

## **THE JUDICIARY**

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The State Constitution, Article VI, section 1, states that the judicial power of the State is vested in one Supreme Court, one Intermediate Appellate Court, Circuit Courts, District Courts, and in such other courts as the Legislature may establish. In 1965, a system of Family Courts was created under chapter 571, HRS. The Land Court, established under section 501-1, HRS, was originally established in 1903 (Act 56, SLH 1903, section 2). The Tax Appeal Court, established under section 232-11, HRS, was originally established in 1932 (Act 40, SLH 1932, 2<sup>nd</sup> Special Session, section 43).

The State Constitution, Article VI, section 3, provides that the Governor, with the consent of the Senate, fills a vacancy in the office of the Chief Justice, Supreme Court, Intermediate Appellate Court, and Circuit Courts by appointing a person from a list of not less than four, and not more than six, nominees for the vacancy, presented by the Judicial Selection Commission. For District Courts, the Chief Justice, with the consent of the Senate, fills a vacancy by appointing a person from a list of not less than six nominees presented by the Judicial Selection Commission.

Justices and judges must be residents and citizens of the State and of the United States and licensed to practice law by the State Supreme Court. Justices of the Supreme Court and judges of the Intermediate Appellate Court and Circuit Courts shall have been so licensed for a period of not less than ten years preceding nomination. District Court judges shall have been so licensed for a period of not less than five years preceding nomination.

The term of office of justices and judges of the Supreme Court, Intermediate Appellate Court, and Circuit Courts is ten years. District Court judges serve for six-year terms, pursuant to section 604-2(a), HRS. At least six months prior to the expiration of a justice's or judge's term of office, every justice and judge must petition the Judicial Selection Commission to be retained in office or inform the Commission of an intention to retire. If the Commission determines that the justice or judge should be retained in office, the Commission renews the term of office of the justice or judge for the period provided by the State Constitution, Article VI, section 3, or by law. Justices and judges must retire upon attaining the age of seventy years.

The State Constitution, Article VI, section 5, empowers the Supreme Court to create a Commission on Judicial Discipline and to reprimand, discipline, suspend with or without salary, retire, or remove from office any justice or judge for misconduct or disability.

## SUPREME COURT

The Hawaii Supreme Court consists of the Chief Justice and four associate justices. Statutory provisions relating to the Supreme Court are set forth in chapter 602, part I, HRS.

Under the State Constitution, Article VI, section 6, and section 601-2, HRS, the Chief Justice is the administrative head of the courts. The Chief Justice may assign judges from one circuit court to another; prescribes a uniform system of keeping and reporting court statistics; exercises exclusive authority over the judiciary budget; and does all other acts necessary for the administration of the Judiciary.

Under section 602-5, HRS, included in the jurisdiction and powers of the Supreme Court are: (1) to hear and determine all questions of law, or of mixed law and fact, which are properly brought before it by application for a writ of certiorari to the Intermediate Appellate Court or by transfer as provided in chapter 602, HRS; (2) to answer, in its discretion, any question of law reserved by a Circuit Court, the Land Court, or the Tax Appeal Court, or any question or proposition of law certified to it by a federal District or Appellate Court if the Supreme Court shall so provide by rule; and (3) to exercise original jurisdiction in all questions arising under writs directed to courts of inferior jurisdiction and returnable before the Supreme Court, or if the Supreme Court consents to receive the case arising under writs of mandamus directed to public officers to compel them to fulfill the duties of their offices; and such other original jurisdiction as may be expressly conferred by law.

### **Administrative Director of the Courts**

Under the State Constitution, Article VI, section 6, and section 601-3, HRS, the Chief Justice appoints an Administrative Director to assist in directing the administration of the Judiciary. The Administrative Director's functions include: (1) examining the administrative methods of the courts and making recommendations to the Chief Justice for their improvement; (2) collecting, analyzing, and reporting to the Chief Justice statistical and other data concerning the business of the courts; and (3) assisting the Chief Justice in the preparation of the budget, the six-year program and financial plan, the variance report, and any other reports requested by the Legislature.

