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December 2, 2025

Via electronic submission

The Honorable Ronald D. Kouchi
President of the Senate
State Capitol, Room 409
Honolulu, HI 96813

The Honorable Nadine K. Nakamura
Speaker of the House of Representatives
State Capitol, Room 431
Honolulu, HI 96813

Dear President Kouchi and Speaker Nakamura:

Pursuant to Act 208, Session Laws of Hawai'i 2025, the Judiciary is transmitting a copy of the *Report on the Two-Year Guardianship- and Conservatorship-Related Court Resources Pilot Program*.

In accordance with Section 93-16, Hawai'i Revised Statutes, we are also transmitting a copy of this report to the Legislative Reference Bureau Library.

The public may view an electronic copy of this report on the Judiciary's website at the following link: https://www.courts.state.hi.us/news_and_reports/reports/reports.

Should you have any questions regarding this report, please feel free to contact Karen Takahashi of the Judiciary's Legislative Affairs and Special Projects Division at (808) 539-4896, or via e-mail at Karen.T.Takahashi@courts.hawaii.gov.

Sincerely,

Brandon Kimura

Brandon M. Kimura
Administrative Director of the Courts

Attachment

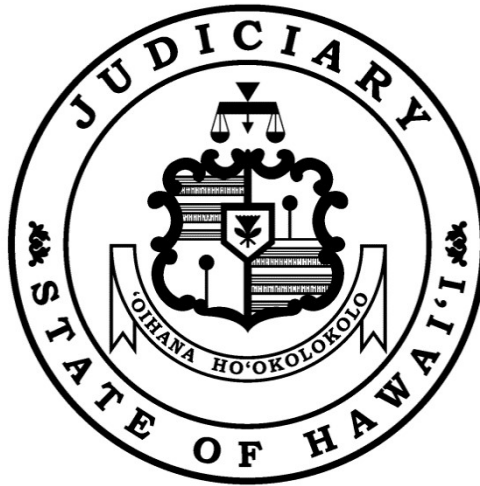
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**REPORT TO THE THIRTY-THIRD LEGISLATURE
2026 REGULAR SESSION**

ON

ACT 208, Session Laws of Hawai‘i 2025

**Report on the Two-Year Guardianship- and Conservatorship-Related
Court Resources Pilot Program**



Prepared by:

The Judiciary, State of Hawai‘i

December 2025

**REPORT TO THE THIRTY-THIRD LEGISLATURE
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ON

ACT 208, Session Laws of Hawai'i 2025

**Report on the Two-Year Guardianship- and Conservatorship-Related
Court Resources Pilot Program**

This report is respectfully submitted to the Thirty-Third Legislature, 2026 Regular Session, as required by Act 208, Session Laws of Hawai'i ("SLH") 2025 ("Act 208"), by Acting Chief Justice Sabrina S. McKenna, the Probate Court of the First Circuit, and the Family Court of the First Circuit.

BACKGROUND

The purpose of Act 208 is to provide funds for the Probate Court and Family Court to order certain statutory resources for individuals for whom a guardianship or conservatorship is being sought who have limited or no funds to pay for such resources. The resources provide the court with essential information to make informed decisions regarding the capacity and circumstances of the respondent. The Pilot resources are for:

- (1) An investigation and report by a Kokua Kanawai;
- (2) A Guardian Ad Litem ("GAL"); and
- (3) A Professional Examination of the respondent's alleged impairment.

Pursuant to Act 208, the Legislature has appropriated to the Probate Court and the Family Court each the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2025-2026 and each the same sum or so much thereof as may be necessary for fiscal year 2026-2027 for court resources in situations where the respondent does not have sufficient funds to pay for one or more of the resources and the court has deemed the resource or resources beneficial.

EXECUTIVE SUMMARY

Given the preliminary stage of the Pilot Program, the Judiciary suggests that the program proceed into its second year as contemplated by Act 208. This will allow the Judiciary to collect additional data prior to making final recommendations in its final report to the Legislature, which is due 40 days prior to the 2027 regular session.

