



The Judiciary, State of Hawai‘i

**Testimony to the
Senate Committee on Ways and Means**

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Thursday, February 22, 2018, 10:05 a.m.
State Capitol, Conference Room 211

by
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WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 2150, S.D. 1, Relating to the Judiciary.

Purpose: To provide supplemental operating and capital improvement appropriations for FY 2019.

Judiciary's Position:

The Judiciary strongly urges your support of Senate Bill No. 2150, S.D. 1, which reflects the Judiciary’s resource requirements for FY 2019.

The Judiciary recognizes that the Hawai‘i economy continues to be strong and the overall economic outlook is relatively stable at the moment, but even with that and a projected budget surplus, funds will continue to be tight as there are many outstanding issues that need to be addressed such as health care costs and their effect on premiums. Accordingly, in our supplemental budget request, the Judiciary has been very prudent and focused only on its most pressing needs, primarily in the areas of essential staffing for court and administrative operations, and client services. Specifically, with these factors in mind, the Judiciary is requesting 30.5 new permanent positions and additional funding of \$1.57 million for FY 2019, which is less than one percent of its current budget.



The Judiciary is very grateful to the Senate Committee on Judiciary (JDC) for providing 24.5 new permanent positions (two of which are for late FY 2019) and funding of \$1.06 million in FY 2019 for our supplemental budget requests. The requests supported specifically relate to: (1) a Family Court judge and three support staff in Fifth Circuit; (2) two janitorial and two facilities staff for the new Kona Judiciary Complex in Third Circuit; (3) funding only for a Family Court judge and three support staff in First Circuit for which positions were previously authorized; (4) additional purchase of service contract funding for the Maui Drug Court; (5) two court bailiff positions in the Third Circuit, one for Hilo Family Court and one for South Kohala; (6) no-cost conversion of 12 temporary positions to permanent positions in First Circuit – two for the Interagency Council and Intermediate Sanctions (ICIS) program and ten for the Hawai'i Opportunity Probation with Enforcement (HOPE) program; (7) a part-time janitorial position for Lahaina District Courthouse in Second Circuit; and (8) two of the three social worker/probation officer positions requested for the Adult Client Services Branch (ACSB) in Second Circuit. With respect to the lack of support for the third social worker/probation officer position requested for ACSB, we are concerned that the Second Circuit will not be able to reduce average probation officer workload to a more manageable size in one of the three units (Domestic Violence, Special Services, or Pre-Investigation) where caseload has increased significantly over recent years.

JDC did not support our request for a District Court judge and support staff for the Second Circuit. 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 160,000 plus since then. Further, since FY 2011, while the population in Maui County has increased by about 10%, new traffic filings have increased by 30% from 21,694 to 28,276 and criminal filings by 16% from 2,859 to 3,322. The lack of a new judge will make it more difficult to address the growing needs and case numbers of the rural communities (Hāna, Lāna'i, and Moloka'i) that are currently underserved, and will not allow Lahaina District Court to increase from a three day to a five day a week rural court. Also, Second Circuit may not be able to pursue several new initiatives it was considering with an additional judge, initiatives such as a Community Outreach Court, a Driving Under the Influence (DUI) Court, and a dedicated District Court Mental Health docket to respond to the needs of those in the criminal justice system who suffer with mental health issues.

Also not supported by JDC was the request for an additional Staff Attorney 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. Under the restructured system, the ICA is responsible for a significantly greater number of appeals and motions, and has an increased number of complex appeals, which together impose greater demands on judicial resources and demonstrate the need for an additional Staff Attorney position. Indeed, when compared to its caseload prior to the restructuring, the ICA's appeals



caseload has almost doubled and its motions caseload has increased by more than ten times to some 2,500 procedural and substantive motions annually. Without this additional Staff Attorney, the ICA will not have the resources it needs to address its increased caseload and responsibilities under Hawaii's restructured appellate system, to decide more appeals more expeditiously, to improve its service to the public and the administration of justice, and to provide more support to programs such as the Appellate Mediation Program which enhances access to justice for appellate litigants.

It should be noted that JDC added \$250K for civil legal services. While we support and understand that funding for civil legal services is essential to continuing work and programs that are critical for those in the need of such services in the community, we request that such funding not come at the expense of other items in the Judiciary's supplemental budget request.

With regard to Capital Improvement Project requirements, the Judiciary is deeply appreciative of JDC's support and funding of \$5.8 million for furniture, fixtures, and equipment (FF&E) for our new Kona Judiciary Complex. Construction of the new courthouse is currently ongoing, with the project on schedule for opening in late summer 2019 so it is extremely important that the procurement process for the new FF&E begin early in FY 2019. However, we are also quite concerned with JDC providing only partial support or no support for our other three CIP requests:

- **Ka`ahumanu Hale Fire Alarms/Elevator System Upgrades** - JDC funded \$1.2 million of the \$8.98 million requested for this project. Both the fire alarm and elevator systems are over 30 years old and obsolete, continue to malfunction with greater frequency, and have become increasingly difficult to keep in safe working order. Elevator replacement parts are unavailable and must be drawn from other decommissioned elevators. While the \$1.2 million will help with the fire alarm upgrade, which must be done before the nine elevator replacements, the remaining \$7.78 million is needed as well to move forward with the project and start on the elevator upgrades. This is the fourth year requesting funding, and elevator maintenance costs have increased by 28% the last two years and construction costs are increasing 11% annually.
- **Lump Sum CIP** - JDC funded \$1 million of the \$3 million requested. Such funding is needed to address both continuing and emergent building issues, as well as our deferred repair and maintenance backlog estimated to be in the \$60 to \$70 million range. Most of the maintenance issues relate to water intrusion and/or air conditioning issues, which contribute to mold growth and poor indoor air quality. The lack of additional funding may affect our flexibility in responding timely to some of these issues and needs.



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- **Kaua‘i Courthouse Reroof and Building Repairs** - JDC did not provide any of the \$1.1 million requested for Phase 2 of this project, although \$1.39 million was provided last year for Phase 1. The lack of requested funding would delay Phase 2 of a three-part effort to address significant premature degradation of the building envelope; repair construction and design defects; stop leaks that contribute to further building deterioration and mold; and add fall protection to the roof, thereby prolonging our inability to safely access and maintain large expanses of roofing that is subject to harsh climate and other environmental conditions.

In summary, the Judiciary is extremely grateful for all the support provided by JDC, but also respectfully requests restoration of support and full funding for the District Court judge and support staff, as well as the ACSB social worker, in the Second Circuit, the Staff Attorney for the ICA; and the Ka‘ahumanu Hale, lump sum, and Kaua‘i Courthouse CIP projects. With the restoration of positions and funding, the Judiciary respectfully requests your support of Senate Bill No. 2150, S.D. 1, the Judiciary’s supplemental budget request.

Thank you for the opportunity to testify on this measure.