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STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
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TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

January 27, 2026

TO: The Honorable Senator San Buenaventura, Chair
Senate Committee on Health and Human Services

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 595 – RELATING TO POWERS OF ATTORNEY.**

Hearing: Wednesday, January 28, 2026, 1:30 p.m.
Conference Room 225 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill and offers comments.

PURPOSE: The purpose of this bill is to establish additional requirements to revoke or make changes relating to agents under powers of attorney of principals diagnosed with cognitive deficits. Requires submittals to the Adult Protective and Community Service Branch (APCSB) of the Social Services Division of the Department of Human Services. Requires APCSB to issue a notice of receipt to the principal and any person initiating the change. Establishes a mandatory waiting period before any proposed change takes effect. Establishes an expedited process for a court order granting an emergency change to a power of attorney. Establishes APCSB to enforce investigations in the conduct of the agents within the powers of attorney, ensure the submitting agents' compliance with waiting periods and requirements, mediate conflicts related to changes to a power of attorney, conduct annual interviews of the agents to ensure protection of the principal, and enforce penalties.

DHS appreciates this bill's intent to provide additional protection for persons diagnosed with cognitive deficits who require a power of attorney from unauthorized or unjust revocations or changes to the agents under their power of attorney. However, this measure places broad new legal duties upon the APCSB that exceed the scope of the APCSB and will negatively impact the APCSB's ability to serve and protect the current population of clients, already among Hawaii's most vulnerable adults.

APCSB is mandated by Chapter 346, Part X, Adult Protective Services, Hawaii Revised Statutes (HRS), to investigate reports of caregiver neglect, self-neglect, financial exploitation, psychological abuse, physical abuse, and sexual abuse of vulnerable adults. Vulnerable adults are persons eighteen years of age or older with physical, developmental, or mental impairment that prevents the adult from being able to do certain capabilities, including protecting themselves from abuse.

APCSB is authorized to accept reports of vulnerable adult abuse for investigation and services per section 346-227, HRS, Investigation, which requires that abuse of a vulnerable adult has occurred or is in danger of occurring if immediate action is not taken. As part of the investigation, APCSB provides urgent, crisis-related protective services to vulnerable adults to ensure their safety and well-being and to prevent abuse from occurring or recurring. Protective services include resolving or addressing the specific alleged abuse, seeking an order for immediate protection, seeking a temporary restraining order, or possible guardianship for vulnerable adults who were abused and are in need of permanent changes in their living arrangements.

New and expanded legal duties for APCSB to accept, investigate, monitor, review disputes, and mediate conflicts for revised powers of attorney of cognitively impaired adults without a report of alleged abuse having occurred will negatively impact APCSB's ability to serve the public and protect vulnerable adults who have been reported to APCSB for alleged abuse, neglect, or financial exploitation. Currently, APCSB does not have the staff or fiscal resources to carry out the proposed duties.

Thank you for the opportunity to provide testimony on this measure.



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
STATE COUNCIL ON DEVELOPMENTAL DISABILITIES
'A'UNIKE MOKU'ĀPUNI NO KA NĀ KĀWAI KULA

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January 28, 2026

The Honorable Senator Joy A. San Buenaventura, Chair
Senate Committee on Health and Human Services
The Thirty-Third Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Buenaventura, and Committee Members:

SUBJECT: SB595 Relating to Powers of Attorney

The Hawai'i State Council on Developmental Disabilities **STRONGLY OPPOSES SB595**, which establishes additional requirements to revoke or make changes relating to agents under powers of attorney of principals diagnosed with cognitive deficits. Requires submittals to the Adult Protective and Community Service Branch of the Department of Human Services. Requires the Branch to issue a notice of receipt to the principal and any person initiating the change. Establishes a mandatory waiting period before any proposed change takes effect. Establishes an expedited process for a court order granting an emergency change to a power of attorney.

The Council recognizes the Legislature's concern regarding exploitation, coercion, and abuse of individuals with disabilities and older adults. However, SB595 establishes a legal framework that removes fundamental civil decision-making authority from individuals labeled as having "cognitive deficits" and places that authority under medical and administrative control. Rather than strengthening protections, this measure significantly restricts autonomy and undermines Hawai'i's disability rights and systems-reform efforts.

