



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Tuesday, January 28, 2025, 9:15 a.m.

State Capitol, Conference Room 016

By

Ronald G. Johnson

Deputy Chief Judge, Criminal Administrative Judge

Circuit Court of the First Circuit

Bill No. and Title: Senate Bill No. 263, Relating to Compensation for Court-Appointed Counsel.

Purpose: Increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel in criminal proceedings. Appropriates moneys.

Judiciary's Position:

The Judiciary **strongly supports** this measure.

Over the last decade there has been a dramatic decrease in qualified applicants to the court-appointed lists of each circuit, which has in turn caused a shortage of available qualified and competent counsel to take indigent defendant criminal cases statewide. The primary factor driving this reduction is the low hourly rate of pay offered for these cases. In order to attract skilled and experienced individuals to serve as appointed counsel for these defendants, we must ensure that appointed counsel are adequately compensated for their work. This measure will greatly aid in recruiting and retaining counsel who are qualified, experienced, and willing to be appointed in criminal proceedings.



Senate Bill No. 263, Relating to Compensation for Court-Appointed Counsel
Senate Committee on Judiciary
Tuesday, January 28, 2025
Page 2

Indigent criminal defendants have a constitutional right to representation by competent counsel appointed by the court. Once qualified, these defendants are usually represented by the Office of the Public Defender. However, in cases where there is, or there arises, a conflict between the defendant and the Office of the Public Defender, the defendant has a right to the appointment of a private defense counsel. These private defense counsel are appointed by the court from lists of qualified applicants maintained by the court.

On Oahu, the court maintains separate lists for appellate cases, misdemeanors, “A”, “B”, and “C” felonies, sexual assaults, and murder cases. Private counsel are placed on the list, or lists, appropriate to their level of skill and experience. Currently there are only thirteen qualified attorneys on the Circuit Court of the First Circuit’s “A” felony list. The same thirteen are on the murder case appointment list and only eleven of those are willing to take “A” felony sexual assault cases. Our largest list, those willing to take “C” felony cases, contains only twenty-five qualified attorneys and we only have nine attorneys willing to take appeals to the appellate courts. There are simply not enough qualified attorneys willing and able to take indigent criminal cases, especially the serious felony cases.¹

The situation on the outer islands is more critical, with courts in the other circuits often forced to appoint, and pay the travel costs, for attorneys from the First Circuit in order to meet the demand for court-appointed counsel. The situation is exacerbated on Hawai‘i Island as, due to their own shortage of attorneys, the Office of the Public Defender is no longer able to take any “A” felony or operating a vehicle under the influence of an intoxicant (“DUI”) cases out of the Kona District. It is currently taking the court between three to four weeks to find counsel willing to accept the appointments and as of last fall there were 35 defendants awaiting appointment of counsel between Kona’s District and Circuit Court.

The current rate of pay of \$90 per hour has not been adjusted in twenty years and went into effect on July 1, 2006. In stark contrast, on the federal level during that same time period, the rate has been increased every year and currently the non-capital case rate is \$175 per hour and \$223 per hour in capital cases, with maximum per-case amounts of \$13,600 for felony cases, \$3,900 for misdemeanors, and \$9,700 for appeals.² There are several private attorneys who will only take federal court appointed cases for this very reason. This measure raises the compensation rates and maximums to those similar to the federal rates in order to safeguard the rights of indigent State defendants, by ensuring the demand for competent and qualified court-appointed private counsel can be met.

Thank you for the opportunity to testify on this measure.

¹ For context, in 2024, there were approximately 1468 Circuit Court Criminal and 1374 Family Court Criminal felony and misdemeanor cases filed in the First Circuit. Therefore, not even counting the District Court misdemeanor and petty misdemeanor cases, there were 2842 cases filed in the First Circuit where a defendant had the constitutional right to counsel. The vast majority of these defendants qualify for court appointed counsel.

² There is no maximum in capital cases on the federal level.

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**Testimony of the Office of the Public Defender,
State of Hawai'i to the Senate Committee on Judiciary**

January 28, 2025

**S.B. 263: RELATING TO COMPENSATION FOR COURT-APPOINTED
COUNSEL.**

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Office of the Public Defender **strongly supports the intent of S.B. 263.**

This measure would increase the compensation that a court-appointed attorney would receive for legal services in our Statewide justice system. This rate increase is necessary to ensure the quality and availability of attorneys willing and able to provide these essential services across the State of Hawaii. The current fee structure has rendered it difficult to recruit and maintain attorneys qualified to provide these services. The Judiciary and the criminal justice system need dedicated qualified attorneys to provide these constitutionally mandated services and we submit this measure is long overdue and necessary for the administration of justice.

