

JAN 21 2026

A BILL FOR AN ACT

RELATING TO CHILD WELFARE.

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

1 PART I

2 SECTION 1. The legislature finds that several recent
3 tragic child abuse deaths have exposed critical flaws within the
4 State's child welfare system, including the administration of
5 foster care services. The legislature further finds that in
6 *Audit of the Department of Human Services' Child Welfare*
7 *Services Branch, Report No. 24-05, State of Hawaii, April 2024,*
8 the state auditor found that the department of human services'
9 child welfare services branch failed to comply with statutory
10 licensing requirements, placing children at risk and reducing
11 federal Title IV-E reimbursements for foster care services. The
12 legislature additionally finds that Act 86, Session Laws of
13 Hawaii 2023, established the malama ohana working group to seek,
14 design, and recommend transformative changes to the State's
15 existing child welfare system. Subsequently, in its *2024 Malama*
16 *Ohana Working Group Report, State of Hawaii, December 2024,* the
17 malama ohana working group highlighted the need for responsive



1 oversight of both systemic and individual concerns in the
2 State's child welfare system.

3 The legislature finds that establishing an independent and
4 autonomous office of the child advocate in the State is
5 necessary to provide impartial oversight of the delivery of
6 services to children and their families by state agencies,
7 including the department of human services, and its child
8 welfare services branch, and other entities that serve children
9 and their families through funds provided by the State. The
10 office of the child advocate would provide this oversight
11 through site visits to facilities that serve children,
12 investigation of complaints, periodical review of internal
13 records and procedures to ensure compliance with applicable
14 laws, issuance of annual reports with findings and
15 recommendations, including proposed legislation, and outreach
16 programs to educate the public. The legislature believes that
17 the external oversight and recommendations provided by the
18 office will increase accountability across the State's child
19 welfare system and lead to greater protection of children from
20 preventable harm, maximize the State's federal funding



1 opportunities, reduce costly lawsuit settlements, and restore
2 public confidence in the State's child welfare system.

3 Accordingly, the purpose of this Act is to establish an
4 independent office of the child advocate within the office of
5 the ombudsman to oversee and evaluate the delivery of services
6 to children and their families by various state agencies and
7 entities, receive and investigate complaints, and make
8 recommendations for improvement.

9 PART II

10 SECTION 2. Chapter 96, Hawaii Revised Statutes, is amended
11 by adding a new part to be appropriately designated and to read
12 as follows:

13 **"PART . OFFICE OF THE CHILD ADVOCATE**

14 **§96-A Definitions.** As used in this part:

15 "Child" means an individual under eighteen years of age.

16 "Child advocate" means the individual appointed to head the
17 office of the child advocate pursuant to section 96-C.

18 "Office" means the office of the child advocate established
19 pursuant to section 96-B.

20 "State agency" means any executive department or
21 independent board, commission, bureau, office, or other



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1 establishment of the state government excepting the legislature,
2 or any quasi-public institution that is supported in whole or in
3 part by, or which handle state or public funds, that administers
4 programs or provides services for the health, safety, or well-
5 being of children and their families. "State agency" includes
6 but is not limited to:

7 (1) The department of education;

8 (2) The department of health;

9 (3) The department of human services;

10 (4) The department of law enforcement;

11 (5) The department of the attorney general;

12 (6) The judiciary, excluding the adjudicatory functions of
13 courts; and

14 (7) The university of Hawaii systems.

15 **§96-B Office of the child advocate; establishment;**

16 **purpose.** There is established within the office of the
17 ombudsman for administrative purposes only, the office of the
18 child advocate. The office shall be independent of any state
19 agency in the performance of the office's duties. The office
20 shall:



- 1 (1) Ensure that children involved with state agencies
2 receive timely, safe, and effective services in
3 accordance with applicable laws;
- 4 (2) Perform a system-wide examination on the care and
5 services that state agencies provide to and for
6 children; and
- 7 (3) Advise the State and its agencies on how the State can
8 improve its services to and for children and their
9 families.

10 **§96-C Child advocate; appointment, tenure, removal,**
11 **qualifications, salary, vacancy.** (a) The office shall be
12 headed by the child advocate for the proper administration and
13 enforcement of this part.

14 (b) The legislature, by a majority vote of each house in
15 joint session, shall appoint the child advocate who shall serve
16 for a period of six years and thereafter until a successor shall
17 have been appointed. The child advocate may be reappointed but
18 may not serve for more than three terms. The legislature, by
19 two-thirds vote of the members in joint session, may remove or
20 suspend the child advocate from office, but only for neglect of
21 duty, misconduct, or disability.



