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SCMF-25-0000464

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the
PILOT PROJECT RE: LIMITED LICENSE METHOD FOR PUBLIC
EMPLOYEE (CRIMINAL LAW)

THIRD AMENDED ORDER
ESTABLISHING A PILOT PROJECT RE: LIMITED LICENSE
METHOD FOR PUBLIC EMPLOYEE (CRIMINAL LAW)
(By: McKenna, C.J., Eddins, Ginoza, Devens, JJ., and
Chief Judge Nakasone, assigned by reason of vacancy)

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 provided 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.

On or about February 10, 2025, the Judiciary published for public comment a proposal to 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 requesting governmental entities. In response, the Hawai'i State Bar Association submitted comments in support of the proposed pilot project.

On June 18, 2025, the court entered the Order Establishing a Pilot Project Re: Limited License Method for Public Employee (Criminal Law) with an effective date of August 14, 2025.

On July 22, 2025, the court entered an Amended Order to move up the effective date to July 22, 2025.

On February 4, 2026, the court entered a Second Amended Order establishing a provisional license program for certain applicants who are awaiting completion of their character and fitness background checks by the Board of Examiners (also known as the Hawai'i Board of Bar Examiners) and the National Conference of Bar Examiners.

Consistent with the purpose of this pilot project, the court will further amend the eligibility requirements for applicants seeking issuance of a provisional license.

Pursuant to this court's authority under article VI, section 7 of the Hawai'i Constitution and Hawai'i Revised Statutes §§ 605-1, -6 (2016) to establish the admission and other requirements for the practice of law in Hawai'i, it is hereby ordered that the Pilot Project is amended and restated as follows:

A. On the terms set forth below, the court hereby establishes a pilot project effective July 22, 2025, which shall expire on November 30, 2027.

B. The requesting governmental entities shall submit a report to the court by June 1, 2027, with a recommendation on whether to permanently adopt the pilot project, with relevant information submitted in support. A copy of this report shall be served on the Board of Examiners and the Hawai'i State Bar Association.

C. On or before September 1, 2027, the Board of Examiners and the Hawai'i State Bar Association may also submit a report on whether to permanently adopt the pilot project.

D. Any person who 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.

E. 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 (Board). 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.

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_____, 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.

(h) Provisional License.

(1) Eligibility Requirements. The Supreme Court may issue a provisional license to an applicant who submits a declaration establishing that the applicant:

(A) has applied under this Rule and meets all requirements for limited admission, except for the completion of the Board's character and fitness review;

(B) has not been suspended or disbarred from the practice of law in any jurisdiction, and is not currently the subject of any attorney disciplinary proceeding or investigation;

(C) has no pending criminal charges for a misdemeanor or felony crime;

(D) has not, as a member of another profession or as a holder of public office, been suspended, censured, or otherwise reprimanded or disqualified, and is not currently the subject of any investigation concerning conduct as a member of another profession or as a holder of public office;

(E) is in compliance with any court order for child support and with any discovery obligations related to a paternity or child support proceeding; and

(F) is in compliance with all student loan obligations.

A declaration submitted under this subsection shall be lodged by the Clerk as a motion. An applicant who does not meet one or more of the eligibility requirements in subsections (B) through (F) may file a motion requesting issuance of a provisional license and explaining why the circumstances giving rise to the disqualification should not preclude provisional licensure. The court may grant such a motion for good cause shown.

(2) Termination of Provisional Licensure.

(A) A provisional license issued under this subsection shall terminate for the following reasons:

- (i) Issuance of the Limited License under this pilot project or upon admission to the State Bar of Hawai‘i;
- (ii) Request of the provisionally licensed lawyer made in writing to the Clerk; or
- (iii) The provisionally licensed lawyer no longer meets the requirements of this Rule.

For termination under this subsection (h)(2)(A)(ii)-(iii), the Clerk shall file a notice of termination with the Supreme Court. Upon receipt of the notice of termination, the Supreme Court shall enter an order terminating the provisional license.

(B) A provisional license issued under this subsection may terminate if the Board or its Applications Review Committee (ARC) determines that the provisionally licensed lawyer has failed to establish the character and fitness qualifications needed for admission to the Bar, as follows:

(i) The Clerk shall notify the provisionally licensed lawyer, by certified mail and return receipt requested, of the adverse determination by the Board or ARC and file the written notification with the Supreme Court. The written notification shall specify the grounds for the determination. The provisional license shall be suspended, effective five (5) days after filing of the Clerk’s written notification.

(ii) If the provisionally licensed lawyer requests a review of the adverse determination by filing, with the Clerk, a written request for a hearing within twenty (20) calendar days after the filing of the Clerk’s written notification, the hearing shall be conducted in accordance with the provisions of Part 4 of the Hawai‘i Board of Bar Examiners Rules of Procedure. The provisional license shall remain suspended until a final determination is made by the Supreme Court under Sections 4.3 and/or 4.4 of the Hawai‘i Board of Bar Examiners Rules of Procedure. If the review is unsuccessful and the adverse determination is maintained, the provisional license shall terminate upon Supreme Court order.

(iii) If the provisionally licensed lawyer does not request a review of the adverse determination as provided in this rule, the Board or the ARC shall file with the Supreme Court a recommendation to terminate the provisional license. The provisional license shall terminate upon Supreme Court order.

(C) The Clerk shall promptly notify the Bar, the applicant’s employing Qualified Government Entity, and all judges of the State of Hawai‘i of any suspension or termination under this Rule.

(3) Provisional Attorney’s license, form. The provisional license given to the attorney admitted under this rule shall be in the following form.

Supreme Court of Hawai‘i

_____, licensee herein, and possessing the necessary legal and educational qualifications, is hereby provisionally 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.

This license is subject to the suspension and termination provisions set forth in the order establishing the Pilot Project re: Limited License Method for Public Employee (Criminal Law).

DATED: Honolulu, Hawai'i, March 30, 2026.

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Vladimir P. Devens

/s/ Karen T. Nakasone

