



**LEGAL AID
SOCIETY OF HAWAII**

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**TESTIMONY IN SUPPORT OF AND REQUESTING AMENDMENTS TO
HCR30/HR12 - REQUESTING THE HAWAII ACCESS TO JUSTICE COMMISSION TO
ASSEMBLE VARIOUS STATE AND COMMUNITY ENTITIES TO DETERMINE WHICH
AGENCY OR ORGANIZATION SHOULD ADMINISTER FUNDING FOR CIVIL LEGAL
SERVICES TO THE LOW- AND MODERATE-INCOME.**

Committee on Judiciary - Room 325

Representative Karl Rhoads, Chair
Representative Joy San Buenaventura, Vice-Chair

April 7, 2015 at 2:00 p.m.

The Legal Aid Society of Hawaii submits strong testimony in support of HCR30/HR12 – Requesting the Hawaii Access to Justice Commission to Assemble Various State and Community Entities to Determine which Agency or Organization should Administer Funding for Civil Legal Services to the Low- and Moderate-Income. We are in strong support of these resolutions, but ask for a few technical amendments for clarity and to address recommendations made by the Access to Justice Commission as represented by Gary Slovin at the Human Services Committee as attached to this testimony.

These resolutions are aimed at ensuring on-going general revenue funding for civil legal services which have been supported by the state for almost 40 years. Civil legal services are critical in that they can provide real world solutions to help families in crisis find stability and hope. The civil legal services provided by the two key entities featured in this current resolution, Legal Aid and Volunteer Legal Services Hawaii are critical to ensuring that the underlying principles of justice and due process are maintained in Hawaii.

By adopting these resolutions, you will help to bring together a variety of stakeholders to discuss how best to restore some of the purchase of service contract was provided for civil legal services as part of the state's base budget from 1975 to 2004. Purchase of service contracts were provided for both general civil legal services and immigration and immigrant-related civil legal services. During this entire period, the Legal Aid Society of Hawaii was the recipient of the purchase of service contract for civil legal services. Na Loio No Na Kanaka which became the Hawai'i Immigrant Justice Center received the funding for immigration and immigrant-related civil legal services beginning in or around 1985. In 2004, this funding was converted into grant-in-aids directly to the Legal Aid Society of Hawaii and to the Hawaii Immigrant Justice Center. In 2010, because of the recession and the lack of funding, the Hawaii Immigrant Justice Center merged with the Legal Aid Society of Hawaii.

Except for the two years in which grant-in-aid funding was not provided during the recession, direct civil legal services has been funded. This resolution will enable various stakeholders to join together to discuss how to restore the state's commitment to funding civil legal services and to provide critical funding which is used to leverage over \$5 million in additional funding for civil legal services in the state.

As members of the Committee on Judiciary, you understand the need for access to justice. Representation and assistance in moving through administrative and judicial processes can be difficult for those without legal training. Our services help to make critical differences in people's lives.

We ask that you support our request for these resolutions with the attached changes. These amendments add clarity to the overall resolution as well as allow the Access to Justice Commission to add working group members as needed and ensures that working group members are not considered state employees.

Thank you for this opportunity to provide testimony.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Nalani Fujimori Kaina', with a long horizontal flourish extending to the right.

M. Nalani Fujimori Kaina
Executive Director

The Legal Aid Society of Hawaii (Legal Aid) is the only legal service provider with offices on every island in the state, and in 2014 provided legal assistance to over 7,500 Hawai'i residents in the areas of consumer fraud, public assistance, family law, the prevention of homelessness, employment, protection from domestic violence, and immigration. Our mission is to achieve fairness and justice through legal advocacy, outreach and education for those in need.

PROPOSED AMENDMENTS OF THE LEGAL AID SOCIETY OF HAWAII

REQUESTING THE HAWAII ACCESS TO JUSTICE COMMISSION TO ASSEMBLE VARIOUS STATE AND COMMUNITY ENTITIES TO DETERMINE WHICH AGENCY OR ORGANIZATION SHOULD ADMINISTER FUNDING FOR CIVIL LEGAL SERVICES TO THE LOW- AND MODERATE-INCOME.

WHEREAS, civil legal services can improve community well-being as a vital part of our social safety net which ensures that our keiki, kupuna, family care givers, and all members of a family are healthy and safety

WHEREAS, "The 2007 Assessment of Civil Legal Needs and Barriers of Low- and Moderate-Income People in Hawaii" found that only one in five people have their civil legal needs addressed and that only one in three people who contact a civil legal service provider is able to get assistance; and

WHEREAS, one of the goals set forth in "The Community Wide Action Plan: Ten Action Steps to Increase Access to Justice in Hawaii by 2010" was that an appropriate home for funding civil legal services should be established to ensure stable state funding; and

WHEREAS, access to civil legal services by the indigent is critical to providing access to justice for those who cannot afford an attorney; and

