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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection & Commerce
Thursday, February 26, 2026
2:00 p.m.
State Capitol, Conference Room 329 and via Videoconference**

**On the following measure:
H.B. 1645, H.D. 2, RELATING TO LIABILITY**

Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee:

My name is Scott K. Saiki, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of H.B. 1645, H.D. 2 is to provide liability protections for nonprofit child welfare service organizations that contract with the Department of Human Services. The measure prohibits indemnification clauses in child welfare service contracts between the state and nonprofit providers and prohibits requiring either party to name the other as an additional insured. The measure further prohibits punitive damages and pre- and post-judgment interest, requires most actions to be tried by the court unless the parties' consent to a jury, eliminates joint and several liability and removes the requirement to post a bond on appeal.

The Department recognizes that claims arising from the child welfare system often involve deeply personal and traumatic experiences for keiki and their families.

Accountability and appropriate remedies remain essential. At the same time, as the State's insurance regulator, the Department must consider long-term sustainability of liability coverage for organizations that provide mandated services on behalf of the State.

Over the last several years, nonprofit child welfare service providers have faced increasing difficulty in securing affordable liability insurance coverage. Nationally, insurers have experienced increased litigation, expanded statutes of limitation, higher defense costs, and greater claim severity in child-related cases. These factors create long-tail liability exposure that is difficult to underwrite and price predictably. In response, insurers have narrowed coverage, increased retentions, reduced limits, or exited segments of the admitted market, forcing some providers into the surplus lines market where coverage is often more expensive and restrictive.

Experience in other jurisdictions suggests that tort reforms may influence loss development over time; however, insurance markets typically respond gradually, and rate adjustments depend on demonstrated changes in loss experience rather than statutory changes alone. While the liability limitations contained in H.B. 1645, H.D. 2 may affect certain components of litigation exposure, insurer pricing and participation decisions are driven by a broader set of actuarial and market factors. Accordingly, the measure does not ensure premium reductions or expanded market capacity. Potential solutions include exploring risk-sharing mechanisms that reduce the severity of catastrophic losses, such as state-supported excess coverage layers, reinsurance backstops, or pooled risk arrangements tailored to child welfare services. These tools may contribute to greater predictability in loss exposure by limiting exposure to infrequent but high-severity claims, while preserving appropriate accountability and consumer protection. Investments in risk-management practices, data collection, and claims-prevention strategies may also help reduce loss frequency and improve the long-term stability of the insurance market.

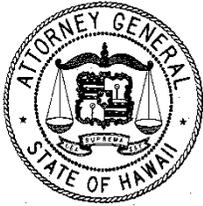
The Department notes that the prohibition on indemnification and additional insured provisions represents a shift in contractual risk allocation between the State and nonprofit providers. Changes to contractual risk transfer mechanisms may influence

underwriting decisions, coverage structure, and premium calculations. The practical impact will depend on how insurers evaluate these exposures in light of the broader liability limitations contained in the measure.

The Department is actively engaged with other state insurance regulators to evaluate collaborative, multi-jurisdictional approaches to these challenges. Because the underlying insurance pressures affecting child welfare providers are national in scope, coordinated efforts across jurisdictions may be necessary to improve market stability and insurer confidence.

Additionally, the Department is working with Hawaii's nonprofit organizations providing child welfare services to explore alternative insurance models and risk-management approaches that may improve long-term coverage stability and affordability. Collaboration among service providers, insurers, and regulators is essential to developing sustainable solutions that support victim compensation, preserve accountability, and ensure the ongoing availability of critical services for keiki and families across the State. The Department remains committed to monitoring market conditions and working with stakeholders to support sustainable insurance solutions. Continued evaluation will be important to determine whether the liability adjustments in this measure translate into measurable changes in coverage affordability and availability over time.

Thank you for the opportunity to testify.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

H.B. NO. 1645, H.D. 2, RELATING TO LIABILITY.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

DATE: Thursday, February 26, 2026 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Lynne M. Youmans or Lila C. King, Deputy Attorneys General

Chair Matayoshi and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill.

The bill adds a new chapter to the Hawaii Revised Statutes (HRS) that:

(1) prohibits contracts to provide services to children and families entered into between the State Department of Human Services (DHS) and child welfare service organizations (service providers) from requiring that the service providers indemnify the State for the negligence or wrongdoing of the service providers' employees in carrying out that work; (2) prohibits the State from requiring that service providers contracting with the DHS maintain insurance to cover the State in the event that the negligence or wrongdoing of a service provider's employees results in a damage award against the State; (3) eliminates liability to service providers for interest and punitive damages; (4) limits a plaintiff's right to a jury trial in civil cases against service providers; (5) limits joint and several liability for the service providers contracting with the State if they are sued in tort actions; and (6) eliminates the need for service providers to post bond in the event of an appeal.

The Department is aware of the insurance issues facing these service providers and appreciates the intent of the bill to lower the costs for service providers contracting with the DHS. Eliminating the indemnification and insurance requirements for State contracts places a financial burden on the State for the negligence or wrongdoing of the employees of a contracted service provider. The standard general conditions for

contracts for health and human services procured through chapter 103F, HRS, require the provider to indemnify the State for harm or loss "arising out of or in connection with the acts or omissions of the PROVIDER or the PROVIDER's employees, officers, agents, or subcontractors[.]" Similarly, for contracts for other goods and services procured through chapter 103D, HRS, the standard general conditions require contractors to indemnify the State for harm or loss "arising out of or resulting from the acts or omissions of" the contractor. The prohibition on the indemnity clauses described above, along with the prohibition on requiring insurance to support those indemnity clauses, has the effect of making the State, through its taxpaying residents, potentially liable to cover the cost of the harm caused by the acts or omissions of the service providers and their employees.