The Office of the Administrative Director is divided into three divisions: Support Services Division, Policy and Planning Division, and Intergovernmental and Community Relations Divisions. Services and programs within the Divisions include: Budget and Statistics, Fiscal and Support Services, Office on Equality and Access to the Courts, Internal Audit, Law Library, Personnel, Planning, Public Affairs, Staff Attorneys, Telecommunications and Information Services, Administrative Driver's License Revocation Office, Center for Alternative Dispute Resolution, Children's Justice Program, and the Judiciary History Center.

## **Administrative Driver's License Revocation Office**

The Administrative Driver's License Revocation Office promotes public safety on the roadway by expeditiously revoking the driving privileges of impaired drivers. The Administrative Revocation Process, pursuant to chapter 291E, part III, HRS, establishes the procedure for revoking driving privileges of impaired drivers while safeguarding their due process rights. This civil administrative process revokes driver licenses and motor vehicle registrations and is separate from criminal charges of: (1) Operating a vehicle under the influence of an intoxicant (OVUII), section 291E-61, HRS, and (2) Habitually operating a vehicle under the influence of an intoxicant, section 291E-61.5, HRS. OVUII charges may be brought by the Prosecuting Attorney in each county.

## **Center for Alternative Dispute Resolution**

The Center for Alternative Dispute Resolution, established within the Judiciary, is governed by chapter 613, HRS. The Center serves to facilitate the effective, timely, and voluntary resolution of disputes and thereby help reduce public and private costs of litigation and increase satisfaction with the justice system. It is administratively maintained by the Chief Justice who appoints the Center's Director.

**Board.** Pursuant to section 613-3, HRS, the Chief Justice appoints a Board of Advisors consisting of nine members as follows: two representatives from the Executive Branch, two from the legal community, two from the Hawaii State Association of Counties, and three from the public at large. The Board may add ex officio members deemed beneficial or desirable to help achieve the Center's purposes. The Board advises the Chief Justice and staff of the Center regarding the use of alternative dispute resolution methods.

## **Children's Justice Program**

The mission of the Children's Justice Program, established under section 588-1, HRS, is to provide for the special needs of children as witnesses in child sex abuse and serious physical child abuses cases by promoting coordination for appropriate investigation, treatment, and legal processes, thereby reducing and preventing unnecessary trauma to children and ensuring justice for children and their families. Children's Justice Centers have been created to provide homelike and child-friendly settings where children can feel comfortable and safe while being interviewed and where children and families interact with specially-trained professionals who address their physical, mental, and emotional needs. Children's Centers are geographically dispersed to meet the needs of children statewide, with locations on Oahu, Maui, and Kauai, and in East Hawaii and West Hawaii.

## **Office of the Public Guardian**

The Office of the Public Guardian is governed by chapter 551A, HRS. The Public Guardian, who is appointed by the Chief Justice, serves as guardian, limited guardian, testamentary guardian, or temporary guardian of an incapacitated person when so appointed by the Family Court or Circuit Court. The Public Guardian advises and assists persons, corporations, and agencies that are seeking appointment as a guardian for an incapacitated person and also provides advice, information, and guidance to the persons, corporations, or agencies who have been appointed as guardian to assist them in the discharge of their duties.

## **Jury Pool Offices**

Juries are governed by chapters 612 (Jurors) and 635 (Trials), HRS. Each year the Judiciary obtains names from voter registration, driver's license, and state income tax lists. Individuals are randomly selected to receive questionnaires which must be completed and returned to the court for review and qualification. The court may summon individuals who qualify for service. There is a jury pool office in each circuit. Each office is responsible for providing trial judges in its circuit with juries and for processing and assisting citizens who are summoned for jury duty. On Oahu, about 700 jurors are summoned each week, or nearly 36,000 a year.

## **Adult Client Services Branch – First Circuit Court**

The Adult Client Services Branch of the First Circuit Court prepares presentence reports and provides supervision of convicted offenders placed on probation and of mentally ill individuals acquitted of crimes, or as directed by the courts.

### **Intake/Presentence Investigation Section**

**Circuit Court and District Court Units.** For Circuit Courts, this Section completes comprehensive investigative and diagnostic reports on all adult offenders referred by the court who have been convicted of a crime (primarily felony offenses) and makes sentencing recommendations to the court that are congruent with the interest of the community while considering the rehabilitative and/or restraining needs of the defendant. For District Courts, this Section performs the same general functions as the Circuit Court Units, except that the offenders are generally convicted of misdemeanor offenses.

