



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third State Legislature, 2025 Regular Session

Senate Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair

Senator Sharon Y. Moriwaki, Vice Chair

Friday, March 28, 2025 at 10:02 a.m.

Hawai‘i State Capitol, Conference Room 211 & Videoconference

by

Dyan M. Medeiros

Senior Judge, Deputy Chief Judge

Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 398, HD1, SD1 Relating to Compensation for Court-Appointed Representation.

Purpose: Increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardians ad litem in family court proceedings.

Judiciary's Position:

The Judiciary offers this testimony in strong support of House Bill No. 398, HD1, SD1.

Guardians Ad Litem (“GALs”) perform a critical role in a wide range of family court cases. They represent the best interests of children who have been abused or neglected in Child Protective Act (“CPA”) cases brought under Hawai‘i Revised Statutes (“HRS”) Chapter 587A. They are appointed in many involuntary hospitalization proceedings initiated pursuant to HRS § 334-60.3 and in all assisted community treatment proceedings initiated pursuant to HRS § 334-123. They may be appointed to represent the best interests of children in child custody and visitation matters, such as in divorce and paternity cases. They may also be appointed to represent the interests of a defendant in a divorce, annulment, or separation case if the court believes the defendant is not fully competent pursuant to HRS § 580-6. They may be appointed for incapacitated adults or minor



children in guardianship cases. The subjects of these proceedings are among the most vulnerable members of our community and they frequently are unable to advocate for themselves or meaningfully participate in court proceedings that may significantly impact their lives. GALs give a voice to and advocate for their best interests.

Court appointed attorneys play a similarly critical role in family court cases. They provide constitutionally-mandated representation to individuals whose parental rights are at stake in CPA cases and to minors who have been charged with law violations. They are sometimes appointed to represent minors in CPA cases as well. They are also required under federal law to protect the interests of absent military members in all cases if a default is being requested.

The work court-appointed GALs and attorneys perform in family court cases is extremely important. The cases can be extremely complex. The work requires expertise and experience. It is in our community's interest to attract and retain highly competent individuals to serve as GALs and attorneys in family court cases.

The pool of individuals who are willing and able to serve as GALs and court appointed attorneys is small. For example, in the first judicial circuit, there are only two individuals who are consistently willing and available to be appointed as GALs in involuntary hospitalization cases. There is only one individual who is consistently willing and available to be appointed as a GAL in assisted community treatment cases down from two individuals last year. There are three attorneys (down from four) who are consistently willing and available to take on juvenile law violator cases without limitation. (Other attorneys may be able to take on cases but limit the types of cases they will accept.) In CPA cases, the limited number of attorneys who are willing to serve as parent counsel is particularly concerning. In the first judicial circuit, for example, there are only four attorneys who are under contracts to represent parents (down from six last year), and we are concerned that number may drop even more. There is one attorney who is not under contract but it is unclear whether he will continue to accept cases. The other judicial circuits have similarly limited pools of available GALs and attorneys.

The Judiciary has taken steps to recruit more GALs and court-appointed attorneys. For example, the family court, in partnership with several government and community-based organizations and attorneys, has held training sessions for potential GALs in assisted community treatment cases and for parent counsel in CPA cases. A local non-profit law firm has graciously agreed to accept appointments as counsel in CPA cases but they can only represent Native Hawaiian parents and the number of cases they can accept is limited by the fact that they only have one attorney to accept the appointments.

While these efforts have had some success, the need is still significant. The Judiciary is very concerned that, unless the number of individuals who are willing and available to serve as GALs and court-appointed attorneys increases, there will be delays in these cases. In addition, we are concerned that increasing the workload of the available GALs and attorneys may negatively impact the quality of the representation they are able to provide.