Court-appointed attorneys must be qualified and have the requisite specialized legal knowledge and skills to provide zealous and competent counsel to adults and juveniles charged with criminal offenses and law violations in each Circuit, District and Family Courts across our State. There is an acute shortage of attorneys available to provide these services based on a variety of factors – but the most pressing factor is the low pay. Attorneys who may be qualified and who have the requisite experience levels are refusing to accept court-appointments or they have simply

removed their names from the list of available counsel because they can find other work that pays a living wage and compensates them more fairly for their time and work. Attorneys are skilled professionals and the practice of criminal defense for adult defendant and juvenile defendants is highly specialized – requiring extensive knowledge on trial rules and procedures, evidentiary rules and objections, motions practice, practical knowledge on the workings of the different Circuit, District and Family Courts, and the ability to communicate effectively with clients of all ages, all backgrounds, and levels of criminality. Court-appointed attorneys are often the last resort when working with a mentally ill defendant with communication challenges and trust issues because of past trauma, cognitive damage, recurring bouts of decompensation, drug use, and other serious personality and stability challenges. Court-appointed attorneys often work with the most difficult and time-consuming clients in the criminal justice system and their work and skills with this population must be compensated fairly. Court-appointed attorneys are essential when the Office of the Public Defender cannot represent an indigent person because of a legal conflict and they provide a critical safety net for defendants in need of independent legal advice and counsel.

It should be noted that the criminal justice system has become more complex with advancements in forensic science, there has been a steady increase in materials to review as cases become more involved requiring more time and more expertise – including access to hours of body worn camera videos and other types of surveillance, the need to do legal research and keep up with advancements in science, and the constant need to maintain current knowledge of the laws – statutory and case law. Qualified court-appointed attorneys should be considered essential and valuable assets in the administration of justice.

Constitutionally mandated Due Process and the Right to Counsel require skilled professionals be made available to any person accused of a crime. Court-appointed attorneys deserve fair pay and should be compensated appropriately for their time, skills, and dedication to the administration of justice. This measure is necessary to alleviate the acute shortage of attorneys able and willing to accept court-appointments Statewide.

Thank you for the opportunity to comment on this measure.

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Council Services Division
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January 23, 2025

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

**SB 261, RELATING TO JURY DUTY,
SB 262, RELATING TO PROSPECTIVE JURORS,
SB 263, RELATING TO COMPENSATION FOR COURT-APPOINTED COUNSEL,
SB 264, RELATING TO THE EXAMINATION OF CRIMINAL DEFENDANTS,
SB 265, RELATING TO COMPENSATION FOR COURT-APPOINTED
REPRESENTATION,
SB 266, RELATING TO DISTRICT COURT JUDGES, AND
SB 267, RELATING TO DISTRICT COURT JUDGES
Senate Committee on Judiciary
Tuesday, January 28, 2025
9:15 a.m.
Conference Room 016
Via Videoconference**

Dear Chair Rhoads and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of SB 261, Relating to Jury Duty, SB 262, Relating to Prospective Jurors, SB 263, Relating to Compensation For Court-Appointed Counsel, SB 264, Relating to The Examination of Criminal Defendants, SB 265, Relating to Compensation for Court-Appointed Representation, SB 266, Relating to District Court Judges, and SB 267, Relating to District Court Judges. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of SB 261, SB 262, SB 263, SB 264, SB 265, SB 266, and SB 267, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of SB 261, SB 262, SB 263, SB 264, SB 265, SB 266, and SB 267. 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

AAO:slr

Rebecca V. Like
Prosecuting Attorney



Keola Siu
First Deputy
Prosecuting Attorney

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Līhu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

The Honorable Karl Rhoads, Chair
Senate Committee on Judiciary
Thirty-third State Legislature
Regular session of 2025
State of Hawai'i
January 26, 2025

RE: SB 263 Related to Compensation for Court Appointed Counsel

Dear Chair Rhoads:

SB 263 would increase the rate of compensation and maximum allowable amounts per case for court-appointed counsel in criminal proceedings from \$90/hour to \$150/hour and increases the maximum allowable fee for cases based on the severity of the charge. Our Office SUPPORTS SB 263.

