



The Judiciary, State of Hawai'i

Testimony to the House Committee on Judiciary
The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair

Wednesday, February 6, 2019, 2:05 p.m.
Room 325

by
W. Tom Mick
Policy and Planning Department Director

Bill No. and Title: House Bill No. 510, Relating to the Judiciary.

Purpose: To provide biennium operating and capital improvement appropriations for FYs 2020 and 2021.

Judiciary's Position:

The Judiciary strongly urges your support of House Bill No. 510, which reflects the Judiciary's resource requirements for FYs 2020 and 2021.

The Judiciary recognizes that while the Hawai'i economy continues to still perform well overall, the Hawai'i Council on Revenues at its most recent meeting noted that economic growth has come down from the previous year and cited some uncertainty about the future. Among other things, the Council noted the volatility of the stock market, the federal government shutdown, the U.S.-China trade war, and the World Bank's forecast of slower growth for the global economy. In particular, concerns were expressed that the economy may reach the end of its current expansionary cycle during the seven-year budget window. The majority of the Council also noted that while visitor arrivals and expenditures are growing steadily, it still expected a slower growth rate. We are also aware that even with a projected State budget surplus, funds will continue to be tight as there are many outstanding funding issues that need to be addressed, such as increasing health care costs and their effect on premiums, post-employment/unfunded liabilities, and recovery from the effects of recent natural disasters in Hawai'i.



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Accordingly, in our biennium 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 29 new permanent positions and additional funding of \$1.75 million for FY 2020 and \$2.54 million for FY 2021, just 1.0% and 1.5% more, respectively, than our current budget base.

The need for additional essential staffing is a major concern for the Judiciary, especially as workload continues to increase and becomes more detailed and complex, as the number of pro se (i.e., self-represented) litigants continues to increase and require the attention and time of judges and staff, and as additional requirements and demands are placed on judges and staff. This concern especially relates to First Circuit which is requesting additional funding for an already authorized Family Court judge and three support staff positions as well as positions and funding for a District Court Judge and support staff; to Second and Fifth Circuits which are also requesting positions and funding for a District Court judge and a District Family Court judge, respectively, and related support staff; and to the Intermediate Court of Appeals (ICA) which is requesting an additional Staff Attorney position.

Specifically, funding of \$170K in FY 2020 and \$330K in FY 2021 is being requested by First Circuit for a District Family Court judge and related staff positions provided by the 2007 Legislature. This would help address the heavy Family Court workload and the continual increase in the number and complexity of Family Court cases, as well as the backlog and delays in scheduling/hearing cases. This judge would be assigned to help with the caseload in the Domestic Division and the Special Division (which includes Temporary Restraining Orders (TROs), paternity, and adoption cases) where there are currently three judges assigned to each Division. Just in the last four years, Domestic Division caseload has increased significantly from 7,357 cases in FY 2015 to 8,665 cases in FY 2018 while dropping slightly in the Special Division from 8,914 to 8,709 cases over this period.

First Circuit is also requesting positions and funding of \$165K in FY 2020 and \$319K in FY 2021 for a District Court judge and support staff. This judge is needed to handle increased Operating a Vehicle Under the Influence of an Intoxicant (OVUII) caseload during the last nine years, and thereby help alleviate court congestion and possible Rule 48 dismissals. Between January 2009 and December 2017, 44,153 OVUII cases were initiated in the First Circuit or an average of 4,905 per year as compared to the previous nine years (2000 through 2008) where there were a total of 29,702 cases or an average of 3,300 per year. This judge would also serve as a judge for Drug Court cases when needed.

Second and Fifth Circuits are requesting an additional District Court judge and District Family Court judge, respectively, along with staff to address workload issues, case complexities, delays in scheduling and hearing cases, and the additional time required to handle the increasing



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numbers of self-represented litigants. For Second Circuit, the last District Court judge was added in 1982, more than 36 years ago, and the population in Maui County has more than doubled from 77,000 to 166,000 since then. Further, since FY 2011, while the population in Maui County has increased by about 6%, new criminal filings have increased by 29% from 2,859 to 3,700 and new traffic filings by almost 17% from 21,694 to 25,306 cases. A new judge would also help address the growing needs and case numbers of the rural communities (Hāna, Lāna‘i, and Moloka‘i) that are currently underserved; allow Lahaina District Court to increase from a three-day to a five-day a week rural court; allow Second Circuit to consider implementing a dedicated Mental Health Docket, an OVUII Treatment Court, and a Community Outreach Court. Fifth Circuit has only one District Court judge and one District Family Court judge, with the last judge being added in 1984. Compared to the Second Circuit on Maui and the Third Circuit on the Big Island, the current Kaua‘i Family Court caseload per judge is much higher. Specifically, for FY 2018, the one Family Court judge on Kaua‘i was responsible for more than 4,835 cases as compared to 1,913 and 3,065 cases per Family Court judge in Second and Third Circuits, respectively. New filings were also significantly higher for the Fifth Circuit Family Court judge at 2,025 cases as compared to 1,227 and 1,307 cases per Second and Third Circuit Family Court judge, respectively. Funding requested for the Second Circuit judge and staff is \$187K in FY 2020 and \$319K in FY 2021, and for the Fifth Circuit judge and staff is \$180K in FY 2020 and \$330K in FY 2021.

The Staff Attorney position being requested for the ICA would cost \$57K in FY 2020 and \$103K in FY 2021. 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 increased significantly since then, as has the complexity and fundamental importance of the appeals, which together impose greater demands on judicial resources and the need for an additional Staff Attorney position. Indeed, since 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 that formerly were handled by the Supreme Court.

