



GOV. MSG. NO. 1390

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 12, 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB2424 HD1 SD2 CD2, without my approval and with the statement of objections relating to the measure.

HB2424 HD1 SD2 CD2

RELATING TO CHILD WELFARE SERVICES.

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 12, 2022

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2424

Honorable Members
Thirty-First Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 2424, entitled "A Bill for an Act Relating to Child Welfare Services."

The purposes of this bill are to expand the investigative powers and responsibilities of the Department of Human Services (DHS) Child Welfare Services Branch to include inspection of families who have adopted or taken guardianship of former foster children, establish a Malama Ohana working group to recommend transformative changes to the child welfare system, and appropriate funds for contracted services to support and monitor families receiving permanency assistance for former foster children.

This bill is objectionable because it seeks to monitor and investigate families that have adopted or taken guardianship of former foster children and who receive permanency assistance for that child, in ways that would violate the Constitutional rights of those families. The monitoring would include unlimited investigations of these families if at any time there had been a complaint filed with DHS about that family, without regard to the merits of the complaint, and regardless of whether or not the complaint was ever substantiated. These investigations would be allowed for the length of the child's minority, even when the Family Court found the legal relationship to be in the best interests of the child and approved the adoption or other permanent legal relationship between the child and the family. The objection is that this bill will expand the State's duties to monitor and interfere with permanent family relationships in a way that will violate the Constitutional rights of those families, without any evidence of harm or threatened harm to the child that is in the family. It would allow

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overreach by the State to interfere with safe, stable families, and allow the DHS to monitor and surveil families that have adopted or taken guardianship of former foster children, so that the families can never live free of government intrusion in their lives, a right which all other families take for granted.

Although the trauma experienced by the community over the loss of a former foster child is real and cannot be dismissed, the solution cannot and should not violate the constitutional privacy rights and basic dignity of every family that has taken in and provided love and stability to a former foster child. For example, the expanded authority to DHS could be used by a child's abusive biological parent to initiate unwarranted and repeated investigations of the child's new family, in an effort to disrupt the child's adoptive home, thereby preventing the child from ever feeling safe and stable in their new home.

In addition, the amendment of the bill in conference committee, without the opportunity to obtain public input, by adding a large, well-funded working group to recommend transformative changes to the child welfare system is subject to challenge. The working group would have twenty-one members and be co-chaired by two identified members who are vendors that contract with DHS to provide services to DHS clients. Another twelve members would be members of or be designated by one of these co-chairs. One co-chair would be the executive director of Effective Planning and Innovative Communications, Inc. (EPIC 'Ohana) or their designee. The other co-chair would be the executive Officer of Hale Kipa, Inc., or their designee. Both EPIC 'Ohana and Hale Kipa, Inc. are vendors that contract with DHS to provide services to DHS clients.

Four members of the working group would be members of "Na Kama a Haloa", which is a program or project of EPIC 'Ohana. Eight members of the working group are meant to represent different constituencies of the Child Welfare Services branch including foster youth, birth parents, and resource caregivers. All eight of those members would be identified by Na Kama a Haloa. In total, thirteen of twenty-one

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members of the working group would include five members who are part of Epic 'Ohana, including a co-chair, and an additional eight members who are identified by Epic 'Ohana or its associated program, Na Kama a Haloa.

Having two-thirds of the working group comprised of contracted vendors or their designees is especially problematic because the bill specifically exempts the members of the working group from chapter 84, HRS. Chapter 84, HRS, creates standards of conduct that are normally in place to prevent conflicts of interest and promote public transparency and accountability. This means that the majority of the working group, who will be making recommendations about the services DHS provides to its clients will have a current financial interest in the provision of those services, and will be exempted from the ethics standards that prohibit financial conflicts of interest.

For the foregoing reasons, I am returning House Bill No. 2424 without my approval.