It is increasingly difficult to find defense counsel willing to take court-appointed cases. Given the size of Kauai, frequent conflicts arise preventing the Office of the Public Defender from being able to represent clients. Not being able to secure counsel, especially in more serious cases, causes unnecessary delays and can lead to public safety concerns. Most of the current court appointed counsel for serious cases on Kauai come from Oahu. This means added costs for flights as well as less time with their client who is likely housed on Kauai.

We want to take this opportunity to highlight that the Deputy Public Defenders who have training, expertise and experience in working with indigent defendants make nowhere near \$90/hour, much less the newly proposed amount. For example, there are currently openings at the Office of the Public Defender for entry level attorney positions that pay \$86,968/year for a Deputy Public Defender II. A Deputy Public Defender IV needs to have handled felony cases for at least 3 years, preferably completing 10 or more jury trials would receive \$119,208/year. Court appointed counsel need not have this level of experience but at the rate of \$150/hour would earn \$312,000/year.

Our Office has concerns that increasing the hourly court appointed rate could also have a negative impact on our Office where our deputies make between \$120,000 and \$136,512. Under this court-appointed pay scale, our deputies could work less than half time as court appointed counsel and make more money.

The Kauai Office of the Prosecuting Attorney submits this testimony in SUPPORT of SB 263.

Thank you for the opportunity to testify.



TESTIMONY

Senate Committee on Judiciary

Hearing: Tuesday January 28, 2025 (9:15 a.m.)

TO: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

FROM: Mark M. Murakami, HSBA President

RE: Senate Bill No. 263 - RELATING TO COMPENSATION FOR
COURT-APPOINTED COUNSEL

Chair Rhoads and members of the Senate Committee on Judiciary, the Hawaii State Bar Association ("HSBA") appreciates the opportunity to offer testimony in **STRONG SUPPORT** of Senate Bill No. 263.

The Hawaii State Bar Association wholeheartedly endorses Senate Bill No. 263, which would increase the rates of compensation for court appointed counsel in criminal proceedings. Currently, there is a small pool of qualified applicants to serve as court-appointed counsel. The rate of pay for court-appointed counsel has not been adjusted in twenty years, which makes it difficult for the judiciary to recruit and retain qualified counsel to represent indigent defendants in criminal cases across the state.

Mahalo for this opportunity to provide testimony in support.

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Hawai'i Association of Criminal Defense Lawyers

January 27, 2025

LATE

By Richard H.S. Sing
Vice-President, Hawaii Association of Criminal Defense Lawyers
State of Hawaii

S.B. 263: RELATING TO COMPENSATION FOR COURT-
APPOINTED COUNSEL – **STRONG SUPPORT**

Chair Karl Rhoads
Vice Chair Mike Gabbard
Honorable Committee Members

The Hawai'i Association of Criminal Defense Lawyers (HACDL) is a local organization of lawyers practicing in state and federal courts. HACDL members include public defenders and private counsel who represent people accused of committing crimes.

HACDL fully supports this bill. The rates for court-appointed counsel has been fixed for decades, while the cost of living, fine schedules, and other costs have increased. This bill is overdue and is a step in the right direction.

Judges in criminal cases all over the State have struggled to find competent counsel willing to represent people who cannot, either under the law through conflicts of interest matters or other ethical issues, be represented by attorneys at the Office of the Public Defender. Raising the rates will help encourage attorneys to take on these cases.

The current compensation rate has not been adjusted in almost twenty years and is a fraction of the prevailing rate for competent trial counsel. Raising this rate will greatly assist in the safeguarding of the rights of indigent defendants and ensuring the health of our criminal justice system.

HACDL hopes this much-needed bill becomes law.



LATE

Committee: Judiciary
Hearing Date/Time: Tuesday, January 28, 2025, at 9:15am
Place: Conference Room 016 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of SB263 Relating to Compensation for Court-Appointed Counsel**

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:
The ACLU of Hawai'i supports **SB263** which increases the rate of compensation and maximum allowable amounts per case for court-appointed counsel in criminal proceedings.