House Bill No. 398, HD1, SD1, Relating to Compensation for Court-Appointed Representation.
Senate Committee on Ways and Means
Friday, March 28, 2025 at 10:02 a.m.
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The number of individuals and attorneys who are willing and able to serve as family court appointed GALs and attorneys needs to increase. One important way to encourage

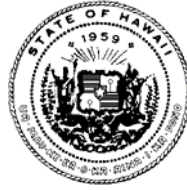
attorneys to be willing to undertake this demanding work is to ensure that they are adequately compensated for that work.

The last time the statutory compensation rates for family court appointed attorneys and GALs was increased was in 2007, approximately eighteen years ago. Presently, family court appointed attorneys and GALs are paid at rates prescribed under HRS § 571-87, which sets their compensation at \$60 per hour for out-of-court work and \$90 per hour for in-court work. In contrast, attorneys in private practice who specialize in family court cases routinely charge between \$250 and \$450 per hour regardless of whether they are working in court or out of court.

A significant increase in the rates at which the Judiciary can compensate GALs and attorneys and the elimination of the compensation distinction between in-court and equally valuable out-of-court work should help increase the pool of individuals willing and able to perform this critical work. (Out of court work includes but is not limited to drafting court pleadings, preparing clients for court, making sure parents in CPA cases are following their service plan, etc.) This, in turn, will ensure that the parties in these important cases have access to representation and will allow the family courts to hear these cases without unnecessary delay.

Thank you for the opportunity to provide testimony on this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



RYAN I. YAMANE
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
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Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

March 27, 2025

TO: The Honorable Senator Donovan Dela Cruz, Chair
Senate Committee on Ways and Means

FROM: Ryan I. Yamane, Director

SUBJECT: **HB 398 HD1 SD1 – RELATING TO COMPENSATION FOR COURT-APPOINTED REPRESENTATION.**

Hearing: March 28, 2025, 10:02 a.m.
Conference Room 211 & Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the Judiciary's measure for funds to increase the compensation of court-appointed counsel and guardian ad litem in family court proceedings.

PURPOSE: This bill increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardians ad litem in family court proceedings. (SD1)

The Committee on Judiciary and Hawaiian Affairs amended the measure by:

- (1) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

The Committee on Judiciary amended this measure by making it effective upon its approval.

The legal representation provided by court-appointed counsel and guardian ad litem is necessary at every point of decision-making, especially in child welfare cases pursuant to

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Chapters 587A and 346, Hawaii Revised Statutes. Increasing compensation will assist counsel with keeping up with the cost of doing business in Hawaii and may encourage more counsel to provide these essential services.

Thank you for the opportunity to provide testimony in support of this measure.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
PRINCESS VICTORIA KAMĀMALU BUILDING
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
March 28, 2025

The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means
The Thirty-Third Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Dela Cruz, and Committee Members:

SUBJECT: HB398 HD1 SD1 Relating to Compensation for Court-Appointed Representation

The Hawaii State Council on Developmental Disabilities **SUPPORTS HB398 HD1 SD1**, which increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardians ad litem in family court proceedings.

The Council serves as an advocate and resource to ensure that individuals with intellectual and developmental disabilities (I/DD) in Hawai'i have access to services and supports that promote independence, self-determination, and community inclusion. Court-appointed counsel and guardians ad litem (GALs) play a critical role in protecting the rights of individuals with I/DD, particularly in cases involving guardianship, family court proceedings, and other legal matters where their interests must be represented.

For individuals with I/DD, the presence of qualified and adequately compensated legal representatives is essential. These professionals ensure that the unique needs, preferences, and rights of individuals with I/DD are appropriately considered in court decisions. Competitive compensation rates are vital for attracting attorneys and GALs with the specialized knowledge necessary to address the complexities associated with I/DD cases. Higher rates will also allow court-appointed representatives to dedicate the time and resources needed for comprehensive case preparation, resulting in better advocacy and outcomes for individuals with I/DD. Furthermore, well-compensated representatives can more thoroughly explore and present less restrictive alternatives to guardianship, such as Supported Decision-Making (SDM), ensuring that the autonomy and decision-making rights of individuals with I/DD are preserved whenever possible. Cases involving individuals with I/DD often intersect with sensitive family matters. Experienced representatives who are fairly compensated are better positioned to navigate these complexities and advocate effectively for the best interests of the individual.

