



The Judiciary, State of Hawai'i

**Testimony to the Thirty-First Legislature
2022 Regular Session**

House Committee on Judiciary and Hawaiian Affairs

Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

Thursday, March 17, 2022, 2:00 p.m.
State Capitol, Conference Room 325
VIA VIDEOCONFERENCE

WRITTEN TESTIMONY ONLY

by:

Rodney A. Maile
Administrative Director of the Courts

Bill No. and Title: Senate Bill No. 2458, S.D. 2, Relating to Legal Services for Low-Income Immigrants.

Purpose: Appropriates moneys to the Judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants. Defines "low income" to mean a person whose family income is no more than the federal poverty level. Effective 12/31/2050. (SD1)

Judiciary's Position:

The Judiciary supports Senate Bill No. 2458, S.D. 2 which would appropriate moneys to contract with non-profit organizations for legal counsel and assistance to low-income immigrants.

In 2016, the American Immigration Council found that only 37 per cent of immigrants secured legal representation in their deportation proceedings.

While deportation of immigrants is generally a matter of federal, and not state jurisdiction, legal services and other assistance for eligible indigent immigrants are often needed due to the specific needs of this population. For instance, low income immigrants may be subject to domestic violence, human trafficking, sexual assault and other crimes. They may also be subject to discrimination based on national origin, race or other protected class. Thus, providing legal assistance and other services to address the myriad needs of low-income immigrants is of great benefit to the persons at risk, as well as our community at large. ” For this reason, we support this bill.

The Judiciary respectfully requests that any appropriations for this bill not supplant the Judiciary’s existing funding and current budget requests.

Thank you for the opportunity to testify on Senate Bill 2458, S.D.2.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON
SENATE BILL NO. 2458, S.D. 2

March 17, 2022
2:00 p.m.
Room 325 and Videoconference

RELATING TO LEGAL SERVICES FOR LOW-INCOME IMMIGRANTS

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2458, S.D. 2, makes an unspecified general fund appropriation in FY 23 for the Judiciary to contract with non-profit organizations to provide legal services to low-income immigrants in proceedings, including asylum, deportation, and other legal issues related to immigration.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



ANNE E. PERREIRA-EUSTAQUIO
DIRECTOR

JOANN A. VIDINHAR
DEPUTY DIRECTOR

JOVANIE DOMINGO DELA CRUZ
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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IN REPLY, REFER TO:
OCS 22.1067

March 16, 2022

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Scot Z. Matayoshi, Vice Chair, and
Members of the House Committee on Judiciary and Hawaiian Affairs

Date: Thursday, March 17, 2022

Time: 2:00 p.m.

Place: Conference Room 325 and Via Videoconference

From: Jovanie Domingo Dela Cruz, Executive Director
DLIR – Office of Community Services

Position: Support

Re: S.B. 2458 SD 2 – RELATING TO LEGAL SERVICES FOR LOW-INCOME IMMIGRANTS

I. OVERVIEW OF PROPOSED LEGISLATION

S.B. 2458, SD 2, would appropriate an unspecified sum for the provision of civil legal services “to provide legal counsel and assistance to low-income immigrants in immigration proceedings, including deportation defense and asylum, and for any other legal issues pertaining to immigration.” For the purposes of this bill, “low-income” is defined as a person whose family income does not exceed the federal poverty level for a family of applicable size. The Judiciary is designated as the expending agency.

II. CURRENT LAW

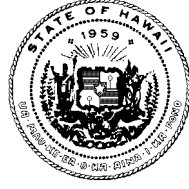
The Office of Community Services (OCS) currently administers two federal grant programs that fund legal advocacy services currently provided by the Legal Aid Society of Hawai‘i. OCS has, in the recent past, also administered funding from the Legislature to provide legal services in prior laws such as the present bill.

III. COMMENTS ON THE PRESENT BILL

The Office of Community Services was created by the Legislature by Act 305, SLH 1985, codified as Chapter 371K, Hawai‘i Revised Statutes. OCS is an agency attached to the Department of Labor and Industrial Relations. The mission of OCS is to eliminate the causes and conditions of poverty for economically disadvantaged persons, immigrants, and refugees in the State of Hawaii, by facilitating and enhancing the development, delivery, and coordination of effective programs for these persons and communities to enable them to achieve and maintain greater economic self-sufficiency and integration into Hawaii’s society. We are pleased to support this bill, which would assist one of OCS’s core constituencies, namely immigrants.

Thank you very much for the opportunity to testify on this valuable measure.

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 16, 2022

TO: The Honorable Representative Mark M. Nakashima, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **SB 2458 SD2 – RELATING TO LEGAL SERVICES FOR LOW-INCOME IMMIGRANTS.**

Hearing: March 17, 2022, 2:00 p.m.
Via Videoconference, State Capitol

POSITION: The Department of Human Services (DHS) supports the measure, provides comments, and defers to the Judiciary.

