

Re: Proposed Pilot Project Re: Limited License Method for Public Employee
(Criminal Law)

Establishing a temporary process for out-of-state attorneys to obtain license reciprocity to pursue employment as a public employee practicing in criminal law.

The Supreme Court of Hawai'i seeks public comment regarding a proposed pilot project which would establish a two-year pilot project to allow for the limited admission of licensed attorneys from out-of-state that desire to practice criminal law on behalf of the Office of the Public Defender, all county prosecutors in the State of Hawai'i, and the Department of the Attorney General.

Comments should be submitted in writing **no later than Monday, May 19, 2025** to the Judiciary Communications & Community Relations Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 808-539-4801, by e-mail to pao@courts.hawaii.gov, or via the [Judiciary website](#).

Attachment.

**PROPOSED PILOT PROJECT
RE: LIMITED LICENSE METHOD
FOR PUBLIC EMPLOYEE (CRIMINAL LAW)**

On January 14, 2025, the court received a letter from the Office of the Public Defender, all county prosecutors in the State of Hawai‘i, and the Department of the Attorney General (the requesting governmental entities) requesting the court establish rules that provide for limited license reciprocity for attorneys actively licensed in another state, territory, or the District of Columbia who seek to practice criminal law on behalf of Hawai‘i government agencies. The letter provides that there is a growing shortage of attorneys willing to pursue careers in government criminal law and that this lack of attorneys “threatens the integrity of Hawai‘i’s criminal justice system.” A copy of the letter is attached hereto as Exhibit A and is incorporated by reference.

It is hereby ordered:

A. On the terms set forth below, the court hereby establishes a two-year pilot project, which shall expire two-years after the effective date of this order.

B. No later than six months prior to the expiration of the pilot project, the requesting governmental entities shall submit a report to the court that provides a recommendation on whether to permanently adopt the pilot project, with relevant information submitted to support the request.

No later than six months prior to the expiration of the pilot project, the Board of Examiners and the Hawai‘i State Bar Association may also submit a report on whether to permanently adopt the pilot project.

C. Any person that receives a limited license under the pilot project shall continue to be entitled to renew the limited license after the expiration of the pilot project under the terms stated therein.

D. The court hereby establishes the following pilot project:

Limited License Method for Public Employee (Criminal Law).

(a) Purpose. This rule establishes a process for a qualified applicant to obtain a limited license to practice law on behalf of the Office of the Public Defender, the County Prosecutors, or the Department of the Attorney General (Qualified Government Entity) in matters involving criminal law including appearances in criminal cases.

(b) Qualifications. A person hired or employed by a Qualified Government Entity, who has been admitted to practice by the highest court of another state, the District of Columbia, or a territory of the United States, and whose license to practice in that jurisdiction is active, who is a graduate of a law school approved by the American Bar Association Council on Legal Education and Admissions to the Bar, and who is in good standing in every jurisdiction where the attorney is licensed may apply for limited admission under this rule.

(c) Process. The applicant shall submit a bar application to the Board of Examiners. The application shall be made, adjudged, and conditioned as provided by the Rules of the Supreme Court of the State of Hawai‘i (RSCH), Rules 1.3(a), (b), (c), (d), (e), (h), (i), 1.4 and 1.5. After completing its review, the Board shall

submit a character and fitness report to the Clerk of the Supreme Court. The Clerk shall review the application and report, and if satisfied that the requirements of this rule have been met, shall submit the application and report to the court for consideration.

(d) Term Limitation; Extensions. A license issued under this rule shall expire on the earlier of: (a) the licensee's cessation of employment with the Qualified Government Entity, unless the licensee has already accepted employment with another Qualified Government Entity and notifies the Hawai'i State Bar Association of the change in employment; or (b) the licensee being issued a license to practice law under another method of licensure under the RSCH.

(e) Attorney's license, form. The license given to the attorney admitted under this rule shall be in the following form.

Supreme Court of Hawai'i

_____, licensee herein, having been examined and found to be of good moral character and to possess the necessary legal and educational qualifications, is hereby licensed to practice in criminal matters before all the courts of the State of Hawai'i as an attorney, counselor and solicitor during good behavior on behalf of the Office of the Public Defender, the County Prosecutors, or the Department of the Attorney General (Qualified Government Entity).

This license shall expire on the earlier of the licensee's cessation of employment with the Qualified Government Entity, unless the licensee has already accepted employment with another Qualified Government Entity and notifies the Hawai'i State Bar Association of the change in employment; or the licensee being issued a license to practice law under another method of licensure under the Rules of the Supreme Court of the State of Hawai'i.

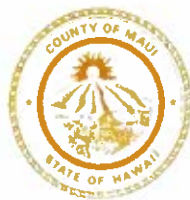
(f) Client and Compensation Limitation. Attorneys admitted pursuant to this pilot project may represent only clients of the Qualified Government Entity. Attorneys admitted under this pilot project may not demand or receive any compensation from clients other than the compensation received from the Qualified Government Entity.