**Adult/Juvenile Community Service and Restitution Unit.** This Unit interviews clients from all courts to determine appropriate placements for court-ordered community service work and monitors clients' compliance and/or noncompliance on community service work and restitution.

## **Supervision Section I**

**Circuit Court and District Court Units.** For Circuit Courts, this Section manages, supervises, and controls adult felons placed on probation or court-ordered supervision for Oahu, and a limited number from the neighbor islands and the mainland. The intensity of the supervision is determined by the level of classification in two assessed areas: the risk of reoffending and the needs of the probationer. For District Courts, this Section performs the same general functions as the Circuit Court Units, except that the offenders are generally convicted of misdemeanor offenses.

## **Supervision Section II**

**Adult Services Criminal Misdemeanor Probation Units.** These units perform the same general functions as Supervision Section I, except that the offenders are generally convicted of both felony and misdemeanor offenses involving domestic violence issues or other charges such as criminal property damage, harassment, and terroristic threatening.

**Temporary Restraining Order (TRO)/Domestic Violence Unit.** This Unit provides the community a means to access the court system without the assistance of an attorney and to expeditiously obtain protective orders in domestic violence situations. Court officers in this Unit assist petitioners in processing the necessary documents.

## **Integrated Community Sanctions Section**

**Sex Offender Unit.** This Unit conducts comprehensive investigations of all sex abuse cases referred by the court. Supervision is intensive, with offenders subject to mandatory sex offender treatment, polygraph testing, curfew, electronic monitoring, unannounced home visits, and restrictions on employment and leisure time activities.

In 2004, Hawaii's Opportunity for Probation with Enforcement (HOPE) was implemented in the Unit to reduce the use of cost-prohibitive prison sentences for probation violations. Probationers in HOPE receive immediate sanctions – typically several days in jail – by the courts in response to violations.

**Drug Units.** Two probation units divert high risk, substance abusing offenders from imprisonment through responsive intervention approaches and structured sanctioning. In collaboration with the Department of Health, targeted offenders with substance abuse issues are offered a continuum of treatment interventions. Offenders in each of the units participate in HOPE. Those offenders requiring more structured programming are referred to the Hawaii Drug Court Program.

## **Hawaii Drug Court Program**

The mission of the Hawaii Drug Court Program is to channel eligible offenders, who would otherwise be incarcerated in Hawaii's correctional system, into a comprehensive and integrated system of judicial and treatment services. The intent is to have a single judge handle the cases from the time they are referred for drug rehabilitation to the conclusion of the program. Defendants are placed in rehabilitation programs with frequent monitoring and treatment requirements with regular status review by the court.

## **Commission on Judicial Conduct**

The State Constitution, Article VI, section 5, empowers the Supreme Court to create a Commission on Judicial Discipline to carry out the Court's power to reprimand, discipline, suspend, retire, or remove from office any justice or judge for misconduct or disability. The Commission has the authority to investigate and conduct hearings concerning allegations of misconduct or disability and make recommendations to the Court concerning reprimand, discipline, suspension, retirement, or removal. Pursuant to Rule 8.1, Rules of the Supreme Court, the Commission on Judicial Conduct is composed of seven members appointed by the Supreme Court to three-year terms. Three members, including the Chairperson, are attorneys licensed to practice law in the State; four members, including the Vice Chairperson, are citizens who are not active or retired judges or attorneys. Under Rule 8.3, Rules of the Supreme Court, commission members and special counsel appointed by the Supreme Court are immune from suit for all conduct in the course of their official duties.

## **Board of Examiners**

The Supreme Court appoints a Board of Examiners to administer the process of admission to the Bar of the State, under Rule 1, Rules of the Supreme Court. However, nothing in Rule 1 alters or limits the ultimate authority of the Supreme Court to oversee and control the privilege of the practice of law in the State. Board members are appointed to three-year terms from nominations submitted by the Nominating Committee of the Supreme Court. The Supreme Court appoints a Chairperson and Vice Chairperson of the Board from its members. The Supreme Court also determines the number of members who serve on the Board.<sup>1</sup> The Board administers semiannual state bar examinations.