In general, the system of personal injury liability disfavors allowing entities who cause harm through the negligence or wrongdoing of their own employees to avoid the financial consequences of that negligence or wrongdoing. If the requirement for indemnification of the State by the providers is eliminated, then the State, and ultimately the taxpayers, will bear the burden of fully compensating the harm and loss caused by the service providers.

In addition to the concerns about requiring the State to bear the cost of any harm and loss resulting from the negligence of DHS contracted providers, there is a risk in allowing these entities, by law, to provide services to DHS clients without insurance to cover the State for the full harm that they may cause in providing those services. DHS clients include some of the most vulnerable populations in the community, chiefly children who are in the foster custody of the State. Eliminating the responsibility of the provider to cover the full cost of the harm caused creates a moral hazard that allows these providers to soften their oversight of their own employees and policies to prevent tragic outcomes.

The Department is aware that the rising cost of insurance is a real issue for contracted services providers working with DHS. The Department believes that those service providers, and DHS, need to work through the existing mechanisms of the procurement process to ensure that the amount paid for the service providers' work

under the State's contracts is truly reflective of the cost of that work, including the cost of the required insurance. The procurement process under chapter 103F, HRS, includes mechanisms for reporting the true cost of doing the work required both pursuant to a request for information and in a proposal in response to a request for proposals, which allow DHS to increase the budget allotted for a particular contracted service to reflect that true cost, and for DHS to add the true cost of the service to its annual budget request. The Department is committed to collaborating with DHS and its contracted service providers so that services remain available to DHS clients.

For these reasons, we ask that this bill be deferred. If the Committee is inclined to pass the bill, we would recommend striking the portions relating to the prohibition on indemnification and insurance requirements for service providers in section -2 of the new chapter added by section 2 of the bill, on page 4, line 13, to page 5, line 2, by deleting section -2 in its entirety, and renumbering the remaining sections.

Thank you for considering our testimony.



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Alison H. Ueoka
President

TESTIMONY OF ALISON UEOKA

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Scot Z. Matayoshi, Chair
Representative Tina Nakada Grandinetti, Vice Chair

Thursday, February 26, 2026
2:00 p.m.

HB 1645, HD2

Chair Matayoshi, Vice Chair Grandinetti, and members of the Committee on Consumer Protection & Commerce, my name is Alison Ueoka, President of Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **supports** this bill. Reducing some liability for nonprofit child welfare service organizations providing essential services would reduce claims payouts for them. Specifically, abolishing joint and several liability would have a huge impact on the nonprofit child welfare service organizations' claims experience if they were only 10% liable and no longer have to pay 100% of the loss if they happen to be the deep pocket because of their insurance coverage.

Thank you for the opportunity to testify.



CATHOLIC CHARITIES HAWAI'I

SUPPORT FOR HB 1645 HD2: RELATING TO LIABILITY

TO: House Committee on Consumer Protection and Commerce
FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawai'i
Hearing: Thursday, 2/26/26; 2:00 PM; CR 329 or via Videoconference

Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee on Consumer Protection and Commerce:

My name is Betty Lou Larson, Legislative Liaison with Catholic Charities Hawai'i. Thank you for the opportunity to testify in **strong support of HB 1645 HD2**, which seeks to provide essential liability protections for nonprofit child welfare service organizations partnering with the State to serve children and families.

Catholic Charities Hawai'i (CCH) is a tax-exempt, community-based organization that has served Hawai'i for over 78 years, assisting more than 40,000 individuals statewide each year. We provide a wide range of services for children, families, kūpuna, immigrants, and individuals experiencing homelessness, and we have a long-standing partnership with Child Welfare Services.

Child welfare organizations across Hawai'i are facing a severe insurance crisis. Insurance carriers have withdrawn from the market, reduced coverage, or increased premiums to unaffordable levels, making it difficult for providers to secure the liability insurance required to maintain state contracts. Without adequate coverage, organizations cannot continue mandated services—placing vulnerable children and families at risk and shifting unsustainable burdens to state agencies.

We strongly support this bill and the amendments it contains. HD2 amends the child welfare service contract requirements to prohibit both child welfare service organizations and the State from utilizing indemnification clauses or requiring either party to name the other as an additional insured. Current requirements shift significant liability and defense costs to nonprofits acting as agents of the State. Removing these provisions would reduce disproportionate liability exposure while retaining accountability for areas under an organization's direct control. The current requirements force nonprofits to absorb legal defense costs unrelated to their actions, driving premiums even higher and pushing providers into costly excess and surplus lines markets with reduced coverage.

This measure with the additional amendments in HD2 more appropriately aligns liability with the actual responsibilities of organizations and supports the continuity of child welfare services statewide. **We urge the Committee to pass HB 1645 HD2.**

If you have any questions, please contact Betty Lou Larson, at (808) 527-4813.



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Phone (808) 527-4813 •



TO: HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
The Honorable Scot Z. Matayoshi, Chair
The Honorable Tina Nakada Grandinetti, Vice Chair, and
Members of the Committee

FROM: Justina Acevedo-Cross, Senior Director of Community Strategy

RE: Testimony in Support for HB 1645 HD 2, Relating to Liability

DATE: Thursday, February 26, 2026 at 2:00 pm

LOCATION: Hearing Room 329

The Hawai'i Community Foundation (HCF) **supports** HB 1645 HD 2, Relating to Liability. HB 1645 HD 2 would provide certain liability protections for nonprofit organizations that are contracted by the State to provide child welfare services. This bill is critical to enabling organizations to continue their operations by maintaining liability insurance, making them more favorable to insurers and alleviating some of the high-cost burden of operations.

A 2025 national survey conducted by the National Organization of State Associations for Children (NOSAC) and the Association of Children's Residential & Community Services (ACRC) found that many organizations indicated they may need to reduce or eliminate programs, or have already closed services, due to unsustainable insurance costs: "Two-thirds of survey respondents were willing to contemplate or were planning to make changes to the services they offer due to liability insurance concerns."¹ This is a significant concern because it puts the children and families who rely on these programs at risk.

