



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, March 28, 2019, 10:15 a.m.
State Capitol, Conference Room 211

by
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WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 510, H.D. 2, S.D. 1, Relating to the Judiciary.

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

Judiciary's Position:

The Judiciary urges your support of House Bill No. 510, H.D. 2, S.D. 1, 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, economic growth has declined from the previous year. 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. 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 Judiciary is very grateful to the Senate Committee on Judiciary (JDC) for supporting the 21 new permanent positions and funding of \$957K in FY 2020 and \$1.67 million in FY 2021 provided by the House Committees on Finance (FIN) and Judiciary (JUD) in House Bill 510, H.D. 2. These positions and funding were for new judges and supporting staff in First, Second, and Firth Circuits; a Staff Attorney for the Intermediate Court of Appeals; an additional \$100K for domestic violence intervention and support treatment services in the Second Circuit; and two social workers for the Mental Health Unit, a program manager/coordinator for the Hawai'i Zero to Three Court, two clerks for the Court Interpreting Services Section, and a bailiff and two clerks for the Community Outreach Court, all in the First Circuit. We are also especially pleased by JDC's restoration of positions and funding related to the new Keahuolū Courthouse in Kona, scheduled to open in the Fall of 2019, that had not been included in House Bill 510, H.D. 2. Specifically supported by JDC were: (1) one groundskeeper and five additional janitorial positions to fully staff these services for the new 140,000 square foot courthouse on 10 acres of property; (2) full funding for Facilities Manager and Building Maintenance Worker positions partially funded by the Legislature during its 2018 session; and (3) funding to support new building operating costs related to electricity, other utilities, annual maintenance contracts (e.g., elevators, air conditioning, fire alarms, energy management, water treatment, and refuse collection), and other expenses such as janitorial and building maintenance supplies. Additionally, we thank JDC for restoring our request for two social worker positions and funding of \$59K in FY 2020 and \$109K in FY 2021 for First Circuit's Adult/Juvenile Community Service and Restitution Unit.

Besides supporting all of the Judiciary budget requests, JDC provided an additional \$800K for civil legal services for low and moderate income individuals and \$53K for one social worker position for the Office of Public Guardian to handle cases dealing primarily with severe mentally ill persons. While the Judiciary fully supports the programs and purposes for which these funds are intended to be used, we are extremely concerned that JDC has eliminated 33 vacant positions and \$1.3 million to cover these costs totaling \$853K, as well as to cover another \$446K for the Community Outreach Court initially added by JUD and included in Part IV of House Bill 510, H.D. 2, S.D. 1. Specifically:

- (1) Sixteen of these positions eliminated by JDC affect a wide range of Judiciary programs and facilities including two janitors for the courthouse in Kapolei, five judicial clerks spread among various locations, two court documents clerks and three other clerks of which three are in the Court Operations – Legal Documents Division, a court reporter, a planner, a law clerk, and a social services assistant. All the positions are important and needed by the programs involved. Six of the positions have been vacant just six months or less. Almost all of these positions are in the interview process or have recently gone through the interview process with the selectee(s) subsequently deciding not to accept the job offer, thereby necessitating the start of the selection process again. The Judiciary as a whole is



very proactive in recruiting and in trying to fill its vacant positions as quickly as possible, especially since a filled position is important in ensuring that programs run as efficiently as possible and that court and administrative operations are not adversely affected.

- (2) Of the 33 positions, the remaining 17 are juvenile detention workers or juvenile counselors for the Juvenile Detention Facility (JDF) (Hale Ho'omalulu) in Kapolei. Loss of these positions could impact operations at the JDF, result in a loss of flexibility to address a sudden increase in juvenile population counts as many of these are temporary/intermittent positions, and increase the need for and use of overtime, something which First Circuit has made significant progress in reducing during this past year. Just because these positions are temporary or intermittent and lower on our priority of vacant positions does not mean that they are any less valuable or needed for the smooth, efficient overall operation of the JDF. Further, the difficulty in hiring for these positions is evidenced by the fact that there has been an average of almost four open competitive lists per position, without any qualified applicants emerging from the interview and background selection process.
- (3) The \$446K for the Community Outreach Court appears to be incorrectly interpreted as allocated to the Judiciary and considered as an add-on to the Judiciary's budget. We believe this is incorrect because:
 - Part IV, Section 10 of House Bill 510, H.D. 2, S.D. 1 states that "there is appropriated out of the general revenues of the State of Hawai'i the sum of \$445,768....for the community outreach court project." It does not state this sum is appropriated to the Judiciary.
 - Part IV, Section 10(1) states that of the amount appropriated, the Office of Public Defender shall expend \$154,000 for three permanent positions for the community outreach court project, and transfer \$126,364 to the Judiciary and \$165,404 to the prosecuting attorney of the City and County of Honolulu for the community outreach court project. If the funds had been appropriated to the Judiciary, the Office of Public Defender could not be specifically designated to spend and transfer these funds.
 - The last sentence in Part IV, Section 10 states "The sums appropriated shall be expended by the Office of Public Defender (BUF151) for the purposes of this Act"; it does not state the Judiciary shall expend these funds.



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- Part II (PROGRAM APPROPRIATIONS) of House Bill 510, H.D.2, S.D. 1, which shows the amounts appropriated to each Judiciary program, does not reflect an increase of \$446K for the Community Outreach Court to any of the Judiciary programs.
- Communications with the Office of Public Defender and review of applicable worksheets confirm that this \$446K has been and remains a part of the Office of Public Defender's budget base, not the Judiciary's.

With regard to Capital Improvement Project (CIP) requirements, the Judiciary is highly appreciative of JDC's support and funding of all \$23.3 million requested for FY 2020 and \$15.9 million requested for FY 2021. This funding is to support projects to upgrade and modernize fire alarm systems and elevators, repair leaks into the basement evidence storage and communications rooms, and make atrium security renovations at Ka'ahumanu Hale in First Circuit; continue security improvements and begin parking structure piping renovations at Hoapili Hale in Second Circuit; continue the project to reroof and repair leaks and damages at Pu'uhonua Kaulike in Fifth Circuit; upgrade the air conditioning system at Ali'iōlani Hale in downtown Honolulu; and provide CIP lump sum monies to address both continuing and emergent building issues.

In summary, the Judiciary is extremely grateful for all the support provided by JDC, but also respectfully requests restoration of the 33 eliminated positions and related funding of \$1.3 million. With this change and the restoration of funding and positions, the Judiciary respectfully requests your support of House Bill No. 510, H.D. 2, S.D. 1, the Judiciary's biennium budget request.

Thank you for the opportunity to testify on this measure.