Respectfully,



DAVID Y. IGE
Governor of Hawai'i

VETO

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO. 2424
H.D. 1
S.D. 2
C.D. 2

A BILL FOR AN ACT

RELATING TO CHILD WELFARE SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. The purpose of this Act is to:
- 2 (1) Expand the investigative power of the department of
- 3 human services to include inspections of families who
- 4 have adopted or been granted legal guardianship of a
- 5 child; are receiving financial assistance through the
- 6 State; have a guardianship of a child for whom there
- 7 is a pending adoption petition and the child is
- 8 pendente lite or for whom an adoption decree has been
- 9 issued but the child has not yet been placed in the
- 10 custody of the adoption petitioner, and against whom
- 11 have had a complaint filed against them at any time
- 12 with the department of human services;
- 13 (2) Require the department of human services to report to
- 14 the legislature before the convening of the regular
- 15 session of 2024 on the impact of expanding home visits
- 16 to families receiving adoption assistance or legal
- 17 guardianship assistance;



- 1 (3) Establish the Malama Ohana working group to seek,
- 2 design, and recommend transformative changes to the
- 3 State's existing child welfare system; and
- 4 (4) Appropriate funds to increase the procurement of
- 5 contracted services to provide additional support,
- 6 resources, and monitoring of families receiving
- 7 benefits from the State's adoption assistance and
- 8 permanency assistance programs.

9 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
 10 amended by adding a new section to be appropriately designated
 11 and to read as follows:

12 **"§346- Adoptive families and legal guardianship;**
 13 **authority over. Any family that has adopted or received legal**
 14 **guardianship of a child for whom maintenance is provided**
 15 **pursuant to part E of title IV of the Social Security Act or**
 16 **through the state adoption assistance program pursuant to part**
 17 **XII of chapter 346, or is receiving financial assistance through**
 18 **the State's permanency assistance program, including adoptive**
 19 **families where an adoption decree is pending and the child is**
 20 **pendente lite or where an adoption decree has been issued but**
 21 **adoption has not yet taken place, shall be subject to review or**



1 investigation at any time and in a manner, place, and form as
2 may be prescribed by the department or its authorized agents in
3 accordance with chapters 350 and 587A; provided that this review
4 or investigation shall be limited only to families against whom
5 a complaint has been lodged with the department at any time,
6 including any time prior to the issuance of any adoption decree
7 or granting of legal guardianship."

8 SECTION 3. Section 346-301, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~f~~]~~\$~~346-301[~~f~~] **Adoption assistance program**
11 **established[~~-~~]; review or investigation of program benefit**
12 **recipients.** The department of human services shall maintain an
13 adoption assistance program to facilitate the adoption of
14 children with special needs. Pursuant to section 346- ,
15 families receiving benefits from the adoption assistance program
16 and against whom a complaint has been lodged with the department
17 of human services shall be subject to review or investigation at
18 any time and in a manner, place, and form as may be prescribed
19 by the department or its authorized agents in accordance with
20 chapters 350 and 587A."



1 SECTION 4. The department of human services shall collect
2 and analyze data to determine the impact of expanding home
3 visits to families receiving adoption assistance or legal
4 guardianship assistance and shall submit a report of its
5 findings and recommendations, including any proposed
6 legislation, to the legislature no later than twenty days prior
7 to the convening of the regular session of 2024.

8 SECTION 5. (a) There is established within the department
9 of human services a Malama Ohana working group to seek, design,
10 and recommend transformative changes to the State's existing
11 child welfare system.

12 (b) The Malama Ohana working group shall consist of the
13 following members:

14 (1) The executive director of Effective Planning and
15 Innovative Communication, Inc., doing business as EPIC
16 'Ohana, or the executive director's designee, who shall
17 serve as co-chair of the working group;

18 (2) The chief executive officer of Hale Kipa, Inc., or the
19 chief executive's designee, who shall serve as co-
20 chair of the working group;

21 (3) Four members of Nā Kama a Hāloa;



- 1 (4) Two members from each of the following constituencies,
2 identified by Nā Kama a Hāloa:
 - 3 (A) Former foster youth;
 - 4 (B) Birth parents who were involved in the child
5 welfare system, specifically with the department
6 of human services' child welfare services branch;
 - 7 (C) Licensed resource caregivers; and
 - 8 (D) Kinship resource caregivers;
- 9 (5) The director of human services, or the director's
10 designee;
- 11 (6) Two members representing the child welfare services
12 branch's investigators, case managers, or their
13 assistants, designated by the branch administrator;
- 14 (7) The chairperson of the trauma-informed care task force
15 established pursuant to Act 209, Session Laws of
16 Hawaii 2021, or the chairperson's designee;
- 17 (8) The chief executive officer of the office of Hawaiian
18 affairs, or the chief executive officer's designee;
- 19 (9) The chief executive officer of Kamehameha Schools, or
20 the chief executive officer's designee; and



1 (10) The chief executive officer of Lili'uokalani Trust, or
2 the chief executive officer's designee.