For more than 30 years, HCF has managed the Hawai'i Children's Trust Fund, which supports the public-private partnership and awards funding for programming that prevents child abuse and neglect, and strengthens families. Human services are a priority under HCF's CHANGE Framework within the Community Centered Economy and Health and Wellness sectors. Supporting this bill has the potential to protect access for children and families who rely on crucial child welfare programs, as well as invest in the longevity of Hawai'i's social services for keiki and families. **We urge the legislature to advance HB 1645 HD 2.**

¹ [2025 National Survey Report](#) – Insuring Care: How Liability Insurance Access Threatens Community Services for Children.

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION OF
HB 1645 HD2**

Date: Thursday February 26, 2026

Time: 2:00 P.M.

Aloha Chair Matayoshi, Vice Chair Grandinetti, Members of the Committee on Consumer Protection and Commerce:

My name is Evan Oue and thank you for allowing me to submit testimony on behalf of the Hawaii Association for Justice (HAJ) in **STRONG OPPOSITION** to **HB 1645 HD2 - RELATING TO LIABILITY.**

This measure seeks to create liability limitations for foster agencies that are under contract with the State to provide foster services. While the goal of preserving service capacity is important, the bill raises significant policy concerns regarding accountability, access to justice, and risk allocation in cases involving abuse or neglect of children in foster care.

HAJ is primarily concerned with the abolition of joint and several liability which shifts financial risk onto victims. HB 1645 HD2 removes joint and several liability for foster care agencies when multiple parties are responsible for harm. This is concerning as cases where the primary wrongdoer lacks sufficient assets, this change may prevent full compensation for injured children, even when institutional failures contributed to the harm. This shifts financial risk away from agencies and onto victims of abuse and neglect.

Further, limiting damages reduces deterrence against abuse and neglect within the foster care system. HB 1645 HD2 prohibits punitive damages and pre- and post-judgment interest for foster care agencies. Punitive damages serve a recognized role in civil law by discouraging reckless or egregious conduct and promoting institutional reforms when systemic failures are

identified. Eliminating this category of damages removes an established mechanism for deterring harmful practices and may reduce incentives for agencies to improve safety and oversight.

HAI remains highly concerned that this bill does not guarantee that insurance rates will decrease for foster care agencies, and therefore, fail to accomplish the stated purpose of the bill. Ultimately, will not provide the intended benefits and only result in the limitation of abuse victim's claims.

Additionally, HAI this measure fails to address the actual root causes of abuse within the foster care system and removes accountability to implement systematic changes to prevent future abuse. HB 1645 HD2 attempts to address the consequences of abuse on the backs of those very same abuse victims rather than trying to employ changes that will actually reduce the risk of abuse. If the foster care agencies are truly looking to improve their insurance risk, greater consideration should be given to address the actual underlying risk and not the liability which will more effectively address cost concerns.

Moreover, HB 1645 HD2's indemnification provisions may weaken oversight incentives. The bill requires foster care agencies to indemnify the State except in cases of gross negligence. As the State retains significant authority over licensing, placement, and supervision decisions, this structure may reduce incentives for robust oversight while expanding the State's insulation from liability. Clear accountability for each actor is essential in a system responsible for the care of vulnerable children.

HB 1645 HD2 removal of bench trials reduce transparency and public confidence. The bill requires that actions against foster care agencies be tried by a judge unless all parties agree to a jury trial. Jury trials provide an important role in reflecting community standards and promoting transparency in cases involving serious allegations, including abuse of children. Restricting access to juries may reduce public confidence in outcomes and disproportionately

affect vulnerable plaintiffs.

Additionally, appeals without bonds may delay relief. Allowing foster care agencies to appeal judgments without posting a bond may delay compensation and resolution for injured children and their families. Extended litigation timelines can create barriers to accessing services needed for recovery and stability.

Insurance availability and affordability concerns should be addressed through strategies that preserve legal accountability, such as enhanced safety standards, improved training and screening requirements, increased contract reimbursement rates, risk-pooling mechanisms, or state-supported insurance solutions. Shifting legal risk onto children harmed in foster care raises equity and public policy concerns.

Moreover, within the Attorney General's testimony on SB 3164 the insurance cost challenges can be more directly addressed in the procurement for these contracts rather than reducing the liability. This offers a more immediate and balanced approach to address the insurance cost concerns for a key state service while protecting victim's rights and encouraging internal policies which actually work to reduce abuse cases altogether. Ultimately, the goal should be to bring abuse cases down not to limit liability.

HB 1645 HD2 would significantly alter longstanding civil liability principles in a manner that reduces accountability and limits remedies for the most vulnerable party impacted by HB 1645 HD2, the children under the protection of the foster care agencies. While insurance market challenges warrant legislative attention, they should be addressed without weakening core protections for vulnerable children or restricting access to the courts.

Thank you very much for allowing me to testify in **OPPOSITION** of this measure. Please feel free to contact me should you have any questions or desire additional information.



TESTIMONY ON HB 1645 HD2 RELATING TO LIABILITY IN SUPPORT

TO: Chair Matayoshi, Vice-Chair Grandinetti, & Members,
House Committee on Consumer Protection & Commerce
FROM: Trisha Kajimura, PACT Vice-President of Strategy and External Affairs
Ryan Kusumoto, PACT President & CEO

Attachment: National report executive summary

DATE: February 26, 2026, 2:00 PM

Parents and Children Together (PACT) strongly supports HB 1645 HD2, which provides certain liability protections for child welfare service organizations that are under contract with the State so that these organizations can continue to obtain liability insurance while mitigating its skyrocketing cost. Without these protections, the state is at risk of becoming unable to contract for child welfare services with non-profit organizations. This bill proposes changes to the terms of non-profit liability when contracted by the state to perform child welfare services while retaining liability and requirements appropriate to an organization's actual responsibility for claims.