## **Disciplinary Board**

Pursuant to Rule 2.4, Rules of the Supreme Court, the Supreme Court appoints a Disciplinary Board consisting of eighteen members, each of whom is nominated and appointed from a list of nominees submitted by the Nominating Committee of the Supreme Court to three-

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<sup>1</sup> See Hawaii Board of Bar Examiners, Rules of Procedure, section 1.5. Fifteen board members constitute a quorum, *id.*, section 1.8. As of August 2013, there were 36 members on the Board.

year terms. The Board appoints a Chief Disciplinary Counsel and such Assistant Disciplinary Counsel and staff as required to investigate and dispose of all matters involving alleged misconduct in violation of the Rules of Professional Conduct, pursuant to Rule 2, Rules of the Supreme Court.

## INTERMEDIATE COURT OF APPEALS

The Intermediate Court of Appeals (ICA) is governed by chapter 602, part II, HRS. Pursuant to section 602-51, HRS, the ICA is composed of a chief judge and five associate judges who sit in panels of three.

Under section 602-57, HRS, the ICA has jurisdiction, subject to transfer as provided in section 602-58 or review as provided in section 602-59, HRS, to: hear and determine appeals from any court or agency when appeals are allowed by law; and entertain, in its discretion, any case submitted without suit when there is a question of law that could be the subject of a civil action or proceeding in the Circuit Court or Tax Appeal Court, and the parties agree upon the facts of the controversy.

Under section 602-58(a), HRS, the Supreme Court must grant an application to transfer any case within the jurisdiction of the ICA to the Supreme Court upon the grounds that the case involves: a question of imperative or fundamental public importance; an appeal from a decision of any court or agency when appeals are allowed by law; or a sentence of life imprisonment without the possibility of parole. Under section 602-58(b), HRS, the Supreme Court may grant an application to transfer any case from the ICA to the Supreme Court upon the grounds that the case involves: a question of first impression or a novel legal question; or issues upon which there is an inconsistency in the decisions of the ICA or the Supreme Court.

Under section 602-59, HRS, after issuance of the ICA's judgment or dismissal order, a party may seek review of the ICA's judgment or dismissal order only by application to the Supreme Court for a writ of certiorari, the acceptance or rejection of which is discretionary upon the Supreme Court.

## CIRCUIT COURTS

The State is divided into four judicial circuits, pursuant to section 603-1, HRS, as follows: (1) the First Judicial Circuit, consisting of the island of Oahu, and all other islands of the State not in any other circuit, has twenty-three Circuit Court judges; (2) the Second Judicial Circuit, comprised of the islands of Maui, Molokai, Lanai, Kahoolawe, and Molokini, has four Circuit Court judges; (3) the Third Judicial Circuit, the island of Hawaii, has four Circuit Court judges; and (4) the Fifth Judicial Circuit, consisting of the islands of Kauai and Niihau, is served by two Circuit Court judges.<sup>2</sup>

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<sup>2</sup> There is no Fourth Judicial Circuit. It was eliminated in 1943 when the Fourth Circuit (part of the island of Hawaii) merged into the Third, and the designation was dropped altogether.

The jurisdiction of the Circuit Courts, set forth under chapter 603, part III, HRS, includes: criminal offenses; actions for penalties and forfeitures; civil actions and proceedings; concurrent jurisdiction with family courts; probate; and injunction of violation of laws and ordinances.

## FAMILY COURTS

Chapter 571, HRS, governs the system of Family Courts. Family Courts consist of Circuit and District Family judges and are administered as divisions of the Circuit Courts. In the First Judicial Circuit, the Chief Justice designates one Circuit Court judge to act as the Senior Family Court judge. In the other circuits, the Chief Justice assigns the functions of the Senior Family Court judge to the Administrative Judge of the Circuit Court. Section 571-8, HRS, provides for the establishment of a District Family Court in each of the judicial circuits. The geographical jurisdictions are the same as those of the District Courts. Judges of the District Family Courts are entitled District Family Court judges and must have the same qualifications as District Court judges.