I. STATUS OF THE PILOT PROGRAM

A. Report from the Probate Court

1. Case Selection

As it relates to Probate Court, Act 208 provides Pilot resources for Adult Conservatorship Cases under Hawai'i Revised Statutes Chapter 560, Article V, Subpart 4 and Adult Guardianship Cases under Hawai'i Revised Statutes Chapter 560, Article V, Subpart 3, where there is also a conservatorship proceeding.

a. Adult Conservatorship Cases

In practice, practitioners will ask the Probate Court to appoint a conservator for an adult in situations where the respondent has property that will be wasted or dissipated unless management is provided. In those situations, the respondent most often owns sufficient assets to cover the cost of the resources covered by Act 208, if necessary.

To get a sense of the number of respondents who may benefit from the Pilot resources, the Probate Court looked at the number of Adult Conservatorship Cases filed in 2024 and thus far in 2025.

In 2024, there were 13 Adult Conservatorship Cases filed. Of those cases, one case required the appointment of a Kokua Kanawai. In that case, the respondent would not have qualified for the Pilot resources as the respondent had significant assets. None of the cases required the appointment of a GAL or a Professional Examination.

Thus far in 2025, 15 Adult Conservatorship Cases have been filed as of November 20, 2025. Of those cases, a Kokua Kanawai was appointed in one case and a GAL was appointed in one case. In both cases, the respondents had sufficient assets to cover the fees and costs related to the Kokua Kanawai and GAL.

Since receiving Act 208 funds, there has not been a case in which the Probate Court has found it beneficial and appropriate to use any of the Pilot resources for an Adult Conservatorship Case.

b. Adult Conservatorship and Guardianship Cases

Pursuant to HRS § 560:5-106(3), the Probate Court has concurrent jurisdiction with the Family Court over Adult Guardianship Cases where there is also an Adult Conservatorship Case. In other words, the Probate Court will not have jurisdiction over sole adult guardianship matters. This means that the Probate Court does not analyze the requirements to establish a guardianship without analyzing the requirements to establish a conservatorship for an adult. It also means that—for the same reasons there are limited opportunities to use the Pilot resources in Adult Conservatorship Cases—there are few situations

where the respondent does not have sufficient funds to cover the cost of Pilot resources in Adult Conservatorship and Guardianship Cases.

Again, the Probate Court looked at the number of Adult Conservatorship and Guardianship Cases filed in 2024 and thus far in 2025.

In 2024, 52 Adult Conservatorship and Guardianship Cases were filed. Upon review of the cases filed in 2024, a Kokua Kanawai was appointed in eight cases and a Professional Examination was only required in one of those cases. In all cases, the adult respondent owned sufficient assets to cover the fees and costs related to the Kokua Kanawai and Professional Examination, or a family member agreed to cover the fees and costs related to the Kokua Kanawai.

Thus far in 2025, 25 Adult Conservatorship and Guardianship Cases have been filed as of November 20, 2025. Of those cases, a Kokua Kanawai was appointed in only two cases. In both cases, the adult respondent either owned sufficient assets to cover the fees and costs related to the Kokua Kanawai or a family member agreed to cover the fees and costs related to the Kokua Kanawai.

Since receiving Act 208 funds, there has not been a case in which Probate Court has found it beneficial and appropriate to use the Pilot resources cases for an Adult Conservatorship and Guardianship Case.

2. Who Qualifies for Pilot Resources.

Act 208 makes clear that the Pilot resources are to be used in situations where the respondent does not have sufficient funds to pay for one or more of the resources and the court has deemed the resources beneficial. No other criteria for qualification is set forth in the Act.

In determining which respondents may qualify for Pilot resources, the Probate Court considers the following: (1) gross monthly income of the respondent from all sources; (2) the money received within the past twelve months; (3) total assets owned (including but not limited to cash, bank accounts, real estate, stocks, bonds, cars, etc.); (4) what real property they own; and (5) the total amount of expenses and debts.

When considering which respondents will qualify for Pilot resources, the Probate Court will consider the totality of a respondent's assets and debts owed. This can be accomplished as any party requesting the appointment of a conservator must provide the Probate Court with a schedule of property which indicates the value of personal property and real property the respondent owns. The Probate Court will also consider whether there are other family members or interested persons who are willing and have the means to pay for the resources covered by Act 208.

Lastly, should the Probate Court find a respondent would benefit from the resources, the Probate Court has set a cap of \$7,500 per case, unless the extenuating circumstances exist to increase the cap.