PURPOSE: The purpose of this bill is to appropriate moneys to the Judiciary to contract with nonprofit organizations to provide legal counsel and assistance to low-income immigrants. Defines "low-income" to mean a person whose family income is no more than the federal poverty level. Effective 12/31/2050. (SD2)

The SD1 amended the measure by:

- (1) Inserting a \$250,000 appropriation amount;
- (2) Inserting a definition of "low income" to mean a person whose family income does not exceed the federal poverty level for a family of applicable size, for purposes of qualifying for assistance;
- (3) Inserting an effective date of December 31, 2050, to encourage further discussion;
and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

The SD2 amended the measure by:

- (1) Changing the appropriation from \$250,000 to an unspecified amount; and

- (2) Making technical nonsubstantive amendments for purposes of clarity, consistency, and style.

The Department recognizes that in addition to financial assistance, food assistance, medical insurance coverage, and other services and benefits, recipients and applicants of DHS services, citizens and non-citizens alike, often require civil legal services to meet or obtain fundamental needs. Non-citizens have additional legal burdens that often require representation in federal and state proceedings and even to obtain valid government-issued identification required for employment and housing.

Assisting individuals and families with addressing their complex legal issues will remove barriers that hamper residents' ability to gain employment, permanent housing, a violence-free family home, and uphold consumer protection, fair housing, and other laws. In addition, attending to the civil legal needs of low-income families will allow families to concentrate on the day-to-day care and needs of their children, disabled or elderly family members, and improve their overall health and well-being.

The Department participated in the HCR 12 HD1 (2015) and SR 6 SD1 (2015) working groups that recommended increased funding for civil legal services for Hawaii's low-income residents. Additionally, DHS partnered with the civil legal services roundtable, through the Hawaii Justice Foundation and Access to Justice Commission, with several state entities and county government entities to identify gaps and solutions.

DHS encourages the Legislature to fund civil legal services for low-income residents as broadly as possible so that a comprehensive array of services is available as part of a plan toward safety, recovery, and self-sufficiency. For example, sex- or labor-trafficked minors or adults who are non-citizens, non-citizen victims of domestic violence, aged blind or disabled elder non-citizens, or adoptive parents of a non-citizen foster child all need civil legal services that may include immigration matters. DHS also supports legal services for non-citizens' pathway to US citizenship. Notably, DHS requests that these services be available to Hawaii's migrant population from Compact nations.

The Department's experience during the pandemic emphasized that additional resources for language access translation and interpretation services are needed.

Thank you for the opportunity to testify on this bill.



CATHOLIC CHARITIES HAWAII

TO: Rep. Mark M. Nakashima, Chair
Rep. Scot Z. Matayoshi, Vice Chair
Committee on Judiciary & Hawaiian Affairs

FROM: Rob Van Tassell, President and CEO

DATE: Thursday, March 17, 2022 (2 p.m., Via Videoconference, Conf. Rm. 325)

RE: **IN SUPPORT OF SB 2458, SD2, Relating to Legal Services for Low-Income Immigrants**

CCH supports SB 2458, SD2, which would provide funding to the Judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants.

Immigrants are very important to Hawaii – they contribute to our economy and our communities. However, they often need legal counsel and assistance to maintain their legal status in the U.S. Imagine how difficult this is for low-income immigrants who are often working more than one job, are often Limited English, and are working toward achieving self-sufficiency and a better life for their families.

Please note that legal immigration services are *in addition to* the cost of filing immigration petitions. It sometimes takes years for a low-income immigrant to save enough money to pay the filing fees, that range from \$410 to 1,200 each. For neighbor island immigrants, there are often additional costs due to travel to Oahu, for required steps such as biometric screening. For example, a neighbor island immigrant applying for U.S. Citizenship needs to be prepared to pay up to \$1,500 out of pocket for filing fee, biometric fee, and required travel to Oahu (at least 2 trips) – this amount does NOT include any fees for the legal services they need to help guide them through the complex path to Citizenship.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been serving people in need in the State of Hawaii since 1947 and has a history of providing services for low-income immigrants, refugees and migrants since 1974. Currently, CCH is one of only two agencies in Hawaii that actively provides legal assistance for low-income immigrants as a U.S. Department of Justice Recognized Organization.¹ We have two of only three Partially Accredited Representatives available in Hawaii. Our Partially Accredited Representative staff are able to assist low-income immigrants on Oahu and Hawaii Island who need assistance with a variety of legal needs - Legal Permanent Residency (i.e. Green Card), Citizenship, and more.

During the pandemic, immigrant clients from Kona have been travelling to CCH's Hilo office in order to receive legal immigration assistance from our one Partially Accredited staff. This often

¹ <https://www.justice.gov/coir/page/file/942306/download#HAWAII>



requires taking an entire day off from work. Although some portions of paperwork can be completed via phone, our staff must meet with immigrant clients in person in order to verify required documents and to explain any positive or negative consequences of filing their legal papers, before she signs the forms as their legal representative.

