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

HOUSE COMMITTEE ON LEGISLATIVE MANAGEMENT

FEBRUARY 5, 2025

Chair Holt and Members of the Committee on Legislative Management:

Thank you for the opportunity to present testimony on H.B. No. 640. 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 improving the accountability of the child welfare system.

To provide context to my testimony on H.B. No. 640, please allow me to provide a brief background on my office. As you may know, the Office of the Ombudsman was created to investigate the administrative acts of all state executive branch and county government agencies of the State of Hawaii, except for the Governor, Lieutenant Governor, and the mayors of each county. My office has 14 employees: the Ombudsman, a First Assistant (Deputy Ombudsman), an Administrative Services Officer, 8 Analysts (who conduct the investigations), and 3 administrative support staff.

We learn of possible erroneous administrative actions and decisions primarily through the complaints that are filed with our office by residents and nonresidents who are impacted by these agencies. We conduct our investigations independently and impartially, and not as an advocate of either the complainant or the agency. We do not have authority to overturn an agency’s decision or to compel an agency to take corrective action, but if we find that an agency has acted erroneously, unfairly, or unreasonably, we can make recommendations for corrective action to the agency. In addition, we are required by law to “maintain secrecy in respect to all matters and the identities of the complainants or witnesses coming before the ombudsman” and are prohibited from testifying in any court about our investigations.

Although we do not substantiate every complaint that we investigate, by independently and impartially investigating, we level the playing field for citizens who have complaints about their government and ensure that they are being treated lawfully, fairly, and reasonably. We believe

that in doing so, we help to ensure accountability of these agencies and improve the level of trust that citizens have in their government.

During calendar year 2024, we received 78 complaints against the Child Welfare Services Branch (CWS), Social Services Division, Department of Human Services. Of the 78 complaints, we declined to investigate 64 cases: 41 because the complainant had not yet attempted to resolve the matter directly with CWS; 9 because the complaint involved an act by CWS that had occurred too long ago; 5 because the matter was before the court or had already been addressed by the court; 4 because the complaint was filed by a third party; 3 because the matter had already been resolved by CWS prior to the complainant contacting our office; 1 because the complainant refused to identify himself; and 1 because the complaint alleged a criminal act. Of the remaining 14 complaints: 2 were fully investigated but found to be not substantiated; 5 were discontinued before the investigation was completed because the complainant did not provide needed information that we requested; 2 were discontinued because the complainant withdrew the complaint; and 5 are still being investigated.

Based on the foregoing, I offer the following comments on H.B. No 640.

Section 2, subsection (a), of this bill requires all employees of my office to receive specialized training to develop expertise in addressing complaints against CWS, including training about best practices, trauma-informed training, and training in diversity, equity, and inclusion. The specified training must occur over 3 sessions and be completed by December 2026. I have the following concerns about the proposed training.

First, complaints about CWS are not the only complaints that we receive where the complaints concern situations that can have profound impacts on a person's health, welfare, and even life. All complaints require at least some level of expertise on the subject matter of the complaint, and my staff and I are well-knowledgeable on where to seek that expertise when needed. Because we do not receive and investigate only complaints against CWS, a one-time or even periodic training is unlikely to provide my office sufficient expertise to investigate CWS complaints more effectively than we do already.

Second, if training is to be provided for the purpose stated, then the training should only be required for the Ombudsman, First Assistant, and Analyst staff. The other staff of my office do not conduct investigations, so they do not need expertise in addressing complaints against CWS.

Section 2, subsection (b), of this bill requires my office to publish on our website a quarterly report of the number and nature of complaints we receive against CWS and the disposition of those complaints. The bill does not define what "nature of complaints" means. I have the following comments about this requirement for quarterly reports.