Founded by residents of Kuhio Park Terrace in 1968, PACT is a statewide community-based organization providing a wide array of innovative and educational social services to families in need. Assisting more than 18,000 people across the state annually, we help identify, address, and successfully resolve challenges through our 20 programs. Among our services are early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community building programs.

In 2025, PACT's liability insurer pulled out of the market and discontinued insurance locally and nationally for non-profit organizations providing child welfare and "foster care adjacent" services. This created a situation where PACT's insurance broker struggled to find a replacement carrier. The day before PACT's liability insurance expired, a carrier agreed to provide PACT's insurance (with less coverage) for the next year at 3X the cost of the previous year. Equivalent coverage was quoted at 10X the cost of the previous year. If PACT's insurance coverage lapsed, it would not be able to carry out the work it is contracted to do and over 8000

children statewide would lose services in the areas mentioned above. Coverage is required by the contracts.

This issue with liability insurance is not unique to Hawaii. A 2025 national survey conducted by the National Organization of State Associations for Children and the Association of Children's Residential & Community Services found that "The crisis in liability insurance for child welfare providers is widespread, severe, and threatens the viability for vulnerable children and families. Many providers... face untenable costs and reduced access to necessary coverage." This report can be found at www.togetherthevoice.org/insuringcare. The executive summary is attached.

Thank you for the opportunity to testify. Please contact me at (808) 847-3285 or tkajimura@pacthawaii.org if you have any questions.





INSURING CARE: HOW LIABILITY INSURANCE ACCESS THREATENS COMMUNITY SERVICES FOR CHILDREN

2025 NATIONAL SURVEY REPORT

“When the agency has to pay more for liability insurance coverage, it takes dollars away from direct services to our children and families.”

- Child welfare services provider

There is a liability insurance crisis impacting child and family-serving organizations and the communities they serve.

Child and family-serving organizations are anchors in communities and critical partners in the delivery of services that support child and family well-being. Community providers, the vast majority of whom are nonprofits, contract with state and county child welfare agencies across the country to provide prevention services, foster family services including kinship care, and a variety of therapeutic services. Mission-driven, sustainable work requires good business practices, including having appropriate liability insurance. Moreover, liability coverage is typically mandated by state statute or contractual agreement with public agencies. Providers are struggling to find or maintain adequate and affordable liability insurance coverage, even when they have no insurance claim or loss history. In many states, insurance companies are drastically increasing premiums or exiting the market altogether, refusing to cover providers doing child welfare-related work. This situation is creating a potential service cliff for children and families served by community providers across the country. A nationwide survey was conducted to gather information about the scope and impact of the problem.

A national survey sheds light on the problem and the impact.

A survey of 327 community providers in 46 states shows that the child welfare liability insurance crisis is widespread and threatens the public-private partnership and infrastructure of community-based services to children, youth, and families. **Four themes emerged from the survey responses:**

Threat to Service Continuity

- Just this sample of providers served over 400,000 children last year through child welfare prevention, family foster care, kinship care, reunification and/or adoption services, and therapeutic residential interventions.
- **Services beyond foster family care are at risk. Three-fourths of respondents provide services outside the child welfare system**, including community-based mental health services, afterschool programs, early childhood schools, parenting or home visiting services, housing services, and substance use services, among others.
- **Many providers indicated they may need to reduce or eliminate programs, or have already closed services, due to unsustainable insurance costs.** Two-thirds of survey respondents were willing to contemplate or were planning to make changes to the services they offer due to liability insurance concerns.
- This creates direct risk for children and families who depend on these services. As providers weigh the sustainability of their work and consider reducing or eliminating their footprint in the child welfare field (or are forced out due to having no insurance coverage options), it will have a direct impact on child and family outcomes.

Skyrocketing Premiums

- Premiums are rising at an unsustainable rate, diverting taxpayer and donor dollars away from services to children and families. **This sample alone documents more than \$200 million spent on liability insurance premiums this year.**
- Across respondents, **the average premium increase since 2019 is 163%.**
- Almost half of respondents have had their premiums double. **A quarter of respondents had their premiums increase a staggering 200%-1800%.**
- Premiums are rising regardless of individual claims histories; providers cannot “risk manage” their way out of this crisis. Individual providers, and even county and state child welfare administrators, are limited in what they can do to control costs.

Loss of Coverage and Market Instability

- **Nearly two-thirds (63%) of respondents reported they had changed carriers in the last five years** due to coverage limitations, nonrenewal by their carrier, unaffordable premiums, and carriers exiting the market (i.e., refusing to cover organizations doing child welfare-related work).
- **Nearly two-thirds of respondents report difficulty getting bids.** Fewer insurance carriers are willing to participate in the child welfare market, and the policies they offer are limited in scope.
- Some providers face contract termination or the inability to bid on contracts because they can't meet insurance requirements.
- Rising costs are also reported in auto, property, cyber, and umbrella insurance policies.

Calls for Systemic Solutions

- Stakeholders in some states are attempting to work with legislators, but few report meaningful progress.
- Many providers urge legislative action and collaboration to solve this problem.

Federal action is needed.

Youth and families who have been harmed should absolutely be able to bring lawsuits and recover damages from responsible individuals and organizations. All youth and families should also be able to receive the supports they need. This report reveals that there is a national problem that calls for a federal response. Further, the federal government, in partnership with states, has a special interest and responsibility to ensure that children and families impacted by the child welfare system have access to high-quality care, services, and supports. Policymakers should consider the following broad recommendations and approaches to addressing the urgent challenge:

- 1. Partners must work together to look at the data and address the underlying challenges.**
 - The National Association of Insurance Commissioners could play a pivotal role.
 - Regulators, public agency leaders, lawmakers, community-based providers, in partnership with youth and families, should work together to identify strategies that will ensure accountability for wrongdoers while allowing effective child and family serving organizations to remain viable and available to families and communities in need.
- 2. Congress has provided federal solutions in other sectors impacting the public good and should step in here, because both the federal and state governments have a special, shared responsibility to support children and families involved, or at risk of involvement, in the child welfare system and the services they need.**
 - Amendments to federal law, offering federally-backed insurance options, and creation of special compensation funds are just a few of the ways Congress acted in the past.
- 3. Solving this challenge will likely require a suite of policy solutions, not a one-size-fits-all approach. Several recommendations that have been suggested by stakeholders include:**
 - a reinsurance program supported and guaranteed by the federal government;
 - a national risk pool, that encourages insurers to participate in the child welfare insurance market by spreading risk more widely across states and organizations; or
 - federal incentives for insurance providers to cover child welfare organizations, paired with quality assurance measures that ensure better outcomes for children and families (i.e., premiums or coverage tied to an agency's actual performance and compliance with best practices).

