



*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, March 22, 2016, 2:00 p.m.  
Room 325

by  
Tom Mick  
Policy and Planning Department Director

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**Bill No. and Title:** Senate Bill No. 2102, S.D. 1, 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 Senate Bill No. 2102, S.D. 1, 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 Judiciary is very grateful to the Senate Ways and Means Committee (WAM) for providing three (and possibly seven) positions and over \$1 million in general funds for supplemental FY 2017 related to the Mental Health Court, civil legal services, an additional judgeship and related staff, and a temporary to permanent position conversion for the Kona Fiscal Office. WAM provided two of the three positions requested for Mental Health Court which will allow us to expand the number of clients served with mental health issues. However, we are very



concerned that no funding was provided for the additional services that go hand-in-hand with an expanded number of clientele, that is, mental health assessments, emergency housing, and medical and dental care. The \$600,000 allocated by WAM for civil legal services is very important in helping to provide such services to those who cannot afford private counsel representation, and in ensuring the Judiciary does not have to divert other base budget monies to fund these services.

The Judiciary's supplemental budget request for FY 2017 included requests for three judgeships and related staffing – funding for a District Family Court judge and staffing in First Circuit as the positions were previously provided by the 2007 Legislature, and funding and positions for a District Court judge in Second Circuit and a District Family Court judge in Fifth Circuit. WAM provided \$330,000 in general funds and possible positions for one of these three judgeships, stating in its Standing Committee Report that the “Chief Justice should identify the judgeship that is of the highest priority and represents the greatest need so as to warrant the establishment of an additional court.” We believe that it is necessary to stress that whichever judgeship the Chief Justice selects, the other judgeships not selected are just as important to and needed by the island and/or community in which they are located. In all three circuits/locations, workload has been increasing and the cases have become more complex and time consuming, especially as the number of self-represented litigants has been growing. Further, neither the Second Circuit (Maui) nor the Fifth Circuit (Kauai) has had a new District judgeship position in more than 30 years, yet over this period of time, the population has more than doubled on Maui and increased by more than 70% on Kauai. It should also be noted that First Circuit Family Court is located in Kapolei, one of the fastest growing areas on Oahu, and its Domestic Division, where this judge would be assigned, experienced a 10% caseload increase from FY 2014 to FY 2015.

While, as mentioned previously, the Judiciary is appreciative of what WAM did provide in Senate Bill No. 2012, S.D. 1, we are also very concerned about the impact on Judiciary operations, clients, and the public by the lack of support in positions and funding for possibly as many as 21 of the 24 positions and more than \$1.7 million of the \$2.2 million requested in our supplemental budget package. The non-support for two of the three judgeship requests, which equates to possibly as many as eight positions and \$660,000, was discussed in the prior paragraph.

In First Circuit, two specialty court/program related requests were not supported. The Driving While Impaired (DWI) Court and the Hawai'i Zero to Three Program both have grant funds expiring in early FY 2017. Without any additional funding and positions to make these programs permanent within the Judiciary, these programs may have to be discontinued once the grant funding ends. The DWI Court is a nationally recognized and a US Department of Transportation award winning program that focuses on repeat, hard-core offenders, with 20 current participants and 17 successful graduates to date. 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.

Two security related requests were not supported, 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.

Another two budget requests in the extremely important area of client services were also not funded and supported. The first was 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, 2015, OPG's ten social workers acted as court-appointed guardians for 721 incapacitated clients statewide and managed finances for 263 of these. More than 60% 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 89 clients each). The second request was to cover significantly increased costs for legal counsel services in Second Circuit and thereby comply with all laws and fulfill its 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 that were not supported, one of which relates to the Intermediate Court of Appeals (ICA) that is requesting additional Staff Attorney and Appellate Court Clerk positions and the other of which relates to judges' training. 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



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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. 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 Judiciary is also concerned about the lack of any support for its Capital Improvement Program (CIP) requests. 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. While all the CIP requests relate to critical needs, especially important is the \$3 million in lump sum monies requested as it allows the Judiciary to be flexible and respond to any emergent or emergency 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 Senate Bill No. 2102, S.D. 1, which is the Judiciary's supplemental budget request, and that you strongly consider restoring the more than 17 positions and \$1.7 million from our supplemental budget requests that were not funded.

Thank you for the opportunity to testify on this measure.