We are also concerned that the need to file petitions electronically, now optional, is likely to be required by the U.S. Citizenship and Immigration Services (USCIS) in the near future. The low-income immigrant population we serve do not have the equipment or ability to comply, particularly in rural areas of the neighbor islands.

CCH is also concerned that there are some situations that our partially accredited, non-attorney staff are not equipped to handle and a licensed immigration attorney is needed since the client will require representation before the immigration court. Most of our clients are low-income and unable to afford this type of legal representation.

Catholic Charities Hawai`i asks for your support of SB 2458, SD2. This bill will fill a gap in services for immigrant members of our community and ensure equitable access to justice.

For more information or questions, please feel free to email Diane Terada, Division Administrator, at diane.terada@catholiccharitieshawaii.org or call her via phone at (808) 527-4702.

Thank you for this opportunity to provide testimony.



TESTIMONY IN SUPPORT OF SENATE BILL 2458, SD2
Relating to Legal Services for Low-Income Immigrants

TO: Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

FROM: Amy Agbayani, Co-Chair & Pat McManaman, Co-Chair

SUBJECT: **SB2458, SD2**

HEARING: March 17, 2022, 2:00 PM
Conference Room 308 & Via Videoconference, State Capitol

Chairs, Vice-Chairs, and Members of the Committee,

The Hawai'i Friends of Civil Rights stands in **Strong Support of Senate Bill 2458, SD2 with a recommendation to insert the phrase "non-citizen"** in Section 2 at line 16. This addition will clarify the intent of the legislature to provide funding for all non-citizens, including residents from the Compact of Free Association.

Immigrants make up 18% of Hawai'i's population and are the backbone of Hawai'i's agricultural workers, nursing assistants, housekeeping cleaners, landscapers, and food preparation workers.¹ In 2018, immigrants contributed \$17.6 billion to Hawai'i's gross domestic product.² Despite these collective contributions, immigration legal services are often prohibitively expensive for low and moderate-income immigrants.

Hawai'i has a critical shortage of low-income legal service providers engaged in meeting the diverse legal needs of the immigrant community. These needs include naturalization, asylum, adjustment of status to secure legal permanent residency, and deportation and DACA

¹ New American Economy, Immigrants and Migrants in Hawai'i: Essential Contributors to the State's Workforce and Economy, May 2021. (Foreign born share of workers in Agriculture 39.3%, in Housekeeping and Cleaning 68.1%, in Nursing Assistance 47.1%, in Food Preparation 39.6%, and 50.2% as Chefs and Head Cooks coupled with 38.9% of Cooks.)

² Id.

defense. Immigration law is complex and not easily navigable without legal expertise. Having an attorney in these matters often makes the difference between whether an individual is allowed to remain safely in the United States or is deported to harm or permanently separated from family and children.

Embedded in the communities they serve, effective immigrant legal service providers are actively engaged with and respected by other social service providers and government representatives. They build bridges where some seek to disparage immigrant newcomers, and support multiculturalism, and civic engagement. They deserve your support!

Sincerely,

Amy Agbayani, Co-Chair
Pat McManaman, Co-Chair



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**Testimony in SUPPORT of SB 2458 SD2
RELATING TO LEGAL SERVICES FOR LOW-INCOME IMMIGRANTS**

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

Hearing Date: 3/27/2022

Dear Committee Members

We write to SUPPORT SB 2458 SD2, which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants, including representation in asylum and other Immigration Court cases. We offer a recommendation to insert the phrase “non-citizen” in Section 2 at line 16. This addition will clarify the intent of the legislature to provide funding for all non-citizens, including members of the Compact of Free Association (COFA) communities and other individuals of varying statuses.

Immigrants are important to Hawai`i.

Immigrants make up 18% of Hawai`i’s population.¹ They make up 20.8% of essential workers, including 22.7% of healthcare workers.² This includes 47.1% of nursing assistants, 68.1% of housekeeping cleaners, and 50.2% of chefs/head cooks—all critical professions during this COVID-19 pandemic.³ In total, in the year 2018, immigrants contributed \$2.4 billion in total taxes paid and almost \$17.6 billion in GDP.⁴

These contributions come from immigrants of all statuses. There are about 41,246 undocumented individuals in Hawai`i as of 2018, and they are estimated to have paid a total of 110.5 million dollars in taxes that year (\$65.7 million in federal taxes paid, and \$44.8 million in Hawai`i state and local taxes paid).⁵ Refugees, which were estimated at 7,929 total in Hawai`i in 2018, contributed over \$58.5 million in federal taxes and almost \$34 million in Hawai`i state and local taxes that year.⁶

¹ New American Economy, *Immigrants and Migrants in Hawai`i* (May 2021), at 3, https://research.newamericaneconomy.org/wp-content/uploads/sites/2/2021/05/NAE_Hawaii_V7_FINAL.pdf.

