

The Judiciary, State of Hawai'i
Ka 'Oihana Ho'okolokolo, Moku'āina 'o Hawai'i

Testimony to the Thirty-Third Legislature, 2026 Regular Session

House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Thursday, March 19, 2026, 2:00 p.m.
State Capitol, Conference Room 325 & Videoconference

By

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Staff Attorney
Intermediate Court of Appeals

Bill No. and Title: Senate Bill No. 2446, Senate Draft 2, Relating to the Judiciary.

Purpose: Increases the number of associate judges on the Intermediate Court of Appeals from six to seven. Effective 7/1/2050. (SD2)

Judiciary's Position:

The Judiciary supports the intent of Senate Bill No. 2446 and provides the following comments.

The Judiciary agrees that the addition of an Associate Judge to the Intermediate Court of Appeals (ICA), which would expand the Court to include eight judges (one Chief Judge and seven Associate Judges), would enable the ICA to further reduce its backlog. Senate Bill No. 2446, SD2, which amends Hawai'i Revised Statutes Section 602-51 without a budgetary appropriation, suggests that the Legislature may be expressing in the immediate-term that an additional judge on the ICA would likely be helpful, while deferring for the future the commitment of additional resources (general funds) for this purpose.

This is consistent with the Judiciary's openness in the immediate-term to acknowledging that an additional judge would likely be helpful to address the ICA's large volume, while deferring an explicit request for additional resources until a period of stable operation with all



seven currently authorized ICA judges, while increasingly efficient processes allow the ICA to assess ongoing resource needs.

This measure raises issues of the ICA's caseload, time to resolution, and processes. The Judiciary takes this opportunity to share important points.

The Legislature added the seventh ICA judge in 2022, and since then the ICA has operated at its full composition of seven judges for only about seven months, from May 2023 to January 2024, due to transition and a period of recruitment. Despite largely being short one judge, the ICA was able to produce its largest net decrease ever, of 96 cases in Fiscal Year (FY) 2024-25, by terminating 599 primary cases while 503 new cases were filed. Operational reforms led to reduction of the ICA's pending caseload from 860 to 764 by the end of FY 2025. The 764 total primary caseload figure for July 2025 is the lowest the ICA has experienced since FY 2018.

In discussing the length of time to resolve pending cases, it is critical to acknowledge: the important principles of procedural due process at the appellate level, including ensuring a complete and accurate factual record on appeal and the parties' rights to present their arguments; the role of trial court clerks, court reporters, and appellate attorneys in driving the pace of appellate proceedings; and the time necessary for the Court to conduct a careful and thorough review of the legal issues before it. More specifically, a case on appeal to the ICA must clear certain procedural milestones under court rules—that in total typically take a minimum of 224 days before the case can be assigned to a panel of three ICA judges for a decision, if no extensions are requested from the court. During this period of time before the three-judge ICA panel is assigned ("pre-assignment period"), the trial court record and transcripts are completed and made a part of the appellate record, and the parties' appellate briefs are completed. For the last ten years, the *average* pre-assignment period has been approximately eight to ten months, which is meaningfully longer than the 224-day-minimum, because appellate attorneys and others commonly request extensions for transcripts, to complete their appellate briefs, to account for changes in appellate attorneys, or for other reasons. Indeed, it is not uncommon for extensions to expand the pre-assignment period to over one year.

Court rules authorize trial court clerks, court reporters, and parties to request extensions of time to fulfill their obligations in making a case ready for assignment to an ICA three-judge panel. While the granting of extensions is within the ICA's control, the reasons and need for such extensions are not. The ICA grants extensions during the pre-assignment period to the minimal extent necessary, balancing the parties' due process rights under the law, with the timely disposition of appeals. The extensions occur before the three-judge ICA panel is assigned. The three-judge ICA panel cannot decide the case until the parties' appellate briefs are completed and the case is assigned to it for a decision on the merits.

In sum, the Judiciary supports the intent of additional resources to the ICA, and supports the prudent approach of the current version (Senate Bill No. 2446, SD2), which amends the statute but does not appropriate funds, because this allows the ICA to stabilize with the full complement of statutorily authorized positions, assess resource needs, and make an explicit request for legislative appropriations for an additional position with data and when appropriate.



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Thank you for the opportunity to testify on this measure.

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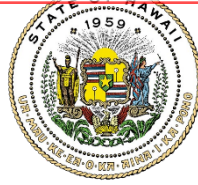
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March 18, 2026

LATE

SB 2446, SD2: RELATING TO THE JUDICIARY:

**Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee on
Judiciary and Hawaiian Affairs:**

The Office of the Public Defender (OPD) **submits comments** on SB 2446, SD2 which establishes an additional associate judge to serve on the Hawai'i Intermediate Court of Appeals.

The OPD previously submitted testimony in support of SB 2446, consistent with our ongoing commitment to promoting the timely and efficient resolution of criminal appeals and safeguarding the fair administration of justice.

While we acknowledge ongoing workload concerns, we defer to the Judiciary's assessment that substantial strides have been made in addressing case volume notwithstanding the current vacancy. Accordingly, we support the Judiciary's request to reevaluate the necessity of an additional judgeship after an adequate period of full staffing.

Thank you for the opportunity to comment.

SB-2446-SD-2

Submitted on: 3/19/2026 10:31:41 AM

Testimony for JHA on 3/19/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kat Brady	Community Alliance on Prisons	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe and Members of the Committee!

Community Alliance on Prisons is pleased to express our strong support for increasing the number of associate judges on the ICA.

I listened to the JDC questions of a nominee this morning and it gave me hope that the backlog of the ICA can be reduced with smart and caring attorneys.

Please pass this measure and send it along to FIN with a strong recommendation for passage!

Mahalo piha,

Kat Brady, Coordinator

COMMUNITY ALLIANCE ON PRISONS