For client services, the Judiciary has six budget requests – five in First Circuit related to the Hawai‘i Zero to Three Court (HZTT), the Mental Health Unit (MHU), the Community Outreach Court (COC), the Adult/Juvenile Community Service and Restitution Unit (A/JCSRU), and Court Interpreting Services; and one in Second Circuit related to Domestic Violence Intervention (DVI).

The first two First Circuit requests are for no-cost temporary to permanent position conversions for HZTT and MHU to bring stability to these two important programs. For HZTT, a permanent program manager/coordinator position is critical to providing quality program management while fostering the coordinated team approach needed to ensure that appropriate intervention services are provided to infants, toddlers, and their families to affect family



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unification, the ultimate goal. Currently, there are 17 families and 39 children in the program with 21 children in foster custody, 17 in family supervision, and one in permanent custody awaiting adoption. The two Social Worker position conversions being requested for the MHU are for specially trained probation officers who supervise clients with severe mental illness who are placed on conditional release and discharged from the Hawai'i State Hospital – these clients need intensive supervision and a stable relationship with their probation officer. The temporary designation of these positions has made it difficult to fill these positions. Two filled permanent positions would allow First Circuit to address the waitlist and increase the number of clients participating in Mental Health Court, and increase the number of conditional release clients being supervised by MHU.

The First Circuit is requesting three positions and funding of \$79K in FY 2020 and \$139K in FY 2021 to expand the COC to make it a true mobile court in providing services to communities where residentially challenged individuals reside. Currently, COC sessions are held twice a month in Honolulu District Court, and once a month in Wahiawā District Court and the Wai'anāe Public Library. Since the program began in January 2017, 102 persons have participated in the program, 1,145 cases have been cleared from court dockets, and defendants have served more than 2,100 community service hours. Also requested by First Circuit are two social worker positions and funding of \$59K in FY 2020 and \$109K in FY 2021 for its A/JCSRU. These positions are needed to handle increased workload, help with the COC, address the backlog for restitution and ability to pay studies, manage community service placements, recruit agencies willing to provide community service opportunities, and monitor work sites. The final First Circuit request is for two permanent clerk positions (one of which is a no-cost temporary position conversion) costing in total \$20K in FY 2020 and \$33K in FY 2021 for its Court Interpreting Services Section. These positions are needed to help with the ever-increasing requests for interpreter services as this Section not only must field requests and schedule interpreters for Circuit, Family, and District Court proceedings, but also for all other Judiciary related programs and activities such as Drivers Education classes, divorce and adoption proceedings, specialty courts and programs, Kids First, etc.

The Second Circuit request in the client services area is for an additional \$100K of purchase of service contract funding in both FYs 2020 and 2021 for DVI and victim support services on Maui, Lāna'i, and Moloka'i. Such funding is needed to ensure continuation of these services as failure to adequately compensate the providers may result in less than effective programs and lack of agencies willing to provide these statutorily mandated services.

The remaining two general fund budget requests are for Third Circuit and relate to the new Kona Keahuolū Courthouse scheduled to open in the Fall of 2019. Specifically, one groundskeeper and five additional janitorial positions are being requested to fully staff these services for the new 140,000 square foot courthouse on 10 acres of property. About \$264K in FY 2020 and \$333K in FY2021 are needed for these positions and to fully fund positions for a



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Facilities Manager and Building Maintenance Worker partially funded by the Legislature during its 2018 session. Another \$474K in FY 2020 and \$424K in FY 2021 is being requested to support new building operating costs related to electricity and other utilities; for annual maintenance contracts for elevators, air conditioning, fire alarms, energy management, water treatment, and refuse collection; and for other expenses such as janitorial and building maintenance supplies, and various repair and maintenance costs not covered by contract. The additional \$50K in FY 2020 is for estimated moving expenses from three different buildings/locations, two of which are about 11 miles away, to the new courthouse.

Capital Improvement Project (CIP) requirements remain a major item of concern as the Judiciary's infrastructure continues to age and deteriorate, and as the population served and services provided by the Judiciary keep expanding. CIP funds totaling \$23.3 million in FY 2020 and \$15.9 million in FY 2021 are being requested to address certain critical needs, some of which relate to the health and safety of Judiciary employees and the public. Our top priority CIP funding request is for \$9.2 million in FY 2020 and \$8.1 million in FY 2021 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. These fire alarm systems do not function at full capacity nor comply with current fire codes, and elevator codes now require that all fire alarm systems be updated to current levels so that all systems are compatible with each other thereby necessitating that these projects be tied together. Other FY 2020 requests for Ka'ahumanu Hale include \$2 million to repair leaks into the basement evidence storage and communications rooms and \$1.5 million for atrium security renovations. Ongoing projects require another \$3.5 million in FY 2020 and \$2 million in FY 2021 for security improvements for Hoapili Hale in Second Circuit, and \$2.2 million in FY 2020 and \$2 million in FY 2021 to reroof and repair leaks and damages at Pu'uhonua Kaulike in Fifth Circuit. The Judiciary is also requesting \$850K in FY 2020 for Hoapili Hale parking structure piping renovations, and \$1 million in FY 2020 and \$800K in FY 2021 to upgrade the air conditioning system at Ali'iolani Hale in downtown Honolulu. Lastly, CIP lump sum funding of \$3 million is being requested for both fiscal years so that we can address both continuing and emergent building issues.

The proposed biennium 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 House Bill No. 510, the Judiciary's biennium budget request.

Thank you for the opportunity to testify on this measure.