² New American Economy, *A Snapshot of the Immigrant Population of Hawai`i*, at 3-4, https://research.newamericaneconomy.org/wp-content/uploads/sites/2/2021/08/Hawaii_COVID_Brief-v8.pdf (last accessed Feb. 2, 2022).

³ *Immigrants and Migrants in Hawai`i*, *supra* note 1 at 13.

⁴ *Id.* at 8.

⁵ *Id.* at 26.

⁶ *Id.* at 28.



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This bill paves the way for even greater contributions. With assistance to resolve their legal obstacles, these individuals would have the opportunity to focus on their careers, communities, and families in expanded ways.

Most importantly, more than just economic statistics, these individuals are also our friends, neighbors, and family members. 30,000 U.S. citizens in Hawai'i who live with at least one family member who is undocumented.⁷ They are irreplaceable members of our community. This bill honors that.

There is an access to justice gap for low-income immigrants in immigration proceedings.

There is a severe shortage of legal service providers for low-income immigrants in immigration proceedings. A 2007 Hawai'i Justice Foundation report documented the scarcity of legal services for low-income people in Hawai'i in general.⁸ This is particularly pronounced in the field of immigration law. When individuals appear in Immigration Court, the Immigration Judge is required to read out the list of free and low-cost immigration service providers that have made themselves available for individuals appearing in court to contact. That list is blank in Hawai'i,⁹ a state of 1.4 million residents.

In San Francisco, by comparison, there no less than 11 groups providing free immigration services for San Francisco Immigration Court alone.¹⁰ Similarly, 87% of non-detained individuals were represented in New York.¹¹

Legal assistance and counsel makes a huge difference in immigration proceedings.

Studies have shown the difference representation makes in immigration court, where immigrants with attorneys are vastly more successful at every stage of the process.¹² In an in-depth study on New York Immigration Courts, 74% of represented, non-detained individuals in Immigration Court had successful outcomes, compared to only 13% of unrepresented, non-detained

⁷ American Immigration Council, *Immigrants in Hawaii*, pg 2, https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_hawaii.pdf (last accessed Feb. 2, 2022).

⁸ "Achieving Access to Justice for Hawaii's People," A report of the Access to Justice Hui (2007), available at http://25shu2g61cw30sjn46t4k87by.wpengine.netdna-cdn.com/wp-content/uploads/2014/07/Access-to-Justice-Hui-Report-_10-26-07_-Final11.pdf.

⁹ See Department of Justice list of pro bono legal service providers at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>. None are listed for Hawai'i.

¹⁰ *Id.*

¹¹ Ingrid Eagly and Steven Shafer, ACCESS TO COUNSEL IN IMMIGRATION COURT, American Immigration Council (2016), at 8, https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf.

¹² *Id.* at 2.



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individuals.¹³ The importance of attorneys is even more profound for asylum seekers. For persecution-related relief applications (asylum), 21% of unrepresented non-detained individuals had a successful outcome, while 84% of represented non-detained individuals had successful outcomes.¹⁴ That is a 63% difference in success rate by having legal assistance.

In Hawai‘i, we have seen firsthand the difference made by having legal representation in immigration proceedings. There is the story of the single mother to three U.S. citizen children who went through Immigration Court proceedings alone and was ordered deported. She was finally able to find legal assistance in time to fight the deportation order through an appeal, and her lawyer discovered a critical legal error made by the Immigration Court. As a result, her case was eventually dismissed and she no longer faces deportation. Without legal assistance, this single mother would be separated from her three children today.

This bill fills a necessary gap in services to the immigrant members of our community. Access to justice should not depend on the ability to pay or citizenship status. We fully SUPPORT SB 2458 SD2.

Thank you for your support and consideration,

Catherine Chen, Co-chair, Hawai‘i Coalition for Immigrant Rights
Liza Ryan Gill, Co-chair, Hawai‘i Coalition for Immigrant Rights

¹³ ACCESSING JUSTICE: THE AVAILABILITY AND ADEQUACY OF COUNSEL IN IMMIGRATION PROCEEDINGS, New York Immigrant Representation Study Report (2011), at 19, <http://www.humanrightsfirst.org/sites/default/files/5-NYIRS-Report-Part-1-Katzmann-Group.pdf>.

¹⁴ *Id.* at 20.

SB-2458-SD-2

Submitted on: 3/16/2022 8:57:14 AM

Testimony for JHA on 3/17/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joseph E Cardoza	Hawai`i Access to Justice Commission	Support	Written Testimony Only

Comments:

Chair: Hon. Mark M. Nakashima, Chair

Vice Chair: Hon. Scot Z. Matayoshi, Vice Chair

Committee: House Committee on Judiciary & Hawaiian Affairs

Testimony of: Joseph E. Cardoza, Chair

Organization: Hawai`i Access To Justice Commission

Hearing Date: Thursday, March 17, 2022

Hearing Time: 2:00 p.m.

