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**TESTIMONY OF ROBIN K. MATSUNAGA, OMBUDSMAN,
ON H.B. NO. 640, H.D. 2, A BILL FOR AN ACT
RELATING TO CHILD WELFARE**

HOUSE COMMITTEE ON FINANCE

FEBRUARY 21, 2025

Chair Yamashita and Members of the Committee on Finance:

Thank you for the opportunity to present testimony on H.B. No. 640, H.D. 2. The purpose of this bill is to address some of the concerns identified by the Mālama ‘Ohana Working Group with regard to Hawaii’s child welfare system. The bill appears to focus on raising awareness of the Office of the Ombudsman as a resource for persons who have complaints related to the Child Welfare Services Branch (CWS), Social Services Division, Department of Human Services, as a means to improve the accountability of the child welfare system. My testimony is limited to Section 2 of this bill.

Section 2 of this bill requires my office to publish on our website an annual report of the number and nature of complaints we receive against CWS and the disposition of those complaints. The bill defines “nature of complaint” to mean the relationship of the complainant with CWS and the service provided by CWS that is the subject of the complaint. While preparing and publishing the report will have an operational impact on my office, I do not believe this bill will have a fiscal impact on my office, at least not one that can be quantified.

As you know, my office is required under Chapter 96, Hawaii Revised Statutes, to “maintain secrecy in respect to all matters and the identities of the complainants or witnesses coming before the ombudsman.” The definition of “nature of complaint” will not, in my opinion, cause the publishing of the required reports to violate this confidentiality requirement. However, as I noted to the previous committee, I am concerned about how useful the quarterly reports will be for the Legislature, CWS, and the public, for the reasons that follow.

It should be recognized that the reports will only reflect the complaints that we received against CWS and, as such, may not provide an accurate picture of the actual state of CWS and Hawaii’s child welfare system. Even if there is 100 percent awareness of my office as a resource for those who have complaints against CWS, the complaints we receive will likely represent only a portion of the total number of complaints and may not be sufficient to provide

data on CWS that is statistically significant. Thus, using the reports to draw conclusions about the services being provided by CWS may cause the Legislature or CWS to take actions that are not actually necessary or warranted.

In addition, reporting the nature of the complaints and the disposition of those complaints in a manner that does not violate the requirements of Chapter 96 will require reporting by categories, since we cannot disclose the identities of the complainants or the persons against whom the complaints are filed, nor the specific administrative act that is the subject of the complaint.

It is for these reasons that I do not believe the annual reports will provide necessary, relevant, and useful information to help improve CWS and Hawaii's child welfare system. And if so, there would be little, if any, benefit to expending time and resources that could otherwise be directed towards investigating the complaints we receive, just to prepare and post the reports, year after year after year, as the proposed statutory amendment in Section 2 of the bill would require. If this committee shares my concern about how useful the reports may be, I respectfully request that consideration be given to deleting Section 2 of this bill until a determination can be made about the value of the reports.

Thank you for your consideration of this testimony.

JOSH GREEN, M.D.
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February 20, 2025

TO: The Honorable Representative Kyle T. Yamashita, Chair
House Committee on Finance

FROM: Ryan I. Yamane, Director

SUBJECT: **HB 640 HD2 – RELATING TO CHILD WELFARE.**

Hearing: February 21, 2025, 10:00 a.m.
Conference Room 308 & Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill, defers to the Office of the Ombudsman, offers comments, and respectfully requests an extended effective date.

PURPOSE: This bill requires the Office of the Ombudsman to publish an annual report on its website that identifies the number and nature of complaints that it receives regarding the Child Welfare Services Branch of the Department of Human Services. Requires the Child Welfare Services Branch to provide notification to certain parties that complaints can also be filed with the Office of the Ombudsman. (HD2)

DHS appreciates the amendments by the Committee on Legislative Management that amended the measure by:

- (1) Deleting language that would have required and appropriated funds for specialized training for all employees of the Office of the Ombudsman to develop relevant expertise;
- (2) Clarifying the nature of complaints that must be published on the Office of the Ombudsman's website; and

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

The Committee on Human Services and Homelessness further amended the measure by:

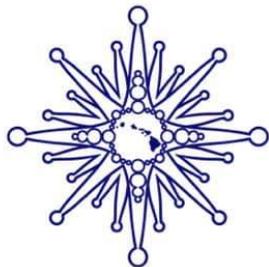
- (1) Specifying that the Office of the Ombudsman publish an annual, rather than quarterly, report on its website;
- (2) Clarifying that the Child Welfare Services Branch shall be required to notify birth families, children in foster care, and resource caregivers that they can file a complaint with the Office of the Ombudsman; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

DHS appreciates the work of the Ombudsman's office as a neutral resource for individuals and families to seek further assistance to address complaints that arise in the course of involvement with the child welfare system.

