

# 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



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.

## §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        **S96-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 **S96-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;





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

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

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

14 (b) Notwithstanding any law to the contrary, the child  
15 advocate shall have access to, including the right to inspect  
16 and copy, any records necessary to carry out the child  
17 advocate's duties, including records held by any state agency,  
18 except where specifically prohibited by federal law; provided  
19 that the child advocate shall maintain confidentiality with  
20 respect to all records and matters, including the identities of  
21 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"



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

4 **"PART I. OFFICE OF THE OMBUDSMAN"**

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

7 **"§96-1 Definitions.** ~~[+a]~~ As used in this part:

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

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

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



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.

### 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;



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



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



- (23) The executive administrator of the board of regents of the University of Hawaii;
- (24) The administrator of the office of Hawaiian affairs;
- (25) The chief information officer;
- (26) The executive director of the agribusiness development corporation;
- (27) The executive director of the campaign spending commission;
- (28) The executive director of the Hawaii community development authority;
- (29) The executive director of the Hawaii housing finance and development corporation;
- (30) The president and chief executive officer of the Hawaii tourism authority;
- (31) The executive officer of the public utilities commission;
- (32) The state auditor;
- (33) The director of the legislative reference bureau;
- (34) The ombudsman;



19 SECTION 9. Section 89C-1.5, Hawaii Revised Statutes, is  
20 amended by amending the definition of "appropriate authority" to  
21 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) Any physician treating the child for abuse;
- (2) Any child protective services worker assigned to the case and the worker's supervisor;
- (3) The guardian ad litem for the child, appointed under section 587A-16, if applicable;
- (4) The members of the child's multidisciplinary team or a child protective services consultant; ~~and~~
- (5) The child advocate appointed pursuant to section 96-C or the child advocate's designee; and
- [+5+] (6) Other child protective services workers and 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: Stev C



# 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.*