These are just a few possible solutions that protect the rights of victims to recover when they are harmed, incentivize high-quality service provision, and ensure that needed services remain available in our communities. **A national problem calls for national solutions.** While a one-size-fits-all solution is unlikely, a national dialogue and steadfast commitment to problem solving will generate options, but there is no time to waste.

Access the full report and additional resources at www.togetherthevoice.org/insuringcare.

QUESTIONS AND MORE INFORMATION

If you have questions or would like additional information about this report, please email Lisette Burton, *Chief Policy and Practice Advisor*, ACRC (Lburton@togetherthevoice.org) and Andrea Durbin, *CEO*, Illinois Collaboration on Youth, and *Vice President*, NOSAC (adurbin@icoyouth.org).

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Representative Scot Matayoshi, Chair
Representative Tina Nakada Grandinetti, Vice Chair
Committee on Consumer Protection and Commerce

Thursday, February 26, 2026; 2:00 PM
Conference room 329

RE: HB 1645 HD1 – Relating to Liability – In Support, Request Amendment

Dear Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee,
Child and Family Service (CFS) **strongly supports** HB 1645 HD1.

HB 1645 HD1 provides important liability protections for organizations under contract with the State to deliver child welfare services. These protections are critical to ensuring that community-based providers can continue to obtain professional liability insurance while mitigating its rapidly escalating cost. Without such protections, the State risks losing its ability to contract with non-profit organizations for essential child welfare services.

Child and Family Service is a statewide, community-based organization dedicated to strengthening children and families through prevention, intervention, and treatment services. Each year, CFS serves approximately 4,000 children and 7,000 families through Department of Human Services contracts, and in a typical year supports more than 8,000 children and families. Nearly 90 percent of the families we serve experience positive outcomes. In the past year alone, CFS impacted over 116,000 individuals statewide, representing a 30% increase across four years.

Like many child welfare service organizations, CFS is experiencing unprecedented challenges related to liability insurance. Since last year, CFS's professional liability insurance costs have **tripled**, while coverage options have narrowed significantly. Rising provisional and operational costs combined with stagnant contract rates and increasing service demand have created serious sustainability and ethical concerns. Insurance coverage is a contractual requirement, and without access to affordable and appropriate coverage, CFS would be unable to continue delivering critical services to thousands of children and families.



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ACCREDITATIONS
Council on Accreditation
Better Business Bureau

AFFILIATIONS
Kauai United Way
Maui United Way
Hawaii Island United Way

HB 1645 HD1 proposes meaningful changes to how liability is addressed for non-profit organizations contracted by the State to conduct child welfare work. These changes would improve how insurers assess risk for organizations like CFS and are essential to maintaining continued operations.

Child and Family Service urges the Legislature to advance HB 1645 HD1.

Thank you for the opportunity to submit testimony and for your continued commitment to children and families across our state.

Sincerely,

Amanda Pump
President and CEO



Aloha United Way

“We’re all about FAMILY”

Mission: Strengthening Families and Fostering the Healthy Development of Children



SanHi

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 25, 2026

TO: Representative Scot Matayoshi
Chair, Committee on Consumer Protection & Commerce

FROM: Mihoko Ito / Ryan Toyomura

RE: **HB1645 HD2 – Relating to Liability**
Hearing Date: Thursday, February 26, 2026 at 2:00 p.m.
Conference Room: 329

Dear Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee:

We submit this testimony in **strong support** of HB1645 HD2, in support of our work with Parents and Children Together.

This measure provides certain liability protections for nonprofit child welfare service organizations who provide contracted child welfare services under the Department of Human Services. It also prohibits both child welfare service organizations and the State from utilizing indemnification clauses in child welfare service contracts or requiring either party to name the other as an additional insured.

This bill provides reasonable, balanced liability protections for child welfare service agencies who contract with the State to provide essential services to Hawai'i's most vulnerable children and families, affording them the same liability protections that the State already has.

HB1645 HD2 represents a necessary recalibration of liability exposure that is directly tied to preserving the availability and stability of child welfare services statewide. This bill addresses a very urgent insurance crisis facing Hawai'i's child welfare service organizations. This past year, child welfare service providers were very close to turning back thousands of child welfare service cases to the State when they faced extreme increases in their insurance premiums. This bill addresses these issues by extending various liability protections the state already enjoys to the service providers.

Child welfare service agencies serve one of the most difficult roles in our public service system: caring for children who have experienced trauma, abuse, neglect, and instability. These agencies already face severe challenges in recruitment, retention, staffing, and funding.

Excessive liability exposure is destabilizing this already fragile system. The child welfare service providers are not looking to eliminate liability, or lessen what injured parties can recover. However, the current apportionment of liability is imbalanced and potentially could result in injured parties recovering more than the actual liability. This is because the State is only responsible for their proportionate share of fault, while the child welfare service providers are jointly and severally liable for the entire judgment.

HB1645 HD2 recognizes that service providers are stepping into the shoes of the State in providing child welfare services. It puts their liability risk on par with the exact same protections that are afforded to the State. The bill is intended to address the risk profile of these organizations to bring stability to what is currently a very volatile insurance market.