1 The child advocate shall have the legal expertise and
2 knowledge of the child welfare system, including foster care
3 services, necessary to carry out the duties of the position.

4 No person may serve as child advocate within two years of
5 the last day on which the person served as a member of the
6 legislature, or while the person is a candidate for or holds any
7 other state office, or while the person is engaged in any other
8 occupation for reward or profit. The salary of the child
9 advocate shall be the same as the salary of the director of
10 health. The salary of the child advocate shall not be
11 diminished during the child advocate's term of office, unless by
12 general law applying to all salaried officers of the State.

13 If the child advocate dies, resigns, becomes ineligible to
14 serve, or is removed or suspended from office, the first
15 assistant to the child advocate becomes the acting child
16 advocate until a new ombudsman is appointed for a full term.

17 **§96-D Assistance, staff, delegation, funding.** (a) The
18 child advocate shall appoint a first assistant and other
19 officers and employees as may be necessary to carry out this
20 part. All employees, including the first assistant, shall be



1 hired by the child advocate and shall serve at the child
2 advocate's pleasure.

3 (b) In determining the salary of each employee, the child
4 advocate shall consult with the department of human resources
5 development and shall follow as closely as possible the
6 recommendations of the department. The first assistant's salary
7 shall be not more than ninety-two per cent of the salary of the
8 child advocate.

9 (c) The child advocate and the child advocate's full-time
10 staff shall be entitled to participate in any employee benefit
11 plan.

12 (d) The child advocate may delegate to the child
13 advocate's appointees any of the child advocate's duties.

14 (e) The funds for the support of the office shall be
15 provided for in the act providing for the expenses of the
16 legislature.

17 **§96-E Powers and duties.** (a) The child advocate shall:

18 (1) Oversee and evaluate the delivery of services to
19 children and their families by state agencies and
20 entities that provide services to children and their
21 families through funds provided by the State;



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- 1 (2) Periodically review the records of state agencies and
2 procedures established by state agencies to carry out
3 this part, ensure the state agencies' compliance with
4 applicable laws, and recommend revisions as necessary;
- 5 (3) Receive and review complaints of persons concerning
6 the actions of any state agency and of any entity that
7 provides services to children and their families
8 through funds provided by the State, make appropriate
9 referrals and investigate any complaint for which the
10 child advocate determines that a child or a child's
11 family may be in need of assistance from the child
12 advocate or that a systemic issue in the State's
13 provision of services to children and their families
14 is raised;
- 15 (4) Periodically review the facilities, procedures, and
16 records of any and all entities, institutions, or
17 residences, whether public or private, where a child
18 has been placed by any state agency;
- 19 (5) Recommend changes in state policies concerning
20 children, including systemic changes relating to the



provisions of juvenile justice, child care, and foster care;

(6) Serve or designate a person to serve as a member of the child protective review panel established in section 587A-43;

(7) Establish procedures for receiving and processing complaints, conducting investigations, and issuing appropriate responses to ensure safety of the child and complainant; and

(8) Develop and implement an outreach plan to educate the public of the purposes and services of the office and procedures to contact or submit a complaint to the office.

(b) Notwithstanding any law to the contrary, the child advocate shall have access to, including the right to inspect and copy, any records necessary to carry out the child advocate's duties, including records held by any state agency, except where specifically prohibited by federal law; provided that the child advocate shall maintain confidentiality with respect to all records and matters, including the identities of complainants and witnesses except so far as disclosures may be



1 necessary to enable the child advocate to carry out the child
2 advocates duties and to support the child advocate's
3 recommendations.

4 (c) Subject to the privileges that witnesses have in the
5 courts of this State, the child advocate may:

6 (1) Compel at a specified time and place, by a subpoena,
7 the appearance and sworn testimony of any person who
8 the child advocate reasonably believes may be able to
9 give information relating to a matter under
10 investigation; and

11 (2) Compel any person to produce documents, papers, or
12 objects which the child advocate reasonably believes
13 may relate to a matter under investigation.

14 The child advocate may bring suit in an appropriate state
15 court to enforce these powers.

16 (d) If the child advocate has a reasonable basis to
17 believe that there may be a breach of duty or misconduct by any
18 officer or employee of a state agency, the child advocate may
19 refer the matter to the appropriate authorities without notice
20 to that person.