3. Recruitment Efforts.

As a part of its recruitment efforts, the Probate Court made an announcement at the joint Probate and Estate Planning Section and Elder Law Section of the Hawai'i State Bar Association event on September 26, 2025. The Probate Court provided information relating to Act 208 and the pilot program funds and informed practitioners to notify the Probate Court if they come across a conservatorship or guardianship case that may benefit from the funds.

The Probate Court has also provided information relating to the Pilot resources to court staff. In reviewing cases before the Probate Court, court staff are to consider whether the respondent is in need of statutory resources that may not be accessible due to insufficient funds.

The Probate Court will be reaching out to the Office of the Public Guardian for discussions with Adult Protective Services to advise them of the available Act 208 funds.

B. Report from the Family Court

1. Case Selection.

As it relates to Family Court, Act 208 provides Pilot funds for Guardianship of Incapacitated Persons Cases under Hawai'i Revised Statutes Chapter 560, Article V, Subpart 3.

An analysis of Guardianship Cases over the two most recent calendar years shows an average of approximately 150 cases filed per year in the First Circuit. Given this high volume of cases and in light of the relatively limited amount of Pilot funds, the Family Court determined that it would only utilize Pilot resources in contested cases, or cases in which there are one or more issues in dispute amongst the parties in a particular case. In other words, the nature of a proceeding (contested or uncontested) acts as a screening criteria for Pilot resources, but whether or not a case requires Pilot resources is still left to the discretion of the presiding judge in any particular case.

In the two most recent calendar years, approximately 5% of the First Circuit Family Court's Guardianship Cases were contested:

Calendar Year	Number of Contested Cases	Total Number of Guardianship Cases Filed	Contested Case %
2023	7	151	4.6%
2024	8	152	5.3%

The Family Court will monitor and report back on data over the course of the Pilot to better determine whether this 5% rate is consistent over time. In addition, the Family Court will analyze data in the other Circuits to determine what the statewide

contested case rate is. Should the Pilot become permanent, this data should aid in forecasting future costs.

In addition to targeting contested cases, the Family Court also considered whether or not respondents have sufficient funds to pay for one or more of the Pilot resources. In determining which respondents may qualify for Pilot resources, the Family Court utilizes an income-based presumptive test of indigency. If it is reported that the respondent earns less than 200% of the federal poverty guidelines in Hawai'i, then the Family Court considers the respondent to be presumptively indigent and therefore qualified for Pilot resources provided that the overall case warrants such resources. If the respondent does not fall strictly within the 200% guidelines, or the Family Court cannot ascertain the respondent's income level, then the assigned Family Court Judge retains the discretion to order Pilot resources based on case specific factors.

2. Pilot Resource Compensation and Procurement Methodology.

Act 208 created the potential for the funding of three separate court-ordered resources: a Kokua Kanawai, a GAL, and a Professional Examination. Prior to ordering the appointment of these resources, the Family Court has analyzed compensation structures and sources to procure these services.

a. Guardian Ad Litem.

As of November 15, 2025, there were no cases in which the Family Court found it appropriate to appoint a GAL using Pilot funds.

The GAL Compensation Structure is established under existing law. HRS § 571-87 establishes an hourly rate for GALs of \$150 per hour for licensed attorneys and \$122 per hour for GALs who are not attorneys licensed in Hawai'i. This section likewise sets a maximum allowable fee of \$5,500 for Guardianship Case GALs, with the ability to exceed this cap if approved by the Senior Family Court Judge.

b. Kokua Kanawai.

Unlike GALs, there is no designated compensation structure under existing law for Kokua Kanawai in Guardianship proceedings. Absent an established compensation structure and in order to stay within the Pilot budget, the Family Court created a standard appointment order which establishes certain cost control measures for Kokua Kanawai.

First, similar to GALs, the Family Court set a maximum allowable fee of \$5,500 for Kokua Kanawai appointments. However, unlike GALs the Family Court did not restrict a Kokua Kanawai's hourly rate. Instead, Kokua Kanawai will submit their billable hours pursuant to their self-designated hourly rate, which is subject to approval of the presiding Judge.

Second, the appointment order establishes that a Kokua Kanawai may seek reimbursement of reasonable fees incurred in excess of the maximum of

\$5,500. However, this request must be approved by the Senior Family Court Judge of the First Circuit.

Third and finally, any request for payment of fees and expenses in excess of the maximum shall be timely submitted on a monthly basis. By including this monthly billing requirement, the Family Court is better able to manage multiple court appointments across multiple cases, which should assist the Family Court in staying within the annual Pilot budget of \$50,000.