In *Gideon v. Wainwright*,¹ the U.S. Supreme Court established the fundamental right to an attorney for people accused of crimes and facing incarceration, regardless of their wealth or poverty. Since *Gideon*, the right to counsel has been expanded to include [children](#) in juvenile delinquency proceedings, [probationers](#) in probation revocation proceedings, and people charged with [misdemeanors](#).

The Supreme Court has established that the right includes an obligation for lawyers to correctly advise their clients about certain [immigration consequences](#) of criminal convictions, and that the right includes effective assistance of counsel during [plea bargaining](#).

The overwhelming majority of criminal cases in Hawai'i proceed against people who cannot afford to hire their own attorney, and disproportionately impacts Native Hawaiians and Pacific Islanders. **Roughly [four out of five](#) criminal defendants do not have the means to hire a lawyer and rely on public defenders or court-appointed lawyers.** Without adequate public defense, most people in the criminal legal system face the full force of government power with nothing more than illusory rights.

The right to counsel also protects other constitutional rights. When we don't protect the right to counsel, we also sacrifice our rights against unreasonable searches and seizures, against excessive bail, to confront one's accusers, to have prosecutors disclose exculpatory evidence before trial, and many others.

For these reasons, we respectfully request that you pass **SB263** and increase the rate of compensation and maximum allowable amount per case for court-appointed counsel in criminal proceedings who are safeguarding the constitutional rights of indigent persons.

Sincerely,
Carrie Ann Shirota
Policy Director
ACLU of Hawai'i
cshirota@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 through legislative, litigation, and public education programs. 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. Since 1965, the ACLU of Hawai'i has been serving Hawai'i.

¹ <https://supreme.justia.com/cases/federal/us/372/335/>

LATE

SB-263

Submitted on: 1/27/2025 5:03:27 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Daniel Kawamoto	Testifying for Law Office of Daniel Kawamoto	Support	Remotely Via Zoom

Comments:

Hello,

My name is Daniel Kawamoto, bar number 8722. I have been a practicing attorney in Hawaii since 2007, and have been a criminal defense attorney since 2011. Prior to becoming a licensed attorney, I was a law clerk for the Honorable Karl K. Sakamoto in the First Circuit, from 2006 - 2007.

While I was a law clerk, the court appointed rate increased from \$60/h for in-court time and \$40/h for out-of-court time up to \$90/h. The rate has never changed since then.

Since 2007, we have experienced the 2008 financial crisis, government furloughs, a global pandemic, supply chain disruptions, multiple U.S. presidents, and ever increasing inflation rates. Hawaii's minimum wage has risen from \$7.25/h in January of 2007 to \$14/h in 2024. However, the court appointed rate has remained the same throughout it all.

Last year, this committee approved the rate increase, before the measure died in the Ways and Means Committee. I hope this committee approves the measure again, as it is much needed.

Over the last few years, I have noticed fewer and fewer attorneys wanting to take on court appointed work, because it simply wasn't worth it. I myself am not on the Class A Felony list, because I don't want to do a complicated murder case for \$90/h. Experienced attorneys who have left the Office of the Public Defender or the Department of the Prosecuting Attorney to hang up their own shingle often times do not add themselves to the Class A list for the same reason. This has lowered the quality of available representation for individuals with the most serious needs.

The problem is exacerbated by several veteran attorneys retiring, and leaving massive vacancies in the ranks of attorneys willing to do the work. These older attorneys, in large part, were willing to do the work for lower rates because they've been doing the work at those rates for so long. Younger attorneys, having to make the cost-benefit analysis for the first time, will not agree to do the work if the compensation is not there.

Anecdotally, this pay increase is one that I've found to be non-controversial and agreed upon by the judiciary, prosecutors, and of course, defense attorneys. It is much-needed for the health of the judiciary, and I hope this committee approves this bill.

- Daniel Kawamoto

LATE

SB-263

Submitted on: 1/27/2025 7:30:47 PM

Testimony for JDC on 1/28/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Nonohe Botelho	Testifying for Hawaii Coalition for Child Protective Reform	Support	Written Testimony Only

Comments:

IN SUPPORT

LATE

A|N|H

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January 27, 2025

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Senator Stanley Chang
Senator Joy A. San Buenaventura
Senator Brenton Awa
Judiciary Committee

Re: SB 263 - Relating to Compensation for Court Appointed
Counsel

Senator Karl Rhoads, Senator Mike Gabbard, and Judiciary Committee Members
Senator Stanley Chang, Senator Joy A. San Buenaventura, Senator Brenton
Awa:

I write to you in strong support of Senate Bill 263 *Relating to Compensation for Court Appointed Counsel* both as the current **President of the Hawaii County Bar Association** which represents many court-appointed attorneys (criminal and family) but also as an attorney who does criminal court-appointed attorney work. This change in court appointed criminal attorney compensation is long overdue, having last been adjusted in 2006, or almost nineteen (19) years ago.