In addition, prohibiting all parties from the use of indemnification clauses in child welfare service contracts will help to ensure that each party remains responsible for its share of liability. To be clear, we are not asking for service providers to be absolved of liability – but rather to clarify in statute that each party will bear their own burden of any harms caused.

This bill will help to ensure that agencies can continue operating, securing insurance coverage, and delivering critical services without the threat of catastrophic liability. Without these protections, agencies could face withdrawing from providing child welfare services altogether — outcomes that will directly harm vulnerable children and families.

For these reasons, we strongly support this bill and ask the Committee to keep it moving to allow for continued discussion. Thank you for the opportunity to submit testimony on this important measure.

**WRITTEN TESTIMONY BEFORE THE
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

**IN STRONG SUPPORT OF HB 1645, HD2
Relating to Liability**

Thursday, February 26, 2026
2:00 p.m.
State Capitol, Conference Room 329

Submitted by Shannon Alivado

Dear Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee,

I am submitting testimony **in strong support of HB 1645, HD2, Relating to Liability**. This bill provides certain liability protections for foster care agencies that are under contract with the State to provide child welfare services so that these agencies can continue to obtain liability insurance while mitigating its skyrocketing cost. Without these protections, the state is at risk of becoming unable to contract for child welfare services with non-profit organizations.

As a board member of Catholic Charities Hawaii, we have heard firsthand -- of the risks to the lack of insurance available to child welfare service organizations who serve our most vulnerable communities. If child welfare service organizations are unable to get access to liability insurance, they will not be able to serve the children and families receiving our services, then who will? What would the level of care be for these vulnerable populations and how would it affect these children as they try their best to be successful adults.

As noted, the purpose of this bill is to provide children and families with the resources they need to thrive by ensuring the nonprofit child welfare service organizations that care for them can continue to operate. If these organizations walk away from providing these services, the State will be required to provide such services. Many of the children and youth being served do not have access to the basic needs that many of us take for granted. This bill is necessary to help stabilize Hawaii's child welfare system and address liability pressures that distort the insurance market.

Nonprofit providers in Hawaii and across the United States are facing unprecedented challenges securing liability insurance. The State of Hawaii cannot risk the unavailability of these services.

Please pass HB 1645, HD2 it is important for the future of care provided to our most vulnerable population.

**TESTIMONY IN SUPPORT OF H.B. 1645, HD2
RELATING TO LIABILITY
BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
February 26, 2026 2:00 P.M. State Capitol, Room 329**

Dear Chair Matayoshi, Vice Chair Grandinetti, and Members of the House Committee on Consumer Protection & Commerce:

My name is Donalyn Dela Cruz, and I submit written testimony in support of HB 1645, HD2. Although I am unable to testify in person, I offer these comments in my capacity as a Board Member of Child & Family Service (CFS) to help ensure the organization can continue delivering state-mandated child welfare services amid an increasingly unstable liability insurance market.

Child welfare organizations provide frontline, contracted services that the State relies upon to protect Hawai'i's most vulnerable children and families. In order to operate, these organizations must maintain professional liability insurance. However, insurers are exiting the child welfare market, coverage options are shrinking, and premiums for Hawai'i providers have increased by as much as 300 percent in the past year. Even brief lapses in coverage would prevent providers from legally operating, placing critical services and children at immediate risk.

HB 1645, HD2 is intended to ensure that children and families have access to the support and protection they need by stabilizing the nonprofit organizations that serve them. The work of CFS is essential in caring for our keiki, many of whom endure circumstances that too often go unseen or unaddressed. Without reliable liability coverage, the very system designed to safeguard them is jeopardized.

Nonprofit providers in Hawai'i and across the nation are facing unprecedented challenges in securing liability insurance. The State of Hawai'i cannot afford disruptions in child welfare services due to market instability.

I respectfully urge your passage of HB 1645, HD2.

Mahalo for the opportunity to provide testimony.

Donalyn Dela Cruz

HB-1645-HD-2

Submitted on: 2/25/2026 12:24:38 PM

Testimony for CPC on 2/26/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Comments	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry,

Comment: There's a reason why the insurance carriers is leaving the market due to the "high liability of payouts to these type of claims" for example like the Maui Wildfire, many home insurance carriers left the market and or left doing business in Hawai'i because of the huge financial loss making there company unsustainable. As a result HB 1645 WILL MAKE THE TAXPAYERS/SOH LIABLE FOR HIGH RISK CASES.

1645 HB RELATING TO LIABILITY.

**WRITTEN TESTIMONY BEFORE THE HOUSE
COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

**IN SUPPORT OF HB 1645, HD2
Relating to Liability**

Thursday, February 26, 2026
2:00 p.m.
State Capitol, Conference Room 329

Submitted by Jeff & Lynn Watanabe

Dear Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee,

We are submitting testimony **in strong support of HB 1645, HD2**. This bill provides certain liability protections for foster care agencies that are under contract with the State to provide child welfare services so that these agencies can continue to obtain liability insurance while mitigating its skyrocketing cost. Without these protections, the state is at risk of becoming unable to contract for child welfare services with non-profit organizations.

The purpose of this bill is to provide children and families with the resources they need to thrive by ensuring the nonprofit child welfare service organizations that care for them can continue to operate. Many of the children and youth being served do not have access to the basic needs that many of us take for granted. This bill is necessary to help stabilize Hawaii's child welfare system and address liability pressures that distort the insurance market.

Nonprofit providers in Hawaii and across the United States are facing unprecedented challenges securing liability insurance. The State of Hawaii cannot risk the unavailability of these services.

We feel strongly that this is an important bill to help families and children. Please pass HB 1645 HD2.

**WRITTEN TESTIMONY BEFORE THE HOUSE
COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

IN SUPPORT OF HB 1645, HD2
Relating to Liability

Thursday, February 26, 2026
2:00 p.m.
State Capitol, Conference Room 329

Submitted by Lisa K. Furuta

Dear Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee,

I am writing to express my strong support for HB 1645, HD2. This legislation provides essential liability protections for child welfare services organizations under contract with the State, addressing the unsustainable surge in insurance premiums that currently threatens our social safety net. Without these protections, Hawaii faces a high risk of losing the nonprofit partners that are indispensable to our child welfare system.

