	
Small Boat Harbors						
HAR 13-232-60A Consumption of Liquor		1			1	MD
Boating						
HAR 13-242-04/A Boating Accident Report	1				1	MD
HAR 13-242-15 Stopping Vessel for Inspection		1			1	MD
HAR 13-244-08 Reckless Operation of Vessel		1			1	PM
HAR 13-244-32 Ahihi-Kinaiu Ocean Waters - Restricted Operation		1			1	MD

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**Terminations of Criminal Counts in Act 218
July 1, 2009 through June 30, 2014**

	HRS Title 12	HRS Non- Title 12	HAR Chapter 13	All Termin- ations
Circuit Court	12	2	13	27
FY 2009-10			7	7
FY 2010-11	6		1	7
FY 2011-12	2		1	3
FY 2012-13		1	2	3
FY 2013-14	4	1	2	7
District Court	216	40	2,356	2,612
FY 2009-10	15		307	322
FY 2010-11	65		422	487
FY 2011-12	61	1	499	561
FY 2012-13	48	11	516	575
FY 2013-14	27	24	579	630

Filings in Circuit Courts (Civil) - July 1, 2009 through June 30, 2014					
	First Circuit	Second Circuit	Third Circuit	Fifth Circuit	All Circuits
Number of Filings	50	14	11	8	83

In the past, the circuit courts did not keep track of civil case filings by the applicable statute. Consequently the Judiciary can provide only summary statistics; we are unable to provide circuit court numbers for each statutory section contained within the new law. To address this issue, going forward the Judiciary has revised court forms to enable the collection of statistics for the individual statutes listed within the new law.

ATTACHMENT C

Form 2-A, Draft Civil Information Sheet

**INSTRUCTIONS FOR COMPLETING
THE CIVIL INFORMATION SHEET**

The civil information sheet and the information it contains neither replace nor supplement the filings, the service pleadings or other documents as required by law, except as provided by the rules of court.

This form is required for the purpose of initiating the civil docket sheet.

Consequently, a civil information sheet is required for each civil complaint filed.

The attorney/party filing a civil complaint shall complete the form as follows:

I. PLAINTIFF(S)/DEFENDANT(S)

List names: last, first, middle initial.

If the plaintiff or defendant is a government agency, indicate the full name.

If the plaintiff or defendant is an official of a government agency, first indicate the agency name and then the official's name and title.

If the space provided is insufficient, attach additional page(s) and check the box so indicating.

II. PLAINTIFF'S(S')/DEFENDANT'S(S') ATTORNEY

Indicate the attorney name and license number.

If the space provided is insufficient, attach additional page(s) and check the box so indicating.

III. NATURE OF SUIT

Place a "✓" in the appropriate box.

If more than one category applies, select the one category that best describes the action.

Do not select more than one category.

For cases arising under Chapters 6D, 6E, 6K, 128D, 339, 339D, 340A, 340E, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, 343, and 508C, and Title 12 (Chapters 171-200D) of the Hawai'i Revised Statutes, place a "✓" in the Environmental Court box.

IV. ORIGIN

(A) Original Proceedings: cases originating in the circuit court.

(B) Transfer from District Court: cases transferred from district court under Haw. Rev. Stat. §§ 604-5 (Supp. 2006), 633-31 (1993).

(C) Transfer from another Circuit: cases transferred from another circuit under Haw. Rev. Stat. §§ 603-37, -37.5 (1993)

V. DEMAND

Indicate the remedy being demanded (e.g., damages, preliminary injunction, etc.)

VI. JURY DEMAND

Indicate whether a jury is being demanded.

VII. CLASS ACTION

Indicate whether the action is brought as a class action.

VIII. REQUEST TO EXEMPT FROM ARBITRATION

Indicate whether a "Request to Exempt from Arbitration" is filed.

IX. RELATED CASES

List the civil number and the assigned judge for related pending cases.

X. SIGNATURE OF ATTORNEY OR PARTY

Date and sign the civil information sheet.