In 2006, the compensation for court-appointed attorneys for State cases in Hawaii was raised to \$90 an hour and was similar to the then rate Federal court-appointed criminal attorneys made or \$92 an hour. (See attached pages 1-3 of *Chapter 2, § 230; Compensation and Expenses of Appointed Counsel*, with relevant portions highlighted.)

Per Federal Statutes, the Federal compensation has automatically risen, and Federal court-appointed criminal attorneys now make **\$175** an hour vs. \$90 an hour. According to the official U.S. Consumer Price, it now takes \$139.58 to buy what \$90 would buy in July 2006. (See attached *Printout of U.S. Consumer Price Index Calculator* from July 2006 to December 2023, relevant portions highlighted.)

Page Two

I am unaware of ANY person or entity that is paid 2006 rates for work for the State of Hawaii in 2025.

This increase is necessary because Hawaii Courts are having an increasingly difficult time getting attorneys to do court-appointed work as the compensation rate is so low, and the work is so immediate and demanding. (For example, my hourly rate for Family Court cases is currently \$400 an hour, meaning that when I do work for the State of Hawaii, I am earning only 22.5% of what I can make doing a divorce or paternity case, how sustainable is that?)

This is especially a problem on the Big Island, because the pool of attorneys doing court-appointed work is so small and shrinking. Often, my partner and I will get calls from the Courts in Waimea and Kona as multiple conflicts may exist, and no other attorneys are available. We sometimes take these cases as a public service, but they are a financial hardship (in addition to the low rates, we are not compensated at an hourly rate to drive to and from Waimea or Kona) and are often time pressing if the client is in custody.

This problem is unsustainable, and will soon cause some serious public safety issues in the State of Hawaii. At a recent Third Circuit Bench Bar Meeting, it was stated that more than seventy (70) Operating a Vehicle Under the Influence of an Intoxicant (OVUII, or Hawaii's version of DUI/DWI) active cases in Kona District Court were awaiting appointment of court-appointed counsel, since nobody would accept appointment (due to the low rate of compensation. Under Hawaii law, a criminal defendant has the right to a speedy trial within one hundred eighty (180) days of the time they are arrested.

What happens when a person cannot have trial within that time period? **It is possible that the cases have to be dismissed for lack of prosecution.** How does that help public safety in the State of Hawaii if cases start being dismissed because the Defendant does not have counsel? It may start out with petty misdemeanor cases being dismissed, but what happens when the courts are forced to dismiss felony cases?

Not having an adequate number of attorneys willing to do court-appointed criminal work due to low compensation eventually costs everyone more, as innocent people can get ground up by the system, cases take longer to resolve, (costing more time and money, and possibly risk dismissal for lack of prosecution) and can be a cause of increased incarceration. Furthermore, if

shoddy criminal defense work is done, it can further clog up the system with unnecessary appeals. Hawaii's court-appointed criminal defense rate has not
Page Three

risen in almost twenty (20) years, all the while local cost of living has skyrocketed. This increase is long past due, and hopefully it will not take this long to re-examine this issue in the future.

The \$150 an hour for criminal court-appointed rate is reasonable and cost effective. As a court-appointed attorney, the State of Hawaii does not pay my medical or malpractice insurance, my rent, or my retirement. I pay that. Respectfully, the compensation for court-appointed attorneys in criminal cases in Hawaii should have been increased a long time ago, and \$150 an hour is a reasonable increase; and it should not take almost twenty (20) years to re-address this issue in the future, and I strongly urge this committee to support the increase, and not wait another nineteen (19) years to readdress this.

Truly yours,

/s/William Heflin

William B. Heflin

Encl: Pages 1-3 of *Chapter 2, § 230; Compensation and Expenses of Appointed Counsel*, relevant portions highlighted.

Printout of U.S. Consumer Price Index Calculator from July 2006 to December 2024.