Place: Via Videoconference

Conference Room 325

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

Senate Bill: SB No. 2458, SD2

Position: Support of SB2458, SD2 Relating to Legal Services for Low-Income Immigrants

Dear Chair Nakashima and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Hawai'i Access to Justice Commission strongly supports Senate Bill 2458, SD2, which would provide an appropriation through the Judiciary for the purchase of legal services for low-income immigrants.

Hawai'i has many immigrants that make up an important part of the social and economic fabric of our community. Hawai'i has enjoyed a strong and proud relationship with our immigrant community. Certain non-profit organizations provide specialized critical and complex legal services to low-income immigrants who must navigate the immigration process, but cannot afford a lawyer. The inability to access essential legal services can lead to serious consequences for low-income immigrants who are not familiar with the challenging immigration process. The ability to provide these legal services is of benefit to our immigrants, their families, and the community. Unfortunately, there are immigrants who cannot be served because of the financial constraints these organizations face. The Hawai'i Access to Justice Commission appreciates the support the Legislature has provided in the past, and is hopeful that our low-income immigrants will have access to essential immigrant legal services in the future.

The Commission appreciates the Committee hearing this Bill. Thank you for the opportunity to present this written testimony.

I do not plan to testify during the videoconference hearing on this Bill.



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**Testimony in SUPPORT of SB 2458 SD2
RELATING TO LEGAL SERVICES FOR LOW-INCOME IMMIGRANTS**

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair
Rep. Scot Z. Matayoshi, Vice Chair

Hearing Date: 3/27/2022

Dear Committee Members

We write to SUPPORT SB 2458 SD2, which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants, including representation in asylum and other Immigration Court cases. We offer a recommendation to insert the phrase “non-citizen” in Section 2 at line 16. This addition will clarify the intent of the legislature to provide funding for all non-citizens, including members of the Compact of Free Association (COFA) communities and other individuals of varying statuses.

Immigrants are important to Hawai`i.

Immigrants make up 18% of Hawai`i’s population.¹ They make up 20.8% of essential workers, including 22.7% of healthcare workers.² This includes 47.1% of nursing assistants, 68.1% of housekeeping cleaners, and 50.2% of chefs/head cooks—all critical professions during this COVID-19 pandemic.³ In total, in the year 2018, immigrants contributed \$2.4 billion in total taxes paid and almost \$17.6 billion in GDP.⁴

These contributions come from immigrants of all statuses. There are about 41,246 undocumented individuals in Hawai`i as of 2018, and they are estimated to have paid a total of 110.5 million dollars in taxes that year (\$65.7 million in federal taxes paid, and \$44.8 million in Hawai`i state and local taxes paid).⁵ Refugees, which were estimated at 7,929 total in Hawai`i in 2018,

¹ New American Economy, *Immigrants and Migrants in Hawai`i* (May 2021), at 3, https://research.newamericaneconomy.org/wp-content/uploads/sites/2/2021/05/NAE_Hawaii_V7_FINAL.pdf.

² New American Economy, *A Snapshot of the Immigrant Population of Hawai`i*, at 3-4, https://research.newamericaneconomy.org/wp-content/uploads/sites/2/2021/08/Hawaii_COVID_Brief-v8.pdf (last accessed Feb. 2, 2022).

³ *Immigrants and Migrants in Hawai`i*, *supra* note 1 at 13.

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⁵ *Id.* at 26.



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contributed over \$58.5 million in federal taxes and almost \$34 million in Hawai`i state and local taxes that year.⁶

This bill paves the way for even greater contributions. With assistance to resolve their legal obstacles, these individuals would have the opportunity to focus on their careers, communities, and families in expanded ways.

Most importantly, more than just economic statistics, these individuals are also our friends, neighbors, and family members. 30,000 U.S. citizens in Hawai`i who live with at least one family member who is undocumented.⁷ They are irreplaceable members of our community. This bill honors that.

There is an access to justice gap for low-income immigrants in immigration proceedings.

There is a severe shortage of legal service providers for low-income immigrants in immigration proceedings. A 2007 Hawai`i Justice Foundation report documented the scarcity of legal services for low-income people in Hawai`i in general.⁸ This is particularly pronounced in the field of immigration law. When individuals appear in Immigration Court, the Immigration Judge is required to read out the list of free and low-cost immigration service providers that have made themselves available for individuals appearing in court to contact. That list is blank in Hawai`i,⁹ a state of 1.4 million residents.

In San Francisco, by comparison, there no less than 11 groups providing free immigration services for San Francisco Immigration Court alone.¹⁰ Similarly, 87% of non-detained individuals were represented in New York.¹¹

⁶ *Id.* at 28.