Regarding the provision requiring the Child Welfare Services Branch (CWS) to notify families of their right to file a complaint with the Office of the Ombudsman, CWS agrees as it currently provides the information in the *Guide to Child Welfare Services* that is provided to all families. The Guide includes an outline of the CWS process for parents to express any concerns that they may have about their caseworkers' behavior. The Guide also provides information to contact the Office of the Ombudsman, including the Office of the Ombudsman's email address, phone number for each island, fax number, TTY number, and mailing address.

The Child Welfare Services Branch will review materials provided to foster youth and resource caregivers to include the notice information for the Office of the Ombudsman. DHS will need additional time to provide current foster youth and resource care givers the information and requests an effective date of six months or more into the future to fully implement notice provision for foster youth and resource caregivers.

Thank you for the opportunity to provide comments on this bill.



HAWAII COALITION

FOR

CHILD PROTECTIVE REFORM

Hearing: February 21, 2025
HB640

Chair Yamashita and committee members.

The HCCPR previously testified in support of HB640 with comments because, with specialized training, the existing office of the Ombudsman might have been a viable means to provide a grievance option to families in the child welfare system.

The second hearing testimony from the Director of the Ombudsman and the writer for the Malama Ohana final report who were strong in recommending that a child advocate office be implemented for grievances. Daisy Hartsfield, DHS, testified that the department would defer to the Ombudsman recommendation.

The HCCPR strongly opposes this bill so that an independent office of the Child Advocate can be created to provide the kind of quality grievance process and oversight of CWS practices and procedures that will preserve both constitutional and fundamental rights of parents and children.

HB 640 Relating to Child Welfare, which establishes reporting for the office of the Ombudsman does not provide the kind of accountability and advocacy that is badly needed in order to implement the recommendations of the Mālama 'Ohana Working Group. We believe the intent of this bill is to do exactly that, but we are concerned that more will need to be done. What is needed is a child advocate with strong kuleana and the resources to do the work that is needed.

In 2023 the Mālama 'Ohana Working Group was established to develop recommendations to establish a child welfare system that is trauma-informed, sustains a community-based partnership, and responds to the needs of children and families in the system and the community. I serve as Co-Chair of the working group. The working group has completed its work and a full copy of the report can be found at www.malamaohana.net, however the working group is still subject to sunshine law until adjournment sine die. To be clear, the working group will not be making further decisions now that the report has been filed. The working group may meet during the session to provide information to the public about its report but will not make further decisions. Therefore, it is not allowed under sunshine law that more than two of us meet to discuss the report, or next steps. Therefore, I am testifying as a concerned citizen and speaking for the content of the report that was approved by the working group.

Our first task as the Mālama 'Ohana Working Group was to establish an approach to our work by cultivating and modeling the kind of listening and concern that we needed for our working group and modeling the type of child welfare system we hope for. From there, we began with the intense work of interviewing individuals, conducting conversations, and holding group discussions in Permitted Interaction Groups, which helped shape our initial understanding. We then conducted eleven community listening sessions throughout the state, gathering stories and ideas from each community we visited. Everywhere we went, we heard stories of children being harmed by the very system meant to protect them. We found deep mistrust within the child welfare system, alienated relationships, and strained partnerships.

In those sessions, this is what we heard:

- "The child welfare system and related systems are not user-friendly for staff or families, lack sufficient accountability measures, and suffer from fragmentation and isolation between different components."
- "Families involved with CWS find it challenging to navigate the complicated system and related services. The experience often feels adversarial, confusing, secretive, and isolating for both children and parents, causing further trauma."
- "We have learned from past efforts to transform the Hawai'i child welfare system—without sustained funding and commitment, little progress is made."

The Mālama 'Ohana Working Group calls for the creation of an independent oversight mechanism to address complaints, systemic failures, and injustices in the child welfare system. The recommendations include:

1. Establish an Independent Ombudsperson for Child Welfare

- Create an independent office to investigate complaints and concerns about CWS practices, child placements, and service delivery.
- Ensure the ombudsperson has the authority to review cases, recommend corrective actions, and enforce accountability.
- Provide families, children, and caregivers a direct, safe way to report issues without fear of retaliation.

2. Develop a Child Advocate Role

- Appoint a Child Advocate to represent the interests of children in the child welfare system.
- Ensure that children's voices are heard in legal and welfare decisions.
- The advocate should monitor policies, propose reforms, and ensure children's rights are protected.

3. Improve External Oversight and Public Reporting

- Require annual public reports on CWS performance, family outcomes, and case handling.
- Implement external audits and reviews to ensure agency transparency and accountability.
- Create a grievance system for families to challenge unfair decisions.

The Mālama 'Ohana Working Group stresses that an independent ombudsperson or child advocate is necessary to provide checks and balances on the child welfare system. Without transparency, public accountability, and independent oversight, families and children will continue to suffer systemic failures.

We respect the existence of the omudsmans' office, and recognize that it has kuleana over child welfare cases. However, because cases are referred to the department's grievance process first, and because of a narrow definition of appropriate cases for the department, our understanding is that it handles very few complaints. In addition, the office does not have the authority to be a partner in building systemic transparency and accountability.

The remaining sections of this bill do not move us forward.