Generally, I am uncertain of how useful the quarterly reports will be for the Legislature, the public, and CWS. First, it must be understood that any report on complaints received will only represent the complaints we received against CWS, and may not provide an accurate picture of the state of CWS and the child welfare system. In addition, because my office is required to maintain confidentiality, any disclosure of the nature of the complaints will have to be by broad categories, similar to the information I provided above regarding the complaints against CWS that we received in 2024. Therefore, unless the Legislature believes these reports will provide necessary, relevant, and useful information, statutorily requiring the publishing of these reports will add additional work for my office that provides little benefit.

Section 3 of this bill will require CWS to notify all persons, including birth families, children, and resource caregivers, that they may file a complaint with my office if they disagree with a decision made by CWS. I believe educating every person who is affected by an administrative act of CWS is important to ensuring the accountability of CWS's decisions. It is my understanding that CWS already provides this information to at least some of the persons identified, but I will defer to CWS to comment on this part of H.B. No. 640.

Section 4 of this bill provides a blank appropriation to my office for the training identified in Section 2 of the bill. I do not know what the training, as described, may cost.

To summarize, I believe the requirement in Section 3 of this bill would effectively raise awareness of the availability of my office as an independent, impartial resource for persons affected by CWS. However, I do not believe the training required in Section 2 of this bill will effectively improve the quality of the investigations we conduct of complaints against CWS. I also do not believe the quarterly reporting of the complaints received will provide the Legislature sufficient benefit to justify the additional time that will be required to prepare and post those reports that could otherwise be spent on investigating the complaints we receive.

Thank you for your consideration of this testimony.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



RYAN I. YAMANE
DIRECTOR
KA LUNA HO'ŌKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'ŌKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
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TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'ŌKELE

February 4, 2025

TO: The Honorable Representative Daniel Holt, Chair
House Committee on Legislative Management

FROM: Ryan I. Yamane, Director

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

Hearing: February 5, 2025, 2:00 p.m.
Conference Room 430 & 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, and offers comments.

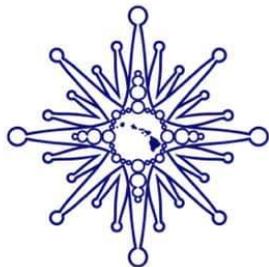
PURPOSE: This bill requires specialized training for all employees of the Office of the Ombudsman to develop relevant expertise to handle complaints about the child welfare system. This bill requires the Office of the Ombudsman to publish a quarterly report on its website that identifies the number and nature of complaints that it receives regarding the Child Welfare Services Branch of the Department of Human Services. This bill requires the Child Welfare Services Branch of the Department of Human Services to provide notification that complaints can also be filed with the Office of the Ombudsman. This bill appropriates funds.

DHS appreciates the work done by the Office of Wellness & Resilience and the Malama Ohana Work Group to transform and improve the child welfare system. DHS supports the bill's requirement for specialized training for employees of the Office of the Ombudsman, and DHS CWS will work to assist the Office of the Ombudsman with training if that would be of assistance.

Regarding the bill's 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 department respectfully requests that the Legislature specify any additional information regarding the Office of the Ombudsman that CWS should include.

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

LATE



HAWAII COALITION FOR CHILD PROTECTIVE REFORM

February 2, 2025

FROM: Marilyn Yamamoto, member

SUBJECT: HB640 – relating to creation of a child welfare trained staff in the Ombudsman office.

Hearing: February 5, 2025

Chair Holt and committee members:

HCCPR supports the intent of this bill with amendments.

In 2018, I submitted a complaint to the Ombudsman, presenting indisputable evidence of noncompliance by the Department of Human Services (DHS). However, the Ombudsman concluded that my complaint was unsubstantiated. I submitted the same complaint to the federal Administration for Children and Families (ACF). They immediately flagged violations within the department. ACF worked for the next four months to ensure compliance and corrected official documents. Since then, I have become aware of at least half a dozen other well-documented complaints to the Ombudsman that were similarly unsubstantiated or, in some cases, never even received a response.