WHEREAS, access to civil legal services results in costs savings to the State by way of recovery of federal public benefits (such as SSI and VA benefits), reduction of utilization of safety net services such as foster care by establishing guardianships for family caregivers, reduction of dependency on public assistance by securing child support and alimony, a decrease of instances of homelessness through housing representation, and an increase in state tax revenues through employment and re-employment related legal assistance~~can help residents of Hawaii contribute as taxpayers by establishing citizenship, provide safety and stability for children so that they can learn in school, and reduce the utilization of safety net services such as foster care or public assistance by providing guardianships and child support services;~~ and

WHEREAS, civil legal services provides to the indigent who are immigrants, homeless, at risk of homelessness; families in

crisis, consumers who have been taken advantage of, and those who speak English as a second language, better access to the justice system; and

WHEREAS, civil legal services can support efforts to ensure that government is providing effective services by helping those facing the complex legal system without an attorney navigate the system; and

WHEREAS, for thirty years, the funding for civil legal services was provided through the Department of Labor and Industrial Relations-Office of Community Services; and

WHEREAS, prior to 2005, general funding for civil legal services was provided by way of a purchase of service contract; since 2005, general funding for civil legal services has been made by a grant-in-aid; and

WHEREAS, since 1995, general funding for pro bono legal services has been made by grants-in-aid; and

WHEREAS, in 2011, the legislature increased court fees to include an amount to be paid into the indigent legal assistance fund pursuant to section 607-5.7, Hawaii Revised Statutes. The legislature did so upon a finding that there was a need to fund legal services for low- and moderate-income individuals who would not otherwise have access to legal services; and

WHEREAS, despite the increase in court fees to include an amount to be paid into the indigent legal assistance fund, the total amount of funding for general civil legal services, the balance of the fund decreased from \$2,017,093 in the 2008 fiscal year to \$1,213,135 in the 2015 fiscal year; and

WHEREAS, general grant-in-aid funding for civil legal services and pro bono legal services decreased from \$1,832,496 in the 2008 fiscal year to \$400,000 in the 2015 fiscal year; and

WHEREAS, general revenue funding is critical to meet the need for legal services in Hawaii, and the funding of legal services can promote the resolution of critical community issues; and

WHEREAS, there should be an examination of executive agencies, the Judiciary, and community agencies to determine which agency or

organization should administer general funding for civil legal services to obtain the best results; and

WHEREAS, the examination should require:

(1) The identification and assessment of the problems and issues relating to the funding of civil legal services, including the best agency or organization to administer these funds; and

(2) The involvement of all interested governmental and community stakeholders to ensure that the administration of these funds is workable and acceptable to the interested stakeholders; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-eighth Legislature of the State of Hawaii, Regular Session of 2015, the Senate concurring, that the Hawaii Access to Justice Commission is requested to assemble a working group of interested government agencies and community entities to conduct meetings to develop a plan for determining which agency or organization should administer funding for civil legal services; and

BE IT FURTHER RESOLVED that the following persons or a representative of the following persons, agencies, or organizations be invited to participate in the working group:

- (1) The Governor;
- (2) The President of the Senate;
- (3) The Speaker of the House;
- (4) The Judiciary;
- (5) The Attorney General;
- (6) The Department of Human Services;
- (7) The Department of Labor and Industrial Relations-Office of Community Services;
- (8) The Department of Budget and Finance;
- (9) The Department of Accounting and General Services;

- (10) The Hawaii Justice Foundation;
- (11) The Hawaii Access to Justice Commission;
- (12) Legal Aid Society of Hawaii; and
- (13) Volunteer Legal Services Hawaii; and

BE IT FURTHER RESOLVED, that the Access to Justice Commission may include any other organizations or stakeholders to participate in the working group that it deems necessary;

— BE IT FURTHER RESOLVED that the plan include a history of state funding of civil legal services and the issues historically faced by civil legal service providers in providing service to low- and moderate-income individuals; and

BE IT FURTHER RESOLVED that the plan include an analysis of the benefits and barriers to assigning the administration of funding for civil legal services to the Judiciary, Department of the Attorney General, Department of Human Services, Department of Labor and Industrial Relations—Office of Community Services, Department of Budget and Finance, Department of Accounting and General Services, and the Hawaii Justice Foundation; and

BE IT FURTHER RESOLVED that the plan include recommendations on which agency or organization should administer funding for civil legal services, levels of funding for civil legal services, and if enabling legislation is necessary, a proposal for such enabling legislation; and

BE IT FURTHER RESOLVED that the members of the working group should not be considered state employees based solely upon their participation in the working group; and

BE IT FURTHER RESOLVED that the Hawaii Access to Justice Commission is requested to submit the working group's plan to the legislature no later than twenty days prior to the convening of the Regular Session of 2016; and

BE IT FURTHER RESOLVED that the working group be dissolved on June 30, 2017; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Governor, President of the Senate,

Speaker of the House of Representatives, Chief Justice of the Hawaii Supreme Court, Attorney General, Director of Human Services, Executive Director of the Department of Labor and Industrial Relations-Office of Community Services, Director of Finance, Comptroller, Executive Director of the Hawaii Justice Foundation, Chair of the Hawaii Access to Justice Commission, Executive Director of the Legal Aid Society of Hawaii, and Executive Director of Volunteer Legal Services of Hawaii.

OFFERED BY: _____