1 **§96-F Annual report.** No later than twenty days prior to
2 the convening of the regular session of 2028, and each regular
3 session thereafter, the child advocate shall submit to the
4 legislature, governor, and public an annual report discussing
5 the office's activities during the preceding year and findings
6 and recommendations, including any proposed legislation.

7 **§96-G Letters to the child advocate.** A letter to the
8 child advocate from, or a letter written on behalf of, a child
9 held in custody by any state agency or any entity that provides
10 services to children and their families through funds provided
11 by the State, including child caring institutions and resource
12 family homes, shall be forwarded immediately, unopened, to the
13 child advocate.

14 **§96-H Penalty for obstruction.** Any person who wilfully
15 hinders the lawful actions of the child advocate or the child
16 advocate's staff, or wilfully refuses to comply with their
17 lawful demands, shall be fined not more than \$1,000."

18 SECTION 3. Chapter 96, Hawaii Revised Statutes, is amended
19 by amending its title to read as follows:

20 **"CHAPTER 96**

21 **THE OMBUDSMAN; THE CHILD ADVOCATE"**



SECTION 4. Chapter 96, Hawaii Revised Statutes, is amended by designating sections 96-1 to 96-19 as part I, and inserting a title before section 96-1 to read as follows:

"PART I. OFFICE OF THE OMBUDSMAN"

SECTION 5. Section 96-1, Hawaii Revised Statutes, is amended to read as follows:

"§96-1 Definitions. [~~a~~] As used in this part:

"Administrative act" includes any action, omission, decision, recommendation, practice, or procedure, but does not include the preparation or presentation of legislation.

"Agency" includes any permanent governmental entity, department, organization, or institution, and any officer, employee, or member thereof acting or purporting to act in the exercise of the officer's, employee's, or member's official duties, except:

- (1) The judiciary and its staff;
- (2) The legislature, its committees, and its staff;
- (3) An entity of the federal government;
- (4) A multistate governmental entity;
- (5) The governor and the governor's personal staff;



1 (6) The lieutenant governor and the lieutenant governor's
2 personal staff;

3 (7) The mayors of the various counties; and

4 (8) The councils of the various counties.

5 ~~[(b) "Administrative act" includes any action, omission,~~
6 ~~decision, recommendation, practice, or procedure, but does not~~
7 ~~include the preparation or presentation of legislation.]]"~~

8 SECTION 6. Sections 96-3, 96-16, and 96-17, Hawaii Revised
9 Statutes, are amended by substituting the phrase "this part", or
10 similar term, wherever the phrase "this chapter", or similar
11 term, appears, as the context requires.

12 PART III

13 SECTION 7. Section 28-8.3, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) No department of the State other than the attorney
16 general may employ or retain any attorney, by contract or
17 otherwise, for the purpose of representing the State or the
18 department in any litigation, rendering legal counsel to the
19 department, or drafting legal documents for the department;
20 provided that the foregoing provision shall not apply to the
21 employment or retention of attorneys:



- 1 (1) By the public utilities commission, the labor and
2 industrial relations appeals board, and the Hawaii
3 labor relations board;
- 4 (2) By any court or judicial or legislative office of the
5 State; provided that if the attorney general is
6 requested to provide representation to a court or
7 judicial office by the chief justice or the chief
8 justice's designee, or to a legislative office by the
9 speaker of the house of representatives and the
10 president of the senate jointly, and the attorney
11 general declines to provide such representation on the
12 grounds of conflict of interest, the attorney general
13 shall retain an attorney for the court, judicial, or
14 legislative office, subject to approval by the court,
15 judicial, or legislative office;
- 16 (3) By the legislative reference bureau;
- 17 (4) By any compilation commission that may be constituted
18 from time to time;
- 19 (5) By the real estate commission for any action involving
20 the real estate recovery fund;



- 1 (6) By the contractors license board for any action
- 2 involving the contractors recovery fund;
- 3 (7) By the office of Hawaiian affairs;
- 4 (8) By the department of commerce and consumer affairs for
- 5 the enforcement of violations of chapters 480 and
- 6 485A;
- 7 (9) As grand jury counsel;
- 8 (10) By the Hawaii health systems corporation, or its
- 9 regional system boards, or any of their facilities;
- 10 (11) By the auditor;
- 11 (12) By the office of ombudsman;
- 12 (13) By the insurance division;
- 13 (14) By the University of Hawaii;
- 14 (15) By the Kahoolawe island reserve commission;
- 15 (16) By the division of consumer advocacy;
- 16 (17) By the office of elections;
- 17 (18) By the campaign spending commission;
- 18 (19) By the Hawaii tourism authority, as provided in
- 19 section 201B-2.5;
- 20 (20) By the division of financial institutions;
- 21 (21) By the office of information practices;