Pursuant to section 571-1, HRS, the policy and purpose of Family Courts is to promote the reconciliation of distressed juveniles with their families, foster the rehabilitation of juveniles in difficulty, render appropriate punishment to offenders, and reduce juvenile delinquency. Family Courts conduct all proceedings to the end that no adjudication of the status of any child under chapter 571, HRS, will be deemed a conviction; no such adjudication will impose any civil disability ordinarily resulting from conviction; no child will be found guilty or be deemed a criminal by reason of such adjudication; no child will be charged with crime or be convicted in any court except as otherwise provided in chapter 571, HRS; and all children found responsible for offenses will receive dispositions that provide incentive for reform or deterrence from further misconduct, or both. The disposition made of a child or any evidence given in court will not operate to disqualify the child in any civil service or military application or appointment.

Under section 571-11, HRS, Family Courts have exclusive original jurisdiction relating to children in proceedings that include, in addition to adjudications referred to above: adoption (chapter 578, HRS), termination of parental rights (sections 571-61 through 571-63, HRS), and the Child Protective Act (chapter 587A, HRS).

Under section 571-14, HRS, Family Courts also have exclusive original jurisdiction relating to adults in proceedings that include: offenses committed against a child by the child's parent or guardian or violations of certain sections of chapter 707 (Offenses Against the Person), 709 (Offenses Against the Family and Against Incompetents), or section 302A-1135 (school absenteeism); chapter 580 (Annulment, Divorce, and Separation), chapter 584 (Uniform Parentage Act), chapter 575 (Uniform Desertion and Nonsupport Act), and chapter 576B (Uniform Interstate Family Support Act); chapter 586 (Domestic Abuse Protective Orders); and chapter 346, part X (Adult Protective Services), HRS.



## **Board of Family Court Judges**

The Board of Family Court Judges, established under section 571-5, HRS, consists of all the State's Family Court and District Family Court judges. The principal function of the Board is to establish general policies for the conduct of Family Courts. All actions by the Board are subject to the regulatory supervision of the Chief Justice.

## **LAND COURT**

The Land Court, established under section 501-1, HRS, has exclusive original jurisdiction over all applications for the registration of title to land and easements or rights in land held and possessed in fee simple within the State, with power to hear and determine all questions arising upon such applications. It also has jurisdiction over other questions brought forth under chapter 501, HRS, Land Court Registration. Pursuant to section 501-2, HRS, the Administrative Judge of the First Circuit Court, subject to the direction of the Chief Justice, assigns all Land Court matters to a judge or judges of the First Circuit Court.

## **TAX APPEAL COURT**

The Tax Appeal Court is established under section 232-11, HRS. Under section 232-13, HRS, its jurisdiction is limited to the amount of valuation or taxes in dispute. The Court hears appeals regarding: tax refund claims under section 232-14.5, HRS; tax assessments under section 232-16, HRS; and decisions of a state or county Board of Review under section 232-17, HRS. Pursuant to section 232-8, HRS, the Administrative Judge of the First Circuit Court, subject to the direction of the Chief Justice, assigns all Tax Appeal Court matters to a judge or judges of the First Circuit Court.

## **DISTRICT COURTS**

Chapter 604, HRS, governs District Courts. Under section 604-1, HRS, a District Court is established in each of the judicial circuits of the State. Civil jurisdiction of District Courts, as set forth in section 604-5, HRS, is generally limited to claims that do not exceed \$25,000. Under section 604-8, HRS, criminal jurisdiction is limited to criminal offenses punishable by fine or by imprisonment not exceeding one year, whether with or without a fine. District Courts also hear actions for ejection (section 604-6, HRS); petitions for relief from harassment (section 604-10.5, HRS); and violations of county ordinances (section 604-11, HRS).

Under section 604-2(b), HRS, the Chief Justice appoints District Court judges to serve on a per diem basis to provide auxiliary judicial functions.

## ATTACHED FOR ADMINISTRATIVE PURPOSES

### **Judicial Selection Commission**

The State Constitution, Article VI, section 4, provides for a Judicial Selection Commission consisting of nine members, who are appointed as follows: two by the Governor, no more than one of whom is a licensed attorney; two each by the President of the Senate and Speaker of the House of Representatives; one by the Chief Justice; and members in good standing of the State Bar elect two of their number in an election conducted by the Supreme Court or its delegate. No more than four members are licensed attorneys. At all times, at least one member of the Commission is a resident of a county other than the City and County of Honolulu. Terms are for six years. The Commission selects one of its members as Chairperson.

