



## *The Judiciary, State of Hawai‘i*

**Testimony to the Twenty-Ninth State Legislature, 2017 Session**

**House Committee on Judiciary**

Representative Scott Nishimoto, Chair

Representative Joy A. San Buenaventura, Vice Chair

Wednesday, March 22, 2017, 2:00 p.m.

Room 325

by

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Policy and Planning Department Director

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**Bill No. and Title:** Senate Bill No. 469, S.D. 2, Relating to the Judiciary.

**Purpose:** To provide biennium operating and capital improvement appropriations for FYs 2018 and 2019.

**Judiciary's Position:**

The Judiciary strongly urges your support of Senate Bill No. 469, S.D. 2, which reflects the Judiciary's resource requirements for FYs 2018 and 2019.

The Judiciary recognizes there are many competing priorities for funding, and that resources are limited. Accordingly, in our biennium budget request, the Judiciary has focused only on requirements related to past legislation and to its most pressing needs, primarily in the areas of essential staffing for court operations and client services. Specifically, with these factors in mind, the Judiciary is requesting 34 new permanent positions and additional funding of \$2.3 million for FY 2018, and 37 positions and \$3.2 million for FY 2019, some 1.4% and 2% more, respectively, than our current budget base of \$163 million.

The Judiciary is very grateful to the Senate Committee on Ways and Means (WAM) for providing 11 new permanent positions and funding of \$986K in FY 2018 and \$1,208M in FY 2019 for our biennium budget requests. These requests specifically relate to: (1) salary adjustments for the justices and judges to cover the annual two percent salary increase set by the



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2013 Commission on Salaries, and for the Administrative Director and Deputy Administrative Director of the Courts based on a bill passed by the 2014 Legislature; (2) a no-cost conversion of seven temporary positions to permanent positions for the Girls Court in the First Circuit and one such position conversion for the Courts of Appeal Fiscal Office; (3) one Case Manager position for the Hawaii Zero to Three Program (although we respectfully do not support the deletion of two vacant temporary positions to fund this request); and (4) funding to upgrade the PeopleSoft Human Resource Management System. We are also extremely pleased that WAM provided more than \$4 million in general fund monies and \$157K in special fund monies related to past collective bargaining increases, as well as \$750K in purchase of service (POS) contract funding for civil legal services to continue work and programs so important for those in need of such services in our community.

The Judiciary's biennium budget request for FYs 2018 and 2019 includes 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. While WAM eliminated the appropriations for these judges and staff in each of the circuits, we are grateful that it did provide \$178K in FY 2018 and \$316K in FY 2019 in the Administration Program for one of these three judgeships, stating that this funding was "...to establish one judgeship at the discretion of the Chief Justice" and that "...the Chief Justice should identify the judgeship that is of the highest priority and represents the greatest need to warrant the establishment of an additional court." Senate Bill No. 469, S.D. 2, contains language that provides judge and staff position counts if the Chief Justice chooses either the Second or Fifth Circuit requested judgeship. 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 it is 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. In addition, it should be noted that First Circuit Family Court is located in Kapolei, one of the fastest growing areas on Oahu.

WAM also provided two of three requested positions to establish a Mental Health Unit (MHU) in First Circuit, and \$10K to cover overtime costs for the First Circuit Temporary Restraining Order (TRO) Unit. While we appreciate the two MHU positions, without the third position, First Circuit may not be able to fully establish the Unit nor expand services as much as it would like to Mental Health Court clients, Conditional Release clients with severe mental illness, and general population clients dual-diagnosed with drug addiction and mental health issues. Further, we are concerned that no funding was provided for the additional services that



go hand-in-hand with any expansion in the number of mental health clients served, that is, mental health assessments, emergency housing, and mental and dental care. For the TRO Unit, while the funds to cover overtime costs will be helpful, without the three positions and related funding requested, all day staff coverage at Kaahumanu Hale in Honolulu and the Ronald T.Y. Moon Judiciary Complex in Kapolei may not be possible and public access to TRO services could be hindered. Applicants and petitioners may not be able to receive assistance, court orders, and related documents timely, and may have to be referred to another agency for help.

While, as mentioned previously, the Judiciary is quite appreciative of what WAM provided in Senate Bill No. 469, S.D. 2, we are also concerned about the impact on Judiciary operations, clients, and the public by the lack of support for possibly as many as 26 of the 37 positions requested, and more than \$1.5 million of the \$2.3 million requested in FY 2018 and \$2.4 million of the \$3.2 million requested in FY 2019. The non-support for two of the three judgeship requests, which equates to possibly as many as eight positions and \$325K in FY 2018 and \$622K in FY 2019, and the mixed support for the MHU and the TRO Unit, were discussed in previous paragraphs.