1 (22) By the school facilities authority;

2 (23) By the Mauna Kea stewardship and oversight authority;

3 [~~or~~]

4 (24) By the office of the child advocate; or

5 [~~(24)~~] (25) By a department, if the attorney general, for
6 reasons deemed by the attorney general to be good and
7 sufficient, declines to employ or retain an attorney
8 for a department; provided that the governor waives
9 the provision of this section."

10 SECTION 8. Section 84-18, Hawaii Revised Statutes, is
11 amended by amending subsection (e) to read as follows:

12 "(e) Subject to the restrictions imposed in subsections
13 (a) through (d), the following individuals shall not represent
14 any person or business for a fee or other consideration
15 regarding any legislative action or administrative action, as
16 defined in section 97-1, for twelve months after termination
17 from their respective positions:

18 (1) The governor;

19 (2) The lieutenant governor;

20 (3) The administrative director of the State;

21 (4) The attorney general;



- 1 (5) The comptroller;
- 2 (6) The chairperson of the board of agriculture and
- 3 biosecurity;
- 4 (7) The director of corrections and rehabilitation;
- 5 (8) The director of finance;
- 6 (9) The director of business, economic development, and
- 7 tourism;
- 8 (10) The director of commerce and consumer affairs;
- 9 (11) The adjutant general;
- 10 (12) The superintendent of education;
- 11 (13) The chairperson of the Hawaiian homes commission;
- 12 (14) The director of health;
- 13 (15) The director of human resources development;
- 14 (16) The director of human services;
- 15 (17) The director of labor and industrial relations;
- 16 (18) The chairperson of the board of land and natural
- 17 resources;
- 18 (19) The director of law enforcement;
- 19 (20) The director of taxation;
- 20 (21) The director of transportation;
- 21 (22) The president of the University of Hawaii;



- 1 (23) The executive administrator of the board of regents of
2 the University of Hawaii;
- 3 (24) The administrator of the office of Hawaiian affairs;
- 4 (25) The chief information officer;
- 5 (26) The executive director of the agribusiness development
6 corporation;
- 7 (27) The executive director of the campaign spending
8 commission;
- 9 (28) The executive director of the Hawaii community
10 development authority;
- 11 (29) The executive director of the Hawaii housing finance
12 and development corporation;
- 13 (30) The president and chief executive officer of the
14 Hawaii tourism authority;
- 15 (31) The executive officer of the public utilities
16 commission;
- 17 (32) The state auditor;
- 18 (33) The director of the legislative reference bureau;
- 19 (34) The ombudsman;



(35) The permanent employees of the legislature, other than persons employed in clerical, secretarial, or similar positions;

(36) The administrative director of the courts;

(37) The executive director of the state ethics commission;

(38) The executive officer of the state land use commission;

(39) The executive director of the natural energy laboratory of Hawaii authority;

(40) The executive director of the Hawaii public housing authority; ~~and~~

(41) The first deputy to the chairperson of the commission on water resource management; and

(42) The child advocate;

provided that this subsection shall not apply to any person who has held one of the positions listed above only on an interim or acting basis and for a period of less than one hundred eighty-one days."

SECTION 9. Section 89C-1.5, Hawaii Revised Statutes, is amended by amending the definition of "appropriate authority" to read as follows:



1 "Appropriate authority" means the governor, the respective
2 mayors, the chief justice of the supreme court, the board of
3 education, the board of regents, the state public charter school
4 commission, the Hawaii health systems corporation board, the
5 auditor, the ombudsman, the child advocate, and the director of
6 the legislative reference bureau. These individuals or boards
7 may make adjustments for their respective excluded employees."