(g) Discipline; Dues. Attorneys admitted pursuant to this pilot project shall be subject to discipline under RSCH Rule 2, and shall in all other respects be required to pay dues and fees lawfully imposed on attorneys licensed to practice law in the State of Hawai'i. The fees for application and certificate of admission shall be assessed and paid on application for admission under this pilot project. The fees determined under RSCH Rule 17(d)(3) shall be assessed and paid from and after admission to the bar without limitation of time.

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII'I 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

January 14, 2025

Honorable Chief Justice Mark E. Recktenwald
Hawaii Supreme Court
417 S. King Street
Honolulu, Hawaii 96813

Dear Chief Justice Recktenwald:

The Department of the Prosecuting Attorney – County of Maui, the Department of the Prosecuting Attorney – City and County of Honolulu, the Office of the Prosecuting Attorney – County of Hawai'i, and the Office of the Prosecuting Attorney – County of Kaua'i (hereinafter "Hawai'i Prosecuting Attorneys"), together with the Department of the Attorney General and the Office of the Public Defender for the State of Hawai'i, respectfully submit this joint request for the Hawai'i Supreme Court's consideration of an amendment to *Rule 1* of the **Rules of the Supreme Court of the State of Hawai'i (RSCH)**. Specifically, we propose limited license reciprocity for attorneys actively licensed in another state, territory, or the District of Columbia who seek to practice criminal law on behalf of Hawai'i government agencies or public defender clients.

Our request arises from a growing shortage of attorneys willing to pursue careers in government criminal law, which now threatens the integrity of Hawai'i's criminal justice system. Prosecuting attorneys serve crime victims in pursuit of justice, while public defenders uphold the constitutional rights of indigent defendants. Without sufficient staffing, these critical functions are compromised. Hawai'i's Prosecuting Attorneys and Public Defenders are all facing sustained attorney shortages. Unfortunately, our issue reflects a nationwide trend. In response, our departments have implemented various recruitment strategies, including flexible work schedules, hiring incentives, and increased salaries. Despite our efforts, we continue to struggle to attract attorneys willing to serve our communities.

The Office of the Public Defender, in particular, has been disproportionately affected. Staff shortages, especially on the Neighbor Islands, have required measures such as triage scheduling and assigning felony attorneys to cover non-felony matters. The situation in Kona has been so severe that the office has been forced to withdraw from all DUI and Class A felony cases. Across Kaua'i, Hilo, Kona, and Maui, public defender vacancies persist.

Honorable Chief Justice Mark E. Recktenwald
January 14, 2025
Page Two

Our national recruitment campaigns have attracted many qualified candidates from outside the state, with interest frequently outpacing that of in-state attorneys. Although our offices are actively recruiting both in Hawai'i and nationally, many experienced out-of-state attorneys lose interest upon learning they must take the Hawai'i bar exam. In researching jurisdictions with general reciprocity, we identified several that allow limited reciprocity for government attorneys – a model we believe could serve Hawai'i well. Delaware, Nevada and New Mexico provide particularly instructive examples:

- **Delaware**¹ allows limited permission to practice on behalf of enumerated public and government entities and allows for further requirements and procedures by rule, while making it clear that the limited permission is not the equivalent of admission to the Delaware Bar.
- **Nevada**² allows limited reciprocity for government attorneys despite its general lack of reciprocity with other jurisdictions.
- **New Mexico**³ demonstrates how limited reciprocity can operate effectively within a state that already allows general reciprocity.

We believe a similar approach in Hawai'i would mirror the state's existing *RSCH Rule 1.16*, which provides limited admission for attorneys employed by nonprofit organizations offering civil legal services to economically disadvantaged individuals.

For these reasons, the undersigned offices – the Hawai'i Prosecuting Attorneys, the Department of the Attorney General, and the Office of the Public Defender – respectfully request the Court's consideration of this proposed amendment to *RSCH Rule 1*.

¹ Delaware Supreme Court Rules, Part V, Subpart A, Rule 55
(<https://courts.delaware.gov/forms/download.aspx?id=182608>)

² Nevada Supreme Court Rules, Rules 49.1 and 49.9 (<https://www.leg.state.nv.us/courtrules/SCR.html>)

³ New Mexico Rules Annotated, Article 3, Rules 15-30 and 15-304
(<https://nmonesource.com/nmos/nmra/en/item/5693/index.do#!fragment//BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoByCgSgBplfTCIBFRQ3AT0otokLC4EbDtyp8BQkAGU8pAELcASgFEAMioBqAQQByAYRW1SYAEbRS2ONWpA>)

Honorable Chief Justice Mark E. Recktenwald
January 14, 2025
Page Three

Thank you for your time and consideration.

Sincerely,



ANDREW H. MARTIN
Prosecuting Attorney
County of Maui



STEVEN S. ALM
Prosecuting Attorney
City and County of Honolulu



KELDEN B.A. WALTJEN
Prosecuting Attorney
County of Hawaii



REBECCA Y. LIKE
Prosecuting Attorney
County of Kauai

Anne E. Lopez

ANNE E. LOPEZ
Attorney General
State of Hawaii



JON N. IKENAGA
Public Defender
State of Hawaii