Three specialty court requests were not supported. The Driving While Impaired (DWI) Court in First Circuit and the Veterans Treatment Court (VTC) in Third Circuit both have grant funds expiring in September 2017. Without the additional positions and funding requested to make these courts permanent within the Judiciary, these courts 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 offenders, with 34 graduates to date, of which just two have reoffended. The VTC, which began operation in November 2014 and proposes to expand to a maximum of 24 clients in Kona and 24 in Hilo if positions and funding are provided, currently has 22 participants and 2 graduates to date. The third specialty court request not supported was for POS contract funding for long-term residential and substance abuse and mental health treatment for the First Circuit VTC. Without this funding, those veterans assigned to the VTC with the strongest addictions and most severe mental health problems will not have access to nor receive the treatment they need in the supportive and structured environment of a residential program.

WAM also did not support two requests related to client services and Social Workers, that is, three Social Worker IV positions for the Adult Client Services Branch (ACSB) in the Second Circuit and two Social Worker IV positions for the Adult Client Probation Services (ACPS) Branch in the Fifth Circuit. Without the additional three Social Worker IV positions requested, ACSB will not be able to reduce average probation officer caseload in three of its units to more manageable levels – from 202 to 162 cases in the Domestic Violence Unit, from 133 cases to 110 cases in the Special Services Unit, and from 183 to 157 investigations in the Pre-Sentence Investigation Unit. The current high caseload in each of these units severely limits



the amount of time each probation officer can spend with the offender, causes delays in offenders being referred for appropriate treatment services and in obtaining rehabilitative services, results in not completing pre-sentence investigations timely which can delay court proceedings and sentencing, and together, may be contributing to the continuing increase in the rate of recidivism in the Second Circuit. The lack of two additional Social Worker IV positions with mental health backgrounds in the Fifth Circuit means that ACPS Branch will continue to be challenged in providing appropriate and necessary services for clients with mental health issues, and may result in these clients not receiving the proper attention, guidance, and level of supervision needed to provide them with a better opportunity and/or alternative of staying out of the costly incarceration or mental health institution systems.

The last two requests not supported by WAM were for a Staff Attorney position for the Intermediate Court of Appeals (ICA), and for three facilities related positions in the latter part of FY 2019 for the new Kona Judiciary Complex prior to its opening in early FY 2020. 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 increasing, as has the complexity and fundamental importance of the appeals, which together impose greater demands on judicial resources and the need for the additional position. Indeed, since the restructuring, the ICA's appeals caseload has almost doubled and its motions caseload has increased by more than ten times. For the Kona Judiciary Complex, it is extremely important to have a Facilities Manager, Building Maintenance Worker, and Janitor on board six months prior to opening so that they can become familiar with the project and building and receive direct training by specialized contractors on the operations of the elevators, security systems, fire suppression systems, mechanical plant, and other critical systems, as well as other areas involving facility maintenance and repair. This will help ensure a seamless transition from the old buildings/locations in Kona to the new Judiciary Complex.

With regard to Capital Improvement Project (CIP) requirements, the Judiciary is again deeply appreciative of WAM's support and funding for all of the \$15.4 requested for FY 2018 and \$12 million of the \$18.8 million requested for FY 2019. These funds were specifically allocated to our requests to make improvements to the parking structure and enhance security at Hoapili Hale in Second Circuit; reroof and repair leaks and damages at Pu'uhoonua Kaulike in the Fifth Circuit; provide for separate storm drain and sanitary systems for our Honolulu Kapuwaiwa Building; to upgrade and modernize fire alarm systems and elevators at Ka'ahumanu Hale in First Circuit, both of which are more than 30 years old and which continue to malfunction with greater frequency; and provide lump sum funding to address both continuing and emergent building issues. We are also extremely grateful for the additional \$420K in CIP funding added by WAM to address significant water intrusion, building settlement and roof issues at our more than 30-year old Ewa District Courthouse. Our only concern in the CIP area is the lack of \$6.75 million in funding for our FY 2019 furniture, fixtures, and equipment request for our new Kona



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Judiciary Complex. Without such funding, we will not be able to equip and timely move into our new courthouse and thereby provide the central, one-stop court services location that the people of West Hawaii deserve and are waiting for.

In summary, the Judiciary is very appreciative for all the support provided by WAM for our Judiciary biennium budget, but also respectfully requests restoration of those operating positions and funding not supported or only partially supported by WAM, as well as the \$6.75 million in CIP funding for furniture, fixtures, and equipment for the new Kona Judiciary Complex. With these changes and the restoration of funding and positions, the Judiciary respectfully requests your support of Senate Bill No. 469, S.D. 2, the Judiciary's biennium budget request.

Thank you for the opportunity to testify on this measure.