§ 230 Compensation and Expenses of Appointed Counsel

§ 230.10 Forms for Compensation and Reimbursement of Expenses

The eVoucher system is the judiciary's primary method for CJA panel voucher submission and processing. See: [Guide, Vol. 7A, § 140](#). Legacy forms for the compensation and reimbursement of expenses to appointed counsel, together with instructions for their use, may be found on the [public judiciary website](#). A copy of all supporting documents that itemize or expand the amounts shown on the face of [Form CJA 20](#) must be attached when submitting vouchers in the eVoucher system.

§ 230.13 Time Limits

(a) Vouchers should be submitted no later than 45 days after the representation concludes, unless good cause is shown. The clerks or CJA supervisory attorneys of the concerned courts should ensure that panel attorneys comply with the prescribed limits. Every effort should be made to have counsel submit the claim as soon as possible upon completion of services rendered. While extremely late submissions may impact the ability to adequately substantiate claims, voucher reductions based solely on submissions outside of the 45-day time limit are not authorized. See: [§ 230.33.10 \(Standard for Voucher Review\)](#).

(b) Absent extraordinary circumstances, judges should act upon panel attorney compensation claims within 30 days of submission.

§ 230.16 Hourly Rates and Effective Dates in Non-Capital Cases

(a) Except in federal capital prosecutions and in death penalty federal habeas corpus proceedings, compensation paid to appointed counsel for time expended in court or out of court or before a U.S. magistrate judge may not exceed the rates in the following table. For information on compensation of counsel in federal capital cases and death penalty federal habeas corpus proceedings, see: [Guide, Vol 7A, § 630](#).

§ 230.16(a) Non-Capital Hourly Rates

If services were performed between...	The maximum hourly rate is...
01/01/2025 to present	\$175
01/01/2024 through 12/31/2024	\$172
01/01/2023 through 12/31/2023	\$164
01/01/2022 through 12/31/2022	\$158
01/01/2021 through 12/31/2021	\$155
01/01/2020 through 12/31/2020	\$152
02/15/2019 through 12/31/2019	\$148
03/23/2018 through 02/14/2019	\$140
05/05/2017 through 03/22/2018	\$132
01/01/2016 through 05/04/2017	\$129
01/01/2015 through 12/31/2015	\$127
03/01/2014 through 12/31/2014	\$126
09/01/2013 through 02/28/2014	\$110
01/01/2010 through 08/31/2013	\$125

§ 230.16(a) Non-Capital Hourly Rates

If services were performed between...	The maximum hourly rate is...
03/11/2009 through 12/31/2009	\$110
01/01/2008 through 03/10/2009	\$100
05/20/2007 through 12/31/2007	\$94
01/01/2006 through 05/19/2007	\$92

(b) For rates applicable to services performed prior to May 1, 2002 for non-capital cases, please contact the AO's Defender Services Office, Legal and Policy Division Duty Day Attorney, at 202-502-3030 or via email at DSO_LPD@ao.uscourts.gov.

§ 230.20 Annual Increase in Hourly Rate Maximums

Under [18 U.S.C. § 3006A \(d\)\(1\)](#), the Judicial Conference is authorized to increase annually all hourly rate maximums by an amount not to exceed the federal pay comparability raises given to federal employees. Hourly rate maximums will be adjusted automatically each year according to any federal pay comparability adjustment, contingent upon the availability of sufficient funds. The new rates will apply with respect to services performed on or after the effective date.

CPI Inflation Calculator

CPI Inflation Calculator

\$

90.00

in year1 month

July

▼

year1 year

2006

▼

has the same buying power as

\$

139.58

in year2 month

December

▼

year2 year

2024

▼

Calculate

About the CPI Inflation Calculator

The CPI inflation calculator uses the [Consumer Price Index](#) for All Urban Consumers (CPI-U) U.S. city average series for all items, not seasonally adjusted. [This data](#) represents changes in the prices of all goods and services purchased for consumption by urban households.

JAMES S. TABE

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January 28, 2025

S.B. No. 263 RELATING TO COMPENSATION FOR COURT-APPOINTED REPRESENTATION

Chair Rhoads, Vice-Chair Gabbard and Members of the Committee:

I am respectfully submitting this testimony to express my strong support for S.B. No. 263, which seeks to increase the rate of compensation and maximum allowable amounts per case for court-appointed counsel in criminal proceedings.