⁷ American Immigration Council, *Immigrants in Hawaii*, pg 2, https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_hawaii.pdf (last accessed Feb. 2, 2022).

⁸ “Achieving Access to Justice for Hawaii’s People,” A report of the Access to Justice Hui (2007), available at <http://25shu2g61cw30sjn46t4k87by.wpengine.netdna-cdn.com/wp-content/uploads/2014/07/Access-to-Justice-Hui-Report-10-26-07-Final11.pdf>.

⁹ See Department of Justice list of pro bono legal service providers at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>. None are listed for Hawai`i.

¹⁰ *Id.*

¹¹ Ingrid Eagly and Steven Shafer, ACCESS TO COUNSEL IN IMMIGRATION COURT, American Immigration Council (2016), at 8, https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf.



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hicoalitionforimmigrantrights@gmail.com

Legal assistance and counsel makes a huge difference in immigration proceedings.

Studies have shown the difference representation makes in immigration court, where immigrants with attorneys are vastly more successful at every stage of the process.¹² In an in-depth study on New York Immigration Courts, 74% of represented, non-detained individuals in Immigration Court had successful outcomes, compared to only 13% of unrepresented, non-detained individuals.¹³ The importance of attorneys is even more profound for asylum seekers. For persecution-related relief applications (asylum), 21% of unrepresented non-detained individuals had a successful outcome, while 84% of represented non-detained individuals had successful outcomes.¹⁴ That is a 63% difference in success rate by having legal assistance.

In Hawai‘i, we have seen firsthand the difference made by having legal representation in immigration proceedings. There is the story of the single mother to three U.S. citizen children who went through Immigration Court proceedings alone and was ordered deported. She was finally able to find legal assistance in time to fight the deportation order through an appeal, and her lawyer discovered a critical legal error made by the Immigration Court. As a result, her case was eventually dismissed and she no longer faces deportation. Without legal assistance, this single mother would be separated from her three children today.

This bill fills a necessary gap in services to the immigrant members of our community. Access to justice should not depend on the ability to pay or citizenship status. We fully SUPPORT SB 2458 SD2.

Thank you for your support and consideration,

Catherine Chen, Co-chair, Hawai‘i Coalition for Immigrant Rights
Liza Ryan Gill, Co-chair, Hawai‘i Coalition for Immigrant Rights

¹² *Id.* at 2.

¹³ ACCESSING JUSTICE: THE AVAILABILITY AND ADEQUACY OF COUNSEL IN IMMIGRATION PROCEEDINGS, New York Immigrant Representation Study Report (2011), at 19, <http://www.humanrightsfirst.org/sites/default/files/5-NYIRS-Report-Part-1-Katzmann-Group.pdf>

¹⁴ *Id.* at 20.



March 16, 2022

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COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair
Rep. Scot Z. Matayoshi, Vice Chair

Hearing Date: March 17, 2022, 2:00 p.m.
Via Videoconference; Conference Room 325

**Testimony in Support of Senate Bill 2458, Senate Draft 2
Relating to Legal Services for Low-Income Immigrants**

Chair Nakashima, Vice-Chair Matayoshi, and Members of the Committee:

The Legal Clinic (“TLC”) submits this testimony in support of SB 2458, SD 2, which would appropriate moneys to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants.

TLC provides legal and related services to Hawai'i's low- and moderate-income immigrant community. We are a relatively new non-profit, having hired our first attorney in late 2019. However, soon after opening our doors, we were overwhelmed with clients, serving about 75 clients, some with multiple matters, in the first six months. The demand has continued, and we have had to postpone and even stop taking new clients for periods of time. We understand that the Legal Aid Society of Hawai'i's immigration unit and other community-based service organizations face similar demands for immigration related legal services.

It is not surprising that there is such a high demand for these services. According to the 2020 Census, immigrants (those born outside the United States) make up 19.3% of our population (273,012 of our residents). This is compared to 13.7% of the U.S. population. Moreover, of our foreign-born population, over 41% (112,050) have not naturalized and become U.S. citizens. According to a study by the University of Southern California a few years ago, Hawai'i was fourth lowest among the states in the likelihood of its non-citizens naturalizing. Without the rights of citizenship, such as the right to vote, a significant portion of this population faces the anxieties created by the uncertainties of our political situation, including the possibility of deportation even after years of contributing to our society

A potentially more vulnerable portion of Hawai'i's immigrant community consists of those who are out-of-status ("undocumented"). These include residents who are seeking asylum, who have overstayed their visas, and who were brought to the United States as children (Deferred Action for Childhood Arrivals, or "DACA" recipients). While it is difficult accurately to determine the number of undocumented residents, estimates range between 41,000 and 45,000. Of these, as of 2017, Hawai'i had an estimated 600 DACA recipients and as many as 3,600 residents eligible to apply for DACA status.

