



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Judiciary

Representative Scott Y. Nishimoto, Chair

Representative Joy A. San Buenaventura, Vice Chair

Wednesday, March 21, 2018, 2:15 p.m.

State Capitol, Conference Room 325

by:

Judge Kelsey T. Kawano

Deputy Chief Judge, Second Circuit

Bill No. and Title: Senate Bill No. 2149, S. D. 2, Relating to District Court Judges.

Purpose: To increase the number of district court judges in the Second Circuit from three to four judges by amending HRS Section 604-1.

Judiciary's Position:

The Judiciary strongly supports this bill which is part of the Judiciary's legislative package. This bill is an authorization request for an additional district court judge for the Second Circuit. The request for an appropriation is being included in the Judiciary's budget request.

An additional District Court judge is crucial to addressing the demands that have increased over the past thirty-six years since a District Court judge was last legislatively authorized. Equally important is having the ability to effectively address significant and specific needs. During the past year, the Second Circuit has been meeting with different community stakeholders to develop a Community Court to address the problems faced by those less fortunate and struggling with homelessness. Also, a dedicated District Court Mental Health docket must be built upon to respond to the needs of those in the criminal justice system who suffer with mental health issues. Additionally, a treatment court should also be created to deal with the tragic consequences caused by those operating a vehicle while under the influence of an intoxicant. Finally, the response to domestic and community violence issues, including compliance hearings, must also be enhanced in the outer districts of Hana, Lahaina, Lanai, and Molokai. An additional judge is essential to meeting all of these needs.



The last Second Circuit District Court Judgeship was legislatively authorized in 1982, approximately 36 years ago. That authorization increased the number of District Court judge positions from two to three. Since that time, the Maui County population has more than doubled from 76,970 in 1982 to an estimated 173,214 in 2017. Maui County's population grew faster than any other county in Hawaii over the two year period from 2012 to 2014 and from 2011 to 2017 the population increased by an estimated 16,000, a projected 10.2% increase in population. The present indicators suggest that this population growth will continue, especially with Maui's demand as a desired tourist destination.

The Second Circuit serves the islands of Maui, Molokai, and Lanai. At the present time, the District Court has three (3) full-time sitting judges to serve the entire circuit. The additional judgeship is needed to address the increase in criminal and traffic cases as well as the time required to schedule and hear cases on the court calendars.

The Second Circuit has been experiencing an increase in criminal and traffic filings that have resulted in court calendars often taking all day to complete. For example, from FY 2011 to 2017, new criminal filings increased from 2,859 to 3,322, a 16.2% increase, and new traffic filings increased from 21,694 to 28,276, a 30.3% increase. The Environmental Court (EC) established in 2015, has also impacted the District Court workload. During FY 2016, the EC had 786 cases filed and in FY 2017, 670 cases were filed in the Second Circuit District Court. These increases in cases leave District Court Judges unable to timely attend to other judicial duties such as requests for finding of probable cause for extended restraint of liberty of warrantless arrestees (JDPCs); requests for review and approval of charging by felony information packet; requests for orders pertaining to bail; requests for execution of search warrants; requests for orders to show cause; requests for approval of temporary restraining orders and protective orders; review of civil traffic written statements; review of traffic notices of discrepancies; review and action on ex-parte and non-hearing motions.

District Court judges are "on-call" every night of the week to respond to the needs of law enforcement agencies. In the past, after hours requests were limited to "emergency" situations, weekends and holidays only. Recent federal decisions have impacted state appellate decisions which have necessitated changes in police investigative procedures whereby judges must now be routinely available to hear telephonic requests for issuance of search warrants and to screen pre-arrest requests for arrest warrants made during any of the three police department work shifts, "24/7". In the past, these judicial determinations of probable cause were either not required by law or were attended to during court business hours if and when a judge is available. The additional judge is needed to satisfy the law enforcement needs of the community.

The District Court convenes in Hana and Lanai only once a month and on Molokai only three times a month. These calendars are insufficient to keep up with the growing number of cases being filed in the rural courts and off-island courts. On Maui, court congestion is exacerbated by the fact that nearly all District Court civil, criminal and traffic cases in the Second Circuit fall within the venue of the Division of Wailuku, and are heard in Hoapili Hale in



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Wailuku. The Environmental Court and Mental Health calendars have specifically designated judges assigned to exclusive jurisdiction/specialty cases. The additional judge and staff will allow the District Court to build upon these Specialty Courts, to continue to work on initiatives such as on jail diversion for mentally ill offenders, and add needed calendars in Wailuku, as well as its rural courts in Hana, Lahaina, Molokai and Lanai.

The additional judge will assist in addressing the specific twenty-first century needs of the community in the areas of homelessness, mental health, intoxicated driving, and domestic and community violence, while dealing with the increased caseload in criminal and traffic filings, and accommodating the needs of our rural communities that are underserved at present.

Thank you for the opportunity to testify on this measure.