For the past five years, "A Guide to Child Welfare" has included the Ombudsman for grievance resolution. However, parents report that they did not receive this guide. Additionally, parents are not notified about the existence of the Child Abuse Registry or the right to recommend families for kinship placement. **This lack of notifications from HRS represents a significant oversight of critical information for parents that was brought up in the Malama Ohana groups.**

The bill should require parents to sign and receive a copy of a notification of their grievance options. The bill should specify the quantity and quality of the training required to effectively handle and properly investigate complaints. Malama Ohana testers urged the use of exams to certify understanding of training materials. Kansas created an independent Ombudsman office for child welfare one year ago. They reported having received over 200 grievances. One-third of them were substantiated. Others resulted in recommendations to the child welfare division. **The requirement to report data on complaint investigations in this bill is critical.**

HB-640

Submitted on: 2/4/2025 5:57:25 AM

Testimony for LMG on 2/5/2025 2:00:00 PM

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

Comments:

Aloha Chair Representative Holt, Vice Chair Representative Quinlan and Members of the Committee on Legislative Management.

Please vote for HB 640, which I strongly support. To my understanding, this bill would greatly improve communication about, and handling of, complaints about the child welfare system.

Mahalo.

Jennifer Chiwa

Makiki and life long resident of Oahu

February 3, 2025

To: Representative Holt, Chair, and Representative Quinlan, Vice Chair
Senate Committee on Health and Human Services

From: Karen Worthington, Private Citizen

Re: **HB 640: Relating to Child Welfare**
Hawai'i State Capitol, Room 430 Via Videoconference, February 5, 2025, 2:00pm

Position: SUPPORT, with suggested amendments

Dear Representative Holt, Representative Quinlan, and Committee Members:

Thank you for the opportunity to provide testimony in support of HB 640, which raises awareness about the ombudsman office as an avenue to resolve complaints regarding the Child Welfare Services Branch of the Department of Human Services (CWS) and strengthens the Ombudsman Office's response to such complaints. The findings of the Mālama 'Ohana Working Group and the State Auditor's Report (No. 24-05) have clearly demonstrated the urgent need for systematic oversight and transformation of our child welfare system, and while HB 640 is a helpful response to address individual complaints arising from interactions with CWS, Hawai'i also needs a comprehensive response to systemic complaints about the child welfare system.

While I support this forward movement provided by HB 640, the findings and recommendations of the Mālama 'Ohana Working Group and the State Auditor's Report require a strong oversight process for the entire child welfare system. I therefore respectfully suggest that Hawai'i needs both: (1) a stronger complaint process as outlined in HB 640, and (2) a separate Office of the Child Advocate to provide comprehensive system oversight and transformation.

My name is Karen Worthington, and I am a children's law and policy attorney with a consulting business on Maui, Karen Worthington Consulting. I have worked as a lawyer and policy advocate in and around state systems affecting children and families throughout my 30-year career. I am certified as a Child Welfare Law Specialist by the National Association of Counsel for Children. I have worked extensively with Hawai'i state departments and nonprofit organizations that support children and families who exist at the margins of our society.

HB 640's Improvements to Complaint Handling

The bill's provisions for specialized training, quarterly reporting, and family notification about the complaint process are valuable steps toward better accountability. To strengthen these provisions, I suggest:

- Requiring trauma-informed and culturally responsive training
- Utilizing the expertise of individuals with lived experience in the child welfare system to develop (a) training for the Ombudsman Office staff, and (b) the process for handling complaints about the child welfare system
- Expanding reporting and data collection requirements to better identify systemic patterns
- Ensuring notifications about the Ombudsman Office are accessible and provided in multiple languages

- Adding data collection to track outcomes and effectiveness.

The Need for a Separate Child Advocate Office

While improving the ombudsman's handling of individual complaints is important, it addresses only one piece of a larger puzzle. Individual complaints often indicate systemic deficiencies, and Hawai'i needs a state office with the ability to address systemic concerns—those already identified in recent reports and those that will emerge from individual concerns. Most states have recognized that child welfare oversight requires a dedicated Child Advocate Office with broader powers and responsibilities (Child Protection Ombuds: A 50 State Review, <https://legislature.idaho.gov/wp-content/uploads/OPE/Reports/r2400.pdf>). Such an office would:

- Provide independent system oversight
- Investigate critical incidents
- Address systemic issues identified through individual complaints
- Drive implementation of recommendations from the Mālama 'Ohana Working Group and State Auditor's Report
- Ensure accountability for system transformation.