Another migrant community in need of legal services are the residents from the states comprising the Compact of Free Association ("COFA") – the Federated States of Micronesia, the Republic of the Marshall Islands and Palau. These residents are entitled to migrate to the U.S. under the Compact, which has its origins in the United States' use of these countries for nuclear testing and other military purposes. It is estimated that there are approximately 18,500 COFA residents in Hawai'i, and that they make up the fastest growing portion of our migrant community. The difficulties faced by this rapidly growing community are likely to increase with the not-too-distant expiration of the Compact.

The Covid-19 pandemic has hit the low-income immigrant community particularly hard. Our foreign-born residents are disproportionately impacted by the loss of jobs, lower rates of health care coverage, higher rates of Covid-19 infection, and less access to unemployment insurance and other public benefits due to language barriers and unfamiliarity with the system.

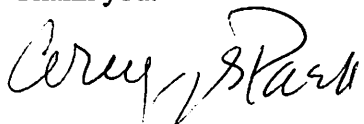
Despite the pressing need for immigration legal services for these growing communities, the available services in Hawai'i are significantly limited. The Legal Aid Society of Hawai'i also has a small legal staff which serves the immigrant community but, like TLC, we understand, is overburdened. The University of Hawai'i law school's Refugee and Immigration Law Clinic also represents a number of immigrants, but its capacity is governed by its primary mission to educate its students.

The lack of legal services leaves many immigrants without representation, which severely affects their ability to obtain relief. For instance, nationwide, according to the American Immigration Council, immigrants with legal representation who petition for legal status are five times more likely to obtain relief from deportation than those without counsel. The Council's 2017 national study showed that only 37 percent of all respondents and only 14 percent of detained respondents in federal immigration hearings had counsel.

While the need for immigration legal services has sharply increased, TLC and other immigration service providers face greater hurdles in fund raising. With all the competing needs, governmental funding and foundation giving are threatened. Private individual giving is increasingly difficult, with in-person fundraising events curtailed.

At a time like this, legal service providers need increased support. We urge you to pass SB 2458, SD 2, out of committee to help the most vulnerable in our society gain access to justice and move us to a more equitable state for all.

Thank you.

A handwritten signature in black ink that reads "Corey Park". The signature is written in a cursive, flowing style.

Corey Park
President, Board of Directors
The Legal Clinic



PACIFIC GATEWAY CENTER

Testimony in SUPPORT of SB 2458, SD2 RELATING TO LEGAL SERVICES FOR LOW-INCOME RESIDENTS

To:

Representative Mark M. Nakashima, Chair

Representative Scot Z. Matayoshi, Vice Chair

Hearing Date: 3/17/2022 at 2:00 PM

Dear Chairs, Vice Chairs and members of the Committee

I write to SUPPORT SB 2458, SD2 which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income residents. This bill will enable access to justice related to legal immigration services for the indigent population.

Pacific Gateway Center is a strong supporter of Senate Bill 2458, SD2 with a recommendation to insert the phrase “non-citizen” in Section 2 at line 16. This addition will clarify the intent of the legislature to provide funding for all non-citizens, including residents from the Compact of Free Association.

The Office of Legal Access Programs (OLAP) with the Department of Justice that provides non-profit site recognition and agency staff accreditation and allows non-profit agencies and their non-attorney staff to practice immigration law. The practice of immigration law includes giving immigration advice, filling out immigration forms, and drafting legal documents for a case. Only an attorney, a DOJ accredited representative, or a staff person under the direct legal supervision of an attorney or DOJ accredited representative may practice immigration law.

Unless an agency has an attorney on staff, each office site where immigration legal services are provided must have DOJ agency recognition and at least one accredited representative.

It is an essential tool for increasing capacity to serve low-income, vulnerable immigrant populations with high quality, charitable immigration legal services. Training, education and experience must be demonstrated to the Department of Justice before accreditation is awarded.

Pacific Gateway Center is one of only three current recognized agencies in Hawaii with Catholic Charities Hawaii and Maui County (Department of Housing and Human Concerns – Immigrant Services Division) and there are currently only three accredited representatives authorized to provide this service – two from Catholic Charities (one on the Big Island; one on O‘ahu) and the Pacific Gateway Center has one accredited representative.

According to Department of Economic Development and Tourism Report, released on December 27, 2019, “there were more people living in poverty among the migrants who moved to and from Hawaii in the past 12 months. The poverty rate was especially high among the migrants who

moved from foreign countries. Nearly 20 percent of international migrants in Hawaii were living in poverty in their first year of migration.”

Close to 90% of the immigrants we assist for legal services are on means-tested public benefits and need assistance with citizenship, family reunification, removal of conditional residence, DACA, adjustment of status (green card), employment authorization documents, renewals of important immigration services. They would not be able to afford fees of immigration attorneys for these services. We have provided legal immigration services to the homeless, veterans, victims of domestic violence, former inmates, asylum seekers, asylees just to name a few.