Overall, these cost control measures should ensure that the Pilot remains within budget, while still obtaining usable data regarding the current market rates for this type of appointment.

As part of its recruitment efforts, the Family Court reached out to all attorneys of record in its Guardianship Cases over the two most recent calendar years to determine interest in participating in the Pilot as a Kokua Kanawai. In doing so, the Family Court also informed candidates of the specific cost control measures detailed above. Of the approximately 50 attorneys that the Family Court contacted, 14 individuals were designated for inclusion on the Family Court's court-appointed Kokua Kanawai list.

Given the Family Court's familiarity with other court-appointed lists in other proceedings, the Family Court anticipates that a list of 14 willing individuals should be adequate for the Pilot while factoring in things, such as conflicts of interest, that may arise which would preclude an individual from accepting an appointment.

In order to collect further data, the Family Court also asked attorneys who did not want to volunteer for the Pilot to share their reasons why. The Family Court informed attorneys that it would aggregate such responses for inclusion in this report to the Legislature. As a result, the following seven responses were provided:

Number of Respondents	Explanation
4	Not enough time/overwhelmed with other work
1	Not enough time/cutting back on cases/semi-retired
1	Does not believe that Kokua Kanawai are needed based on experience, recommends that funds should be spent on a handbook of resources to assist guardians in caring for their ward
1	Unable to be considered because of the cap on fees

As of November 15, 2025, the Family Court has appointed one Kokua Kanawai. Given timing, the Family Court does not have any invoicing data for this appointment. In its final report to the Legislature, the Family Court will provide a detailed analysis of its cost data.

c. Professional Examination Compensation Structure.

As of November 15, 2025, there has not been a case in which the Family Court has found it appropriate to order a Professional Examination.

That said, the Family Court continues to develop a compensation structure and appointment methodology for Professional Examinations. As of November 30, 2025, the Family Court is evaluating a procurement process for this service.

The Family Court is in contact with the Department of Health Adult Mental Health Division as well as the Office of Public Guardian regarding any insights they may have with respect to appointments for Professional Examinations.

In its final report, the Family Court intends to fully detail the processes that it has deployed for this specific Pilot resource.

II. NUMBER OF PEOPLE SERVED BY THE PILOT PROGRAM

As stated above, the Probate Court has not found a respondent that could be served by the Pilot Program. The Family Court has thus far appointed a Kokua Kanawai in one of its cases. That case includes a petitioner, proposed alternate guardian, two interested parties, and the respondent.

III. NUMBER OF PEOPLE WHO RECEIVED RESOURCES FROM THE PILOT PROGRAM WHO OTHERWISE WOULD NOT HAVE BEEN ABLE TO PAY FOR THESE RESOURCES

There are no people who have received Pilot resources from the Probate Court. For the Family Court, as referenced in Part II above, there were five individuals involved with the currently pending case that is utilizing Pilot resources. These individuals would not have been able to retain a Kokua Kanawai absent Pilot resources.

IV. RECOMMENDATIONS AS TO WHETHER THE PILOT PROGRAM SHOULD CONTINUE AS A PILOT PROGRAM, BE MADE PERMANENT, OR BE DISCONTINUED

At this interim stage, the Probate Court and the Family Court recommend that the Pilot Program should continue into its second year as set forth in Act 208.

V. IF CONTINUATION OR PERMANENCY OF THE PILOT PROGRAM IS RECOMMENDED AND RECOMMENDATIONS FOR FUNDING FOR THE PROGRAM

At this interim stage, the Probate Court and the Family Court cannot make recommendations regarding the continuation or permanency of the Pilot Program.

While the Probate Court supports the purpose of Act 208, the Probate Court recognizes the practical limitations on appropriately using such funds. The Probate Court will continue to monitor all Adult Conservatorship Cases and Adult Conservatorship Cases to assess whether there are respondents who can benefit from the Pilot resources and will incorporate any new data into its overall analysis in its final report recommendations.

As for the Family Court, it has invested significant time and effort in year one of the Pilot to ensure that certain key logistical elements are in place. Given the groundwork that the Family Court has laid, it is anticipated that the second year of the Pilot should allow for a greater use of Pilot resources and the collection of more actionable data. The Family Court will incorporate this data into its overall analysis in its final report recommendations.