After thirty years with the Office of the Public Defender (the last four years as the State Public Defender), I am currently practicing law as a solo practitioner on a part-time basis. In the past year, I have, on occasion, been appointed by the courts to represent indigent criminal defendants.

There is simply a shortage of competent court-appointed attorneys. The current compensation rate of \$90 per hour, which has not been adjusted in nearly twenty years, no longer attracts competent attorneys to serve as court-appointed counsel for indigent defendants. Privately retained attorneys routinely charge at the rate of \$250/hour minimum. Many charge much higher. To make matters worse, the state courts must also compete with the federal courts. Attorneys appointed by the federal court are paid a rate of \$164 per for non-capital cases, with maximum per-case amounts of \$12,800 for felony cases, \$3,600 for misdemeanors, and \$9,100 for appellate work. The State Judiciary simply cannot compete at the rate of \$90 per hour.

Currently, the Circuit Court of the First Circuit has a very difficult time in finding attorneys to accept court-appointment on felony and appellate cases, especially in cases in which the charges include murder, sex assault, and other Class A felonies. Indeed, the circuit court has even enlisted the Office of the Public Defender to help in the recruitment of court-appointed counsel. The attorney supervising the Felony Division spends too much time away from their office duties to contact and persuade (beg) attorneys to accept cases.

The Family Court of the First Circuit also has a very difficulty in finding attorneys to represent juvenile offenders, whose hearings are held at the Ronald T.Y. Moon

Kapolei Courthouse. Currently, the family court can only rely on *three* attorneys, the youngest being sixty-two years old, to accept these cases. Moreover, one of the three attorneys only works part-time. The low compensation rate combined with the location of the courthouse (and no compensation for mileage and parking) discourages competent attorneys to accept appointment.

S.B. No. 263 will attract more competent attorneys to accept court-appointed cases and thus will ensure the rights of the indigent defendants to be protected.

Thank you for the opportunity to comment on this measure.

LATE

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January 27, 2025

S.B. 263: RELATING TO COMPENSATION
FOR COURT-APPOINTED COUNSEL

Chair Karl Rhoads
Vice Chair Senator Mike Gabbard
Honorable Committee Members

WRITTEN TESTIMONY ONLY

I am writing to voice my strong support in favor of Senate Bill No. 263 which seeks to increase the rate of compensation and maximum allowable amounts per case for court-appointed counsel in criminal proceedings.

I am currently practicing law as a solo practitioner with over twelve years of experience including substantial experience as a Deputy Public Defender handling a serious felony caseload. As a solo practitioner, despite my experience, I have been loathe to accept Class-A felonies due to the compensation rate. The high costs of running my own business as well as the high cost of living in Hawaii has discouraged me from accepting certain Court-Appointed cases despite my experience. The Court is suffering from a shrinkage in the pool of competent attorneys accepting these types of high-level cases. The current compensation rate has stayed the same since before I was a law clerk many years ago. An increase in the compensation and allowable maximum would encourage competent, experienced attorneys to take on more cases involving indigent criminal defendants. I would hope to be one of them.

Thank you for the opportunity to voice my strong support for this measure.

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January 26, 2025

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Committee on Judiciary
The Senate
33rd legislature, State of Hawai'i

via: <http://www.capitol.hawaii.gov>

Dear Committee leadership and members,

Re: **STRONG SUPPORT FOR SB263 RELATING TO COMPENSATION
FOR COURT APPOINTED COUNSEL**

Hearing Date: Tuesday, January 28, 2025
Time: 9:15 a.m.
Location: Conference Room 016^[11]_{SEP}
State Capitol
415 South Beretania Street

I write in strong support of this proposed legislation. While titled the same as last year's HB1914 HD1 that was before this Honorable Committee and ultimately failed to advance, this version is fully loaded (funded for 2 years each @ at 2.89 million dollars) and ready to go (effective upon approval).

