



Testimony to the Twenty-Ninth State Legislature, 2017 Session

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

Monday, February 27, 2017, 9:35 a.m.
State Capitol, Conference Room 211

by
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WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 276, S.D. 1, Relating to Judges.

Purpose: Increases the number of judges of the district court of the second circuit from three to four judges and makes other statutory amendments to the composition of courts.

Judiciary's Position:

The Judiciary opposes this measure in its current form, and respectfully suggests that the statutory amendments be limited to increasing the number of district court judges in the second circuit from three to four judges in section 604-1.

The Judiciary supports the amendment of section 604-1, for an additional district court judge in the second circuit, and indeed has made such request in SB470, and in its budget, SB469.

However, the Judiciary opposes the measure's additional changes to section 604-1, and changes to section 571-8, to section 603-3, and to section 603-4. Such changes appear to alter

the statutory structure governing the appointment and organization of the circuit, district, and district family courts. Doing so would be problematic.

First, the Judiciary is unaware of any concerns with the current statutory structure.

Second, revision of section 571-8(a) to omit that district family court judges may be established “[i]n addition to the district courts established under section 604-1,” creates ambiguity and arguably suggests that district family court judges may only be designated from existing district court judgeships. Currently, district family court judgeships exist *in addition to* district court judgeships. The proposed amendment to section 571-8(a) could restrict any future appointments or even cast uncertainty over the current status of district family court judgeships.

Third, the proposed revision of section 571-8(a) that district family court judges may be established by the supreme court, rather than by the chief justice as currently provided by section 571-8(b), creates an internal conflict in this section. This proposed revision to section 571-8(a) may also be inconsistent with article VI, section 6 of the Hawai‘i Constitution, which provides that the chief justice is the administrative head of the courts.

In sum, because the current statutory framework is not problematic and the proposed revisions could raise significant questions, the Judiciary opposes the measure in its current form. The Judiciary notes that to the extent there is a perceived need to revise the statutes referred to in this measure, the Judiciary would be willing to undertake such study and report to the Legislature before the 2018 Legislative Session.

With respect to the additional second circuit district court judge position, the Judiciary would respectfully suggest that section 604-1 be amended as follows: “The district court of the second circuit shall consist of [~~three~~] four judges, who shall be styled as first, second, [~~and~~] third, and fourth judge, respectively.”

Thank you for the opportunity to testify on this measure.