The Commission is selected and operates in a wholly nonpartisan manner. Commission members are prohibited from taking active roles in political management or campaigns and are ineligible for appointment to judicial office for the duration of their term on the Commission and for three years thereafter.

### **Judicial Council**

The Judicial Council, established under section 601-4, HRS, and Rule 4, Rules of the Supreme Court, consists of the Chief Justice, who is Chairperson, and not more than fifteen other members appointed by the Supreme Court to serve in an advisory capacity on the administration of justice in the courts of the State. Council members include laypersons as well as judges and lawyers.

### **Judiciary History Center**

The Judiciary History Center is established within the Office of the Administrative Director of the Courts under section 6F-2, HRS. Essentially educational in purpose, the Center owns and utilizes tangible objects of service, history, and art and cares for and exhibits them to the public on a regular schedule. The Center is located on the ground floor of the Aliioli Hale Building.

**Board.** The Executive Board of the Judiciary History Center, established under section 6F-3, HRS, consists of five members who are appointed by the Chief Justice to four-year terms; three of the members are selected from a list of seven candidates submitted by the Friends of the Judiciary History Center. The Board elects from its own members a Chairperson and Vice Chairperson. Among the Board's duties, under section 6F-5, HRS, are: (1) managing and opening the Center to the general public for educational, historical, and cultural purposes; (2) collecting, preserving, displaying, and interpreting objects and documents that are representative of our judicial heritage; (3) cooperating with and providing technical assistance to the Judiciary and other public and private agencies involved in developing and implementing programs in historic preservation activities related to the Judiciary; (4) conducting research in the

field of Hawaiian judicial history and making the benefits of the research and study available to the public; (5) stimulating and promoting public interest and awareness of Hawaiian judicial history by providing interpretive and information services for use in the schools of the State that will aid in a better understanding of the history of the Judiciary; and (6) selecting an Executive Director to supervise the Center's activities.

### **State Council for Interstate Adult Offender Supervision**

The State Council for Interstate Adult Offender Supervision, established under section 353B-3, HRS, consists of nine members as follows: (1) one member of the House of Representatives appointed by the Speaker of the House of Representatives; (2) one member of the Senate appointed by the Senate President; (3) one member of the Judiciary appointed by the Chief Justice; (4) the Director of Public Safety or designee; (5) one member from the general public representing victims groups appointed by the Governor; (6) the Prosecuting Attorney of the City and County of Honolulu, or designee; (7) the Attorney General or designee; (8) the State Public Defender or designee; and (9) the Compact Administrator, appointed by the Governor with the advice and consent of the Senate and Chief Justice. With the exception of the Director of Public Safety or designee, and the Compact Administrator, the terms of all members are for four years. The Council exercises oversight and advocacy concerning its participation in activities of the Interstate Commission for Adult Offender Supervision under section 353B-1, HRS, Article VII, and other duties as may be determined by the Council, including development of policy concerning operations and procedures of the Interstate Compact for the Supervision of Adult Offenders within the State.

### **State Council for Interstate Juvenile Offender Supervision**

The State Council for Juvenile Offender Supervision, established under section 582D-1, HRS, Article IX, consists of nine members as follows: (1) one member of the House of Representatives appointed by the Speaker of the House of Representatives; (2) one member of the Senate appointed by the Senate President; (3) one member of the Judiciary appointed by the Chief Justice; (4) the Executive Director of the Office of Youth Services or designee; (5) one member from the general public representing victims' groups, appointed by the Governor with the advice and consent of the Senate; (6) a prosecuting attorney or designee; provided that this appointment rotates every four years among the several counties, as follows: Honolulu, Hawaii, Maui, and Kauai; (7) the Attorney General or designee; (8) the State Public Defender or designee; and (9) the Compact Administrator, appointed by the Governor with the advice and consent of the Senate and Chief Justice. With the exception of the members designated in paragraphs (4), (6), (7), (8), and (9), the terms of all members are for four years. The Council exercises oversight and advocacy concerning its participation in activities of the Interstate Commission for Juveniles under section 582D-1, HRS, Article VII, and other duties that may be determined by the Council, including development of policy concerning operations and procedures of the Interstate Compact for Juveniles within the State.

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