In support of last year's HB1914 HD1, the legislature received compelling testimony, including from the Judiciary, "The compensation rate for court-appointed criminal defense counsel has not been adjusted in twenty years"; from the ACLU-Hawai'i, "Roughly four out of five criminal defendants do not have the means to hire a lawyer and rely on public defenders or court-appointed lawyers"; from HSBA, "The current compensation rates for court-appointed counsel in Hawai'i does not reflect the challenging nature of their work, the time and effort invested in each case, and the significant responsibilities they shoulder"; and from Hawaii County Deputy Prosecuting Attorney Chase Murray, "Here on Hawaii Island, our legal community is already facing a shortage of attorneys more generally, which only compounds the difficulties in recruiting competent counsel for indigent criminal defendants. Without the fee increase proposed in [last year's] HB 1914, these difficulties, and the delays caused by them, will continue and grow. In practical terms, this means cases will take longer to resolve cases, it means

cases will take up more court and community resources, and it means both defendants and victims will wait for justice to be served.”

Since 2012, I have served as court-appointed counsel in the 3rd circuit criminal courts. While increasing the hourly compensation to \$150/hr. not only is fair and reasonable after 20 years, it is equally important that the maximum amounts set for handling each case is increased, as again proposed in this year’s bill. That is because any felony case can be comprised of a single or multiple felony offense(s), and the present ceiling of \$6,000.00 set as maximum fee in “a felony case” simply does not account for providing defense representation in a complex multi-count case. Additionally, any felony or misdemeanor case going to jury trial involves additional complexities and expense for which the current compensation ceilings are inadequate.

Also, SB263 allows for an attorney to expend more time on a case without having to motion the court for an allowance of extraordinary fee, which typically must be done before counsel reaches the statutory threshold. Under the current regime, a \$6,000 felony representation at @ \$90/hour, for example, therefore contemplates counsel expending only 66.66 hours in a felony representation. SB263’s proposed cap of \$12,000 at \$150.00/hour contemplates a more realistic 80 hours will be expended in such representation.

Thank you, Senator Kouchi, for introducing this bill, and thank you committee members, for your attention to this issue and consideration of my letter. Mahalo.

Sincerely,

/s/ Georgette A. Yaindl
GEORGETTE ANNE YAINDL

TESTIMONY IN STRONG SUPPORT OF S.B. 263 RELATING TO COMPENSATION FOR COURT
APPOINTED COUNSEL

Testimony in Support by William C. Bagasol, Esq.

Senate Committee on Judiciary

Tuesday, January 28, 2025 at 9:15 AM, Conference Room 016 & Videoconference

Dear Chair Rhoads, Vice Chair Gabbard, and members of the Committee:

I have been a practicing criminal defense lawyer and have been involved with the criminal justice system for over 37 years. A good criminal justice system requires effective assistance of counsel and a competent indigent criminal delivery system. The protection of the constitutional rights of all people depends on it. Finding competent counsel for court appointed cases has been increasingly difficult. The low compensation is a major driving force behind finding good lawyers to take court-appointed cases.

When the Office of the Public Defender cannot act as counsel, private attorneys on the court appointed lists must be appointed. The current compensation of \$90 per an hour for court-appointed legal work is extremely low. This threatens the right to effective assistance of counsel and the operation of our criminal justice system. The compensation amount does not reflect the current fair market value and requires just compensation for effective legal representation. Considering high overhead costs and expenses for private practitioners, along with the high cost of living in Hawaii, the current compensable amount is insufficient. As such, there is a strong sentiment among experienced and competent practitioners that state court-appointed cases simply cannot support the needs and costs of running a business.

There is a need to keep good criminal defense attorneys working on State cases. Currently Federal compensation for court-appointed cases is nearly double at \$172.00 per hour. Private practice criminal practitioners often charge \$350 an hour and much more. This Bill is necessary to keep up with the market, level the playing field and to ensure a fair criminal justice system. Increasing the hourly rate and the maximum attorney fees will address the stated concerns.

This measure has been a long time coming. Please pass this Bill. Thank you for the opportunity to comment on this measure.

DWIGHT C.H. LUM
Attorney at Law

January 27, 2025

Senate Committee on Judiciary
Chair Karl Rhoads
Vice Chair Mike Gabbard

Re: SB 263. Relating to Compensation for Court-Appointed Counsel

Written Testimony.

I wished to express my support for this bill. The compensation rate for court-appointed counsel has been quite low for decades. It is far below the rate for court-appointed attorneys in federal criminal cases for both trial and appellate cases. There is a shortfall in counsel willing to accept appointment to state criminal cases. I do believe that raising the rate will encourage experienced attorneys to take on cases involving indigent criminal defendants. Meanwhile, these defendants languish in jail waiting for an attorney to represent them.

Thank you for your attention to this matter.