8 SECTION 10. Section 92F-19, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 (a) No agency may disclose or authorize disclosure of
11 government records to any other agency unless the disclosure is:

12 (1) Necessary for the performance of the requesting
13 agency's duties and functions and is also:

14 (A) Compatible with the purpose for which the
15 information was collected or obtained; or

16 (B) Consistent with the conditions or reasonable
17 expectations of use and disclosure under which
18 the information was provided;

19 (2) To the state archives for the purposes of historical
20 preservation, administrative maintenance, or
21 destruction;



1 (3) To another agency, another state, or the federal
2 government, or foreign law enforcement agency or
3 authority, if the disclosure is:

4 (A) For the purpose of a civil or criminal law
5 enforcement activity authorized by law; and

6 (B) Pursuant to:

7 (i) A written agreement or written request, or

8 (ii) A verbal request, made under exigent
9 circumstances, by an officer or employee of
10 the requesting agency whose identity has
11 been verified, provided that such request is
12 promptly confirmed in writing;

13 (4) To a criminal law enforcement agency of this State,
14 another state, or the federal government, or a foreign
15 criminal law enforcement agency or authority, if the
16 information is limited to an individual's name and
17 other identifying particulars, including present and
18 past places of employment;

19 (5) To a foreign government pursuant to an executive
20 agreement, compact, treaty, or statute;



- 1 (6) To the legislature, or a county council, or any
2 committee or subcommittee thereof;
- 3 (7) Pursuant to an order of a court of competent
4 jurisdiction;
- 5 (8) To authorized officials of another agency, another
6 state, or the federal government for the purpose of
7 auditing or monitoring an agency program that receives
8 federal, state, or county funding;
- 9 (9) To the offices of the legislative auditor, the
10 legislative reference bureau, ~~[or]~~ the ombudsman, or
11 the child advocate of this State for the performance
12 of their respective functions;
- 13 (10) To the department of human resources development,
14 county personnel agencies, or line agency personnel
15 offices for the performance of their respective duties
16 and functions, including employee recruitment and
17 examination, classification and compensation reviews,
18 the administration and auditing of personnel
19 transactions, the administration of training and
20 safety, workers' compensation, and employee benefits



1 and assistance programs, and for labor relations
2 purposes; or

3 (11) Otherwise subject to disclosure under this chapter."

4 SECTION 11. Section 353-29, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§353-29 What officials may visit.** The governor,
7 lieutenant governor, attorney general, director of finance,
8 director of health, comptroller, judges of all state courts, the
9 ombudsman, the child advocate, the mayors of the counties,
10 members of the legislature, and members of county councils shall
11 be allowed at suitable hours to visit any state correctional
12 facility."

13 SECTION 12. Section 587A-43, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) The department shall establish a child protective
16 review panel to review each case of child abuse or neglect that
17 leads to near fatality or death as a result of acts or omissions
18 of the child's legal caretaker. Based upon its review, the
19 panel shall submit a report of its findings and recommendations
20 to the director of the department. The department shall appoint
21 members of the child protective review panel, who may include:



- 1 (1) Any physician treating the child for abuse;
- 2 (2) Any child protective services worker assigned to the
- 3 case and the worker's supervisor;
- 4 (3) The guardian ad litem for the child, appointed under
- 5 section 587A-16, if applicable;
- 6 (4) The members of the child's multidisciplinary team or a
- 7 child protective services consultant; ~~and~~
- 8 (5) The child advocate appointed pursuant to section 96-C
- 9 or the child advocate's designee; and
- 10 ~~(5)]~~ (6) Other child protective services workers and
- 11 supervisors."

PART IV

13 SECTION 13. There is appropriated out of the general
 14 revenues of the State of Hawaii the sum of \$ or so
 15 much thereof as may be necessary for fiscal year 2026-2027 for
 16 the establishment of the office of the child advocate, to be
 17 expended as follows:

- 18 (1) \$ to establish one full-time equivalent (1.0
- 19 FTE) child advocate position; and



1 (2) \$ to establish full-time equivalent
2 (FTE) positions within the office of the child
3 advocate.

4 The sum appropriated shall be expended by the office of the
5 ombudsman for the purposes of this Act.

6 PART V

7 SECTION 14. In codifying the new sections added by
8 section 2 of this Act, the revisor of statutes shall substitute
9 appropriate section numbers for the letters used in designating
10 the new sections in this Act.

11 SECTION 15. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 16. This Act shall take effect on July 1, 2026.

14

INTRODUCED BY: *BTG*



S.B. NO. 2264

Report Title:

Office of the Child Advocate; Establishment; Office of the Ombudsman; Child Welfare; Juvenile Justice; Oversight; Investigation; Reports; Positions; Appropriation

Description:

Establishes an independent Office of the Child Advocate within the Office of the Ombudsman to oversee and evaluate the delivery of services to children and their families by various state agencies and entities, receive and investigate complaints, and make recommendations for improvement. Requires annual reports to the Governor, Legislature, and public. Appropriates funds.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