The core purpose of this bill is to ensure that the organizations caring for our most vulnerable children can continue to operate. Many of the youth served by these programs lack access to the basic necessities that many of us take for granted; we cannot allow a volatile insurance market to further jeopardize their stability. By mitigating skyrocketing costs and addressing the pressures distorting the market, this bill secures the resources these families need to thrive.

As a community advocate, I have seen firsthand how these nonprofit providers serve as the backbone of our local support systems. If these agencies are forced to scale back or close due to insurance unavailability, the resulting gap in services will create a ripple effect of instability across our entire community. The State of Hawaii cannot afford to lose these vital services.

I respectfully urge you to pass HB 1645, HD2 to stabilize our system and protect the future of our keiki.

With Aloha,

Lisa K. Furuta

Manoa, Hawaii
Community advocate
PACT board member

**WRITTEN TESTIMONY BEFORE THE HOUSE
COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

**IN SUPPORT OF HB 1645, HD2
Relating to Liability**

Thursday, February 26, 2026
2:00 p.m.
State Capitol, Conference Room 329

Submitted by Agatha Viernes

Dear Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee,

I am submitting testimony **in strong support of HB 1645, HD2**. This bill provides certain liability protections for foster care agencies that are under contract with the State to provide child welfare services so that these agencies can continue to obtain liability insurance while mitigating its skyrocketing cost. Without these protections, the state is at risk of becoming unable to contract for child welfare services with non-profit organizations.

The purpose of this bill is to provide children and families with the resources they need to thrive by ensuring the nonprofit child welfare service organizations that care for them can continue to operate. Many of the children and youth being served do not have access to the basic needs that many of us take for granted. This bill is necessary to help stabilize Hawaii's child welfare system and address liability pressures that distort the insurance market.

Nonprofit providers in Hawaii and across the United States are facing unprecedented challenges securing liability insurance. The State of Hawaii cannot risk the unavailability of these services.

Serving on the board of a nonprofit that supports the State's child welfare objectives, I have seen how the dramatic rise in insurance costs has become an undue burden, one that may ultimately prevent our organization from continuing to provide these much-needed services. Please pass HB 1645 HD2.

TO: Chair Matayoshi & Vice-Chair Grandinetti
House Committee on Consumer Protection & Commerce

FROM: Carolyn Davis, CPCU, MBA, Insurance Agent

DATE: February 25, 2026

Aloha Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee:

Thank you for the opportunity to submit testimony in support of HB1645 HD2, relating to general and professional liability insurance. I am Carol Davis and have been an insurance agent/broker for over 30 years in Hawaii. Personally, I have represented several of Hawaii's Non-Profit Organizations on their insurance program over the course of the last 30 years.

I submit this testimony to draw attention to the severe instability currently affecting the commercial liability insurance market, particularly for nonprofit organizations that provide child-welfare, foster care, and foster-care-adjacent services under state contracts.

The challenges facing these nonprofits are not limited to Hawaii. The few insurance markets that specialize in nonprofits across the United States are either significantly increasing premiums, decreasing coverage and limits, or withdrawing from the market.

National market briefings document insurers non-renewing foster care, foster adjacent, and child-welfare providers on a class-of-business basis, independent of individual loss experience.

As a result, nonprofit providers increasingly face situations where coverage is either unavailable or offered only at costs and limits that cannot meet contract requirements or be sustained operationally. Some organizations are now evaluating whether they can continue providing state-contracted services, not due to a lack of mission or demand, but because liability insurance is no longer attainable under reasonable terms.

These market disruptions are being driven by national litigation trends, rather than an increase in nonprofit misconduct.

Industry studies consistently cite large jury verdicts, unpredictable claim outcomes, and expanding theories of liability as primary drivers of insurer retreat from these markets. In many cases, damages are awarded without a direct finding of fault, creating actuarial uncertainty that cannot be reliably priced.

From an underwriting perspective, this unpredictability directly results in higher premiums, reduced capacity, non-renewals, or complete market exits, even for organizations with strong governance, training, and risk management practices.

HB1645 HD2 provides an important opportunity for the Legislature to consider how liability insurance dynamics directly affect the State's ability to rely on nonprofit partners to deliver essential services.

When liability insurance becomes unavailable or unaffordable:

- Critical child-welfare and family-support services may be reduced or eliminated
- Public-private partnerships are destabilized
- The State may ultimately incur higher downstream costs to replace these services

Any changes to general or professional liability insurance should be evaluated with careful attention to market sustainability, carrier participation, and unintended impacts on essential service delivery.

The data is clear: nonprofits serving some of Hawai'i's most vulnerable residents are facing historic and unsustainable liability insurance cost increases, combined with diminishing insurer participation and reduced coverage capacity.

Without thoughtful policy consideration in limiting the liability for organizations that are contracted by the State to do child welfare work, continued market instability threatens not only nonprofit organizations, but the essential services that children and families across Hawai'i rely upon.

Thank you for your consideration and for the opportunity to provide testimony on this important issue.

Respectfully submitted,

Carolyn Davis, CPCU, MBA

Chair and Members of the House Committee on Consumer Protection & Commerce:

My name is Chelsea Momosea, and I am writing as a concerned citizen in strong support of HB 1645 HD2.

I firmly believe that all keiki must be protected at all costs. When a keiki is harmed, accountability is essential, and victims deserve justice. However, protecting children should not come at the expense of the very organizations and agencies working every day to keep them safe.

State contractors who provide essential support to the State's child welfare system and state agencies themselves exist to protect vulnerable keiki. Yet when an individual, whether a foster parent, relative or even a biological parent, commits intentional abuse, it is deeply troubling that the institutions working to prevent harm can face overwhelming liability for the independent, criminal actions of that individual.

An organization should not be financially devastated for the evil or criminal conduct of a person who chose to abuse a child. When liability standards and insurance pressures become so severe that nonprofits cannot afford coverage or must withdraw from state contracts, the result is fewer service providers, reduced oversight capacity, and ultimately greater risk to keiki. That outcome serves no one.

HB 1645 HD2 strikes a necessary balance. It does not excuse wrongdoing, nor does it prevent victims from seeking justice; instead, it helps ensure that child welfare organizations and state partners are not exposed to unsustainable financial risk for actions outside their direct control. Preserving these organizations is critical to maintaining a functioning child protection system.

If we allow the system to collapse under the weight of liability costs, the keiki we seek to protect will suffer the most. We must hold individuals accountable for their crimes while safeguarding the institutions dedicated to prevention, intervention, and care.

For these reasons, I respectfully urge the Committee to pass HB 1645 HD2.

Thank you for your time and consideration.

Sincerely,
Chelsea Momosea
Honolulu, HI

LATE

HB-1645-HD-2

Submitted on: 2/25/2026 6:18:41 PM

Testimony for CPC on 2/26/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Linda Jenkins	Individual	Support	Written Testimony Only

Comments:

Dear Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee,

I am submitting testimony in strong support of HB 1645, HD2. This bill provides certain liability protections for foster care agencies that are under contract with the State to provide child welfare services so that these agencies can continue to obtain liability insurance while mitigating its skyrocketing cost. Without these protections, the state is at risk of becoming unable to contract for child welfare services with non-profit organizations.

The purpose of this bill is to provide children and families with the resources they need to thrive by ensuring the nonprofit child welfare service organizations that care for them can continue to operate. Many of the children and youth being served do not have access to the basic needs that many of us take for granted. This bill is necessary to help stabilize Hawaii’s child welfare system and address liability pressures that distort the insurance market.

Nonprofit providers in Hawaii and across the United States are facing unprecedented challenges securing liability insurance. The State of Hawaii cannot risk the unavailability of these services.

Please pass HB 1645 HD2.

**WRITTEN TESTIMONY BEFORE THE HOUSE
COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

**IN SUPPORT OF HB 1645, HD2
Relating to Liability**

Thursday, February 26, 2026
2:00 p.m.
State Capitol, Conference Room 329

LATE

Submitted by Will Yeh

Dear Chair, Matayoshi, Vice Chair Grandinetti, and Members of the Committee,

I am submitting testimony **in strong support of HB 1645, HD2**. This bill provides certain liability protections for foster care agencies that are under contract with the State to provide child welfare services so that these agencies can continue to obtain liability insurance while mitigating its skyrocketing cost. Without these protections, the state is at risk of becoming unable to contract for child welfare services with non-profit organizations.

The purpose of this bill is to provide children and families with the resources they need to thrive by ensuring the nonprofit child welfare service organizations that care for them can continue to operate. Many of the children and youth being served do not have access to the basic needs that many of us take for granted. This bill is necessary to help stabilize Hawaii's child welfare system and address liability pressures that distort the insurance market.

Nonprofit providers in Hawaii and across the United States are facing unprecedented challenges securing liability insurance. The State of Hawaii cannot risk the unavailability of these services.

I currently serve on the board of Child and Family Service (CFS), a non-profit organization that provides wrap around services to families in need across the islands for over a century. Passing HB 1645,HD2 greatly impacts some of the essential programs within CFS that directly provide for our children and families. Please pass HB 1645, HD2.

**WRITTEN TESTIMONY BEFORE THE HOUSE
COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

**IN SUPPORT OF HB 1645, HD2
Relating to Liability**

Thursday, February 26, 2026
2:00 p.m.
State Capitol, Conference Room 329

LATE

Submitted by Cathy Camp

Dear Chair Matayoshi, Vice Chair Grandinetti, and Members of the Committee,

I am submitting testimony in strong support of HB 1645, HD2.

This measure is essential to stabilizing Hawai'i's child welfare system by providing targeted liability protections for foster care agencies that are under contract with the State to deliver critical child welfare services. Without these protections, nonprofit providers face escalating and, in many cases, unsustainable liability insurance premiums that threaten their ability to operate. If these organizations are unable to secure or afford coverage, the State risks losing the very partners it depends on to serve vulnerable children and families.

HB 1645, HD2 addresses a structural market failure. Across Hawai'i and the nation, nonprofit child welfare agencies are experiencing unprecedented difficulty obtaining liability insurance at reasonable rates. Premiums have skyrocketed, coverage has narrowed, and carriers have exited the market. These conditions are not the result of diminished standards of care, but rather broader liability pressures that distort the insurance marketplace. Without legislative intervention, the availability of foster care and related child welfare services could be severely compromised.

The purpose of this bill is not to reduce accountability, but to ensure continuity of care. Children and youth in foster care often lack access to the basic stability and support systems many of us take for granted. They depend on a functioning, reliable network of nonprofit providers to meet their needs — from safe placements to counseling, case management, and family support services. Ensuring these organizations can continue to operate is a matter of public responsibility and moral obligation.

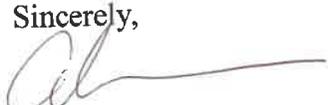
As a Board member of Child & Family Service, I have firsthand knowledge of the essential services provided to our keiki and kupuna across the state. These organizations operate with deep commitment, strong governance, and rigorous oversight, yet they cannot absorb the volatility of the current insurance environment without policy support.

HB 1645, HD2 is a prudent and necessary step to preserve access to child welfare services in Hawai'i. I respectfully urge the Legislature to pass this measure to protect the stability of our foster care system and ensure that our most vulnerable residents continue to receive the care and support they deserve.

Thank you for the opportunity to provide testimony in support of this important legislation.

Please pass HB 1645 HD2.

Sincerely,



Catherine Camp

LATE