Thank you for the opportunity to submit testimony in **support of HB398 HD1 SD1**.
Sincerely,



Daintry Bartoldus, Executive Administrator

TESTIMONY
Senate Committee on Judiciary
Hearing: Friday, March 28, 2025

TO: Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

FROM: Mark M. Murakami, HSBA President

RE: HB 398, HD1, SD1 - RELATING TO COMPENSATION FOR
COURT-APPOINTED REPRESENTATION

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

Thank you for this opportunity to testify in **STRONG SUPPORT** of HB 398, HD1, SD1 Relating to Compensation for Court-Appointed Representation. This measure would increase the rate of compensation for court-appointed counsel and guardians ad litem (GAL) in family court proceedings.

Qualified legal representation is necessary and critical in family court proceedings. The rates of compensation have remained stagnant for this critical work, which makes it increasingly difficult to recruit and retain qualified counsel to provide these services. Court-appointed counsel and GAL serve a critical role in ensuring children's best interest are served and family safety remains a priority.

Mahalo for this opportunity to provide testimony in strong support.

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Committee: Ways and Means
Hearing Date/Time: Friday, March 28, 2025, at 10:02am
Place: Conference Room 211 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of HB398 HD1 SD1 Relating to Compensation for Court-Appointed Representation**

Dear Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

The ACLU of Hawai'i **supports HB398 HD1 SD1** which increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel and guardians ad litem in family court proceedings.

Court-appointed counsel protect the constitutional rights of indigent persons in Family Court proceedings and deserve fair compensation. They are integral to safeguarding the due process rights of persons, including not limited to persons subject to Assisted Community Treatment proceedings where involuntary treatment or forced medication is considered – and often ordered by the Court.

Additionally, Guardian Ad Litem play a critical role within family court proceedings. Under Hawai'i Revised Statutes (HRS) Chapter 587A, they represent the best interests of children who have been abused or neglected in Child Protective Act (CPA) cases and on occasion, in child custody matters.

For these reasons, we respectfully request that you pass **HB398 HD1 SD1** and increase the rate of compensation and maximum allowable amount per case for court-appointed counsel and guardian ad litem in family court proceedings.

Sincerely,
Carrie Ann Shiota
Policy Director
ACLU of Hawai'i
cshiota@acluhawaii.org

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this mission through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds.
The ACLU of Hawai'i has been serving Hawai'i since 1965.*

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Council Services Division
4396 Rice Street, Suite 209
Līhu'e, Kaua'i, Hawai'i 96766

March 27, 2025

**TESTIMONY OF ADDISON BULOSAN
COUNCILMEMBER, KAUAI COUNTY COUNCIL**

ON

**HB 396, HD 1, SD 1, RELATING TO COMPENSATION FOR COURT-
APPOINTED COUNSEL**

**HB 398, HD 1, SD 1, RELATING TO COMPENSATION FOR COURT-
APPOINTED REPRESENTATION**

HB 428, HD 1, SD 1, RELATING TO FARM TO FAMILIES

Senate Committee on Ways and Means

Friday, March 28, 2025

10:02 a.m.

Conference Room 211

Via Videoconference

Dear Chair Dela Cruz and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of HB 396, HD 1, SD 1, Relating to Compensation for Court-Appointed Counsel, HB 398, HD 1, SD 1, Relating to Compensation for Court-Appointed Representation, and HB 428, HD 1, SD 1, Relating to Farm to Families. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of HB 396, HD 1, SD 1, HB 398, HD 1, SD 1, and HB 428, HD 1, SD 1, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of HB 396, HD 1, SD 1, HB 398, HD 1, SD 1, HB 428, and HD 1, SD 1. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

ADDISON BULOSAN
Councilmember, Kaua'i County Council

JY:dmc