Hawaii needs to build capacity for more non-profit recognized agencies and accredited staff. Appropriations to support non-profits in providing these services may encourage more non-profits to consider going through the process of securing recognition and accreditation. Moreover, it would support our foreign-born in Hawai'i who already face overwhelming challenges with resettlement, lack of English proficiency, and learning of new cultural values and norms.

I fully SUPPORT SB 2458, SD2 and to insert the phrase “non-citizen” in Section 2, at line 16.

Thank you for your support and consideration,



En Young
Executive Director

SB-2458-SD-2

Submitted on: 3/15/2022 2:32:43 PM

Testimony for JHA on 3/17/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

Support SB2458 SD2

SB-2458-SD-2

Submitted on: 3/15/2022 3:37:37 PM

Testimony for JHA on 3/17/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jennifer Azuma Chrupaluk	Individual	Support	Written Testimony Only

Comments:

Mahalo

SB-2458-SD-2

Submitted on: 3/15/2022 9:53:55 PM

Testimony for JHA on 3/17/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Roman Leverenz	Individual	Support	Written Testimony Only

Comments:

I fully support SB2458 and hope to see it funded in this legislative session. Immigration matters are complicated for everyone. "Legalese" is difficult for even the highly literate. For individuals with limited English literacy and with limited funds it can be impossible to even tread water when it comes to immigration legal matters. "Matters" for some that might determine whether or not they are allowed stay in this country.

It is my personal belief that all individuals residing in the United States are in need of justice, even those who are unable to pay for it. I believe that study after study has shown that chances for obtaining a favorable ruling are almost immeasurably increased if an individual has legal representation. What does this say about our legal system? It says, for one thing, that there are many, many individuals out there, including immigrants and non-citizens, who are simply not receiving justice and fairness because of an inability to pay for competent legal counsel.

We need a compassionate legal system that doesn't discriminate against those who can't afford expensive legal services. This proposed Senate bill is a huge step in this direction.

SB-2458-SD-2

Submitted on: 3/16/2022 7:59:25 AM

Testimony for JHA on 3/17/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Taylor Brack	Individual	Support	Written Testimony Only

Comments:

Quality legal services for immigrants is so desperately needed in our community. There are many low-income immigrant families living in Hawaii who are in need of legal services. Having access to quality, specialized services can make a significant difference in these resident's lives. The kinds of services that this bill would fund would help to keep families intact and raise their quality of living. I support this bill's passage wholeheartedly. Our state would not be what it is without the contributions of immigrants. We should do what we can to ensure their access to justice.

SB-2458-SD-2

Submitted on: 3/16/2022 8:27:34 AM

Testimony for JHA on 3/17/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Thaddeus Pham	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nakashima, Vice Chair Matayoshi, and Members of the the JHA Committee,

I write to SUPPORT SB2458 SD2, which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants, including representation in asylum and other Immigration Court cases.

Immigrants are an extremely important to Hawai`i, contributing to our economy and our communities. As a working professional in Hawai`i, I have benefited from the work my immigrant parents did to make a new home in the US, and I continue to contribute to the economic and social robustness of Hawai`i.

For many immigrants, the steps to continued residence are complicated, as the law is extremely complex. It is well-documented that immigrants who have legal counsel and assistance in immigration proceedings are more successful at every step. As the son of Vietnamese refugees, I can attest to the importance of accessible legal and immigration resources.

This bill fills a necessary gap in services to the immigrant members of our community. Access to justice should not depend on the ability to pay or citizenship status. I fully SUPPORT SB2458 SD2.

With gratitude,

Thaddeus Pham (he/him)

SB-2458-SD-2

Submitted on: 3/16/2022 10:44:35 AM

Testimony for JHA on 3/17/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John Egan	Individual	Support	Written Testimony Only

Comments:

COMMITTEE ON HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair

Senator Les Ihara, Jr., Vice Chair

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Dear Committee Members:

I write to SUPPORT SB2458 SD2, which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants, including representation in asylum and other Immigration Court cases.

Immigrants make up over 18% of our Hawaii population and they make outsized contributions to our economy and our communities. However, the road to full integration of immigrants and refugees is often made difficult by the overly complex and stressful legal processes they face. It is well-documented that immigrants who have legal counsel and assistance in immigration proceedings are more successful at every step.

Low-cost legal assistance for this group has expanded in recent years, for which we should all be grateful, and yet the need continues to outstrip the resources allotted.

This bill fills a necessary gap in services to the immigrant members of our community. Access to justice should not depend on the ability to pay or citizenship status. I fully SUPPORT SB2458 SD2.

Thank you for your support and consideration,

John Robert Egan, Immigration Lawyer and Educator