The findings of the Mālama 'Ohana Working Group and the State Auditor's Report (No. 24-05) clearly demonstrate that we need both better handling of individual complaints AND systematic oversight to transform our child welfare system. While the ombudsman can help with individual complaints, a separate Child Advocate Office is needed that has the following powers:

- *Investigative Powers:*
 - The authority to review and investigate critical incidents and agency responses to critical incidents, such as:
 - Child fatalities
 - Near fatalities
 - Serious bodily injury
 - Cases where there is reasonable belief that a state agency failed in its duty to protect a child.
 - The authority to review all records and files of agencies related to the duties assigned to the Child Advocate and the ability to subpoena records and individuals when needed.
 - The right to enter and inspect any place where a child has been placed by a court or CWS and is currently residing.
 - The ability to communicate privately with any child who is involved with CWS or is the subject of an individual complaint, and with each child's parent, guardian, legal custodian, or family member.
- *Accountability Powers:*
 - Issue public reports with recommended improvement activities and require state agencies to publicly respond to the reports and provide periodic progress reports until the issues are successfully addressed.
 - The authority to take actions to secure and ensure the legal, civil, and special rights of children through such activities as conducting programs of public education, undertaking legislative advocacy, making proposals for systemic reform, and formal legal action.
- *Collaborative powers:*
 - Convene regular meetings with organizations, agencies, and individuals who work in the area of child protection to seek opportunities to collaborate and improve the status of children in Hawai'i.

I therefore urge the legislature to pass HB 640 with the suggested amendments to improve complaint handling and also explore additional options for sustained, comprehensive oversight of the child welfare system. There are two potential paths to achieve this comprehensive oversight. One path would be to start with the appointment of a person with deep knowledge about the child welfare system who would have immediate oversight over the system and be responsible for leading development of a plan for sustained oversight and redress of individual concerns. In some contexts, this person might be a special master, a czar, or a compliance monitor, and this person would have the authority to compel action by state agencies. Another path to achieving the level of oversight that would be appropriate, given the Mālama 'Ohana Working Group and the State Auditor's Reports, would be to create an Office of the Child Advocate by executive order or statute.

The Mālama 'Ohana Working Group's comprehensive report revealed that transformation requires both urgency and sustained dedication. HB 640 takes a step toward achieving that transformation by ensuring parents and children know that they have a way to register complaints and that those receiving the complaints are appropriately trained to receive them. Simultaneously, we need to develop a broader structure to create the child welfare system our children and families deserve. I urge you to consider a broader vision such as that presented in the Mālama 'Ohana Working Group's Report because our keiki deserve bold, visionary action to create a child welfare system that protects and nurtures them.

If you would like additional information related to my testimony, please do not hesitate to contact me at karen@karenworthington.com.

Best regards,

A handwritten signature in black ink that reads "Karen Worthington". The signature is written in a cursive, slightly slanted style.

Karen Worthington

February 4, 2025

To: Chair Marten, and members of the Human Services and Homelessness Committee

From: Laurie Ariel Tochiki, Co-Chair Mālama 'Ohana Working Group

Re: Testimony in support of HB 640 with recommendations

I strongly support HB 640 Relating to Child Welfare, which establishes specialized training and reporting for the office of the Ombudsman. The report of the Mālama 'Ohana Working Group recommends increased accountability and transparency. We believe the intent of this bill is to do exactly that, but we are concerned that more will need to be done.

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 training and reporting in this bill is a small step forward, however, we ask for a more robust oversight as outlined above.

We are grateful for your support of the families and children in the child welfare system, and your efforts to find ways to improve the system.