3 (c) The Malama Ohana working group shall develop
4 recommendations to establish a child welfare system that is
5 trauma-informed, sustains a community-based partnership, and is
6 responsive to the needs of children and families in the child
7 welfare system as well as the community. In carrying out its
8 purpose, the working group shall:

- 9 (1) Conduct listening sessions throughout the State and
10 with affected constituencies;
- 11 (2) Conduct convenings to brainstorm and develop concepts
12 for recommendations;
- 13 (3) Develop recommendations on ways to better coordinate
14 and improve the protection and well-being of children
15 and families in the child welfare system;
- 16 (4) Identify training and best practices, assessment
17 criteria, and ways to sustain an effective workforce
18 within the department of human services' child welfare
19 services branch;
- 20 (5) Identify training and best practices, assessment
21 criteria, and ways to sustain an effective workforce



1 within the larger circle of community agencies serving
2 the child welfare system;

3 (6) Identify best practices, including those from Native
4 Hawaiian cultural practices, in providing assistance
5 to children and youth who were involved in the child
6 welfare system and their families;

7 (7) Identify other cultural practices that build wellness
8 and resilience in communities and collaboration
9 between communities and the child welfare services
10 branch; and

11 (8) Collaborate with the trauma-informed care task force,
12 and where appropriate, conduct joint listening
13 sessions or design sessions for the purpose of
14 reforming the child welfare system.

15 (d) Members of the Malama Ohana working group shall serve
16 without compensation but shall be reimbursed for reasonable
17 expenses necessary for the performance of their duties,
18 including travel expenses. No member of the working group shall
19 be subject to chapter 84, Hawaii Revised Statutes, solely
20 because of the member's participation in the working group.



1 (e) The department of human services may contract with an
2 administrative facilitator to provide necessary support for the
3 Malama Ohana working group in carrying out its activities,
4 including preparation of the report required pursuant to
5 subsection (f), without regard to chapter 103D, Hawaii Revised
6 Statutes.

7 (f) The Malama Ohana working group shall submit a report
8 of its findings and recommendations, including any proposed
9 legislation, to the legislature no later than twenty days prior
10 to the convening of the regular session of 2024.

11 SECTION 6. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$8,000,000 or so much
13 thereof as may be necessary for fiscal year 2022-2023 for the
14 procurement of contracted services to provide additional
15 support, resources, and monitoring of families receiving
16 benefits from the State's adoption assistance program and
17 permanency assistance program, for the purposes of assisting
18 with family strengthening and the maintenance of a safe home
19 environment for adopted children; provided that:

20 (1) \$1,000,000 shall be expended for the development and
21 maintenance of necessary information technology



1 systems, including the establishment of two full time
2 equivalent (2.0 FTE) positions;

3 (2) \$1,200,000 shall be expended to increase compensation
4 to fill vacancies and retain employees in existing
5 child welfare services branch investigator, case
6 manager, and social worker positions; provided that
7 any increase in compensation shall be subject to
8 collective bargaining with the objective of
9 expeditiously filling all vacancies;

10 (3) \$800,000 shall be expended for the department of human
11 services to contract with a third party for enhanced
12 permanency support services, including additional
13 training for resource caregivers, wellness visits
14 within a year of adoption or guardianship of children
15 formerly in foster care, respite care, and enhanced
16 supportive services to assist with family
17 strengthening and maintenance of a safe home
18 environment for adopted children;

19 (4) \$100,000 shall be expended for the establishment of
20 one full time equivalent (1.0 FTE) planner or project
21 specialist position to administer and monitor



1 additional service contracts and assist with
2 additional service coordination, data collection, and
3 analysis of the new program; and

4 (5) \$250,000 shall be expended for the Malama Ohana
5 working group established pursuant to section 5 of
6 this Act, including for the department of human
7 services to contract with an administrative
8 facilitator to provide necessary support for the
9 working group in carrying out its activities.

10 The sum appropriated shall be expended by the department of
11 human services for the purposes of this Act.

12 SECTION 7. If any provision of this Act, or the
13 application thereof to any person or circumstance, is held
14 invalid, the invalidity does not affect other provisions or
15 applications of the Act that can be given effect without the
16 invalid provision or application, and to this end the provisions
17 of this Act are severable.

18 SECTION 8. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



HB No. 2424, HD 1, SD 2, CD 2

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 5, 2022

Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI‘I

Date: May 5, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2022.


President of the Senate


Clerk of the Senate