SB595 also removes or conditions core civil rights that are normally limited only through guardianship proceedings, including the right to choose or remove one's own agent. However, it does so without the due process protections required in guardianship, such as a court petition, evidentiary hearing, guaranteed access to counsel, individualized findings, or a least-restrictive-alternative analysis. In practice, the bill creates a guardianship-like system administered outside the courts, placing extraordinary authority in an administrative agency to oversee and restrict personal legal decisions. Additionally, SB595 relies on the vague and non-clinical term "cognitive deficit." This term is not a recognized legal or diagnostic classification and lacks a clear functional standard or restoration process. It risks sweeping in individuals with intellectual and developmental disabilities, brain injuries,

mental health conditions, age-related changes, or temporary impairments, subjecting them to rights restrictions based on broad labels rather than individualized determinations.

Protecting individuals from exploitation and abuse is essential. However, protection must not come at the cost of autonomy, due process, and equal recognition before the law. True protection strengthens accountability and expands access to supported decision-making while preserving the individual's right to direct their own life.

For these reasons, the Hawai'i State Council on Developmental Disabilities **strongly opposes SB595.**

Thank you for the opportunity to submit testimony.

Sincerely,



Daintry Bartoldus, Executive Administrator

SB-595

Submitted on: 1/26/2026 7:35:34 PM

Testimony for HHS on 1/28/2026 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	Remotely Via Zoom

Comments:

This Bill is concerning. While the purpose may be well intentioned it is not clear what problem the Bill is trying to solve. It also seems to equate “cognitive deficit” with “lack of capacity.” That is simply not the reality. Many individuals with disabilities may have some “cognitive deficits” but they clearly do not lack capacity. That was even demonstrated last year when the Legislature passed the Supported Decision Making Law. That provided an alternative to guardianship and recognized the right to as much autonomy as possible. Clearly, people who enter into a Supported Decision Making Agreement most likely by definition have some “cognitive deficit”. But they do have capacity. This seems to be a step backwards and creates a complex bureaucratic process that infringes on their rights and is significantly more trouble than it is worth. On balance this bill would seem to do more harm than good.

SB-595

Submitted on: 1/27/2026 10:26:43 AM

Testimony for HHS on 1/28/2026 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
James Kilgore	Testifying for Full Life	Oppose	Written Testimony Only

Comments:

We are grateful for the committee's concern for the exploitation, coercion, and abuse of individuals with disabilities and our Kupuna. However, I am writing to oppose this bill as written because of concerns it may remove rights regarding decision-making authority from people with intellectual and developmental disabilities. It may also bypass due process for guardianship-like systems for those individuals through judicial processes.

SB-595

Submitted on: 1/27/2026 11:02:31 AM

Testimony for HHS on 1/28/2026 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Austin "Shiloh" Martin	Testifying for Libertarian Party of Hawaii	Support	Remotely Via Zoom

Comments:

Aloha Chair Aquino, Vice Chair Shimabukuro, and committee members.

I am Austin Martin, Chair of the Libertarian Party of Hawaii, testifying in strong support of SB 595 (Powers of Attorney Protections).

SB 595 adds safeguards against fraudulent or coercive execution of powers of attorney, directly protecting voluntary contractual arrangements and individual autonomy from third-party abuse without imposing new mandates on legitimate private planning.

These targeted deterrents strengthen property rights and personal sovereignty at minimal cost. I recommend passing SB 595 as introduced.

Mahalo for supporting this important measure.

Austin Martin

Libertarian Party

WRITTEN TESTIMONY IN SUPPORT OF SB 595
Relating to Powers of Attorney and Protections for Individuals with Cognitive Deficits

Aloha Chair and Members of the Committee,

I submit this testimony in strong support of SB 595.

I support this bill not as a theoretical exercise, but based on direct personal experience witnessing how Hawai'i's current power of attorney framework can fail cognitively impaired individuals at the precise moment they are most vulnerable.

In my experience, I was closely involved with the care and protection of an elderly woman suffering from cognitive impairment. As her condition progressed, her capacity to understand complex legal and financial decisions diminished, even though she was not formally adjudicated incapacitated by a court. During this vulnerable period, members of her own family exerted pressure on her to sign a broad financial power of attorney that transferred control over her affairs away from those acting in her best interests.

This did not occur in a vacuum. It followed earlier attempts by those same individuals to obtain control over her primary assets—her home and her automobile—which were her only meaningful resources available to fund her ongoing care, housing, and medical needs. These assets were not luxuries; they represented her dignity, independence, and ability to receive appropriate care as her condition worsened.

What made this situation especially troubling was not merely the outcome, but the process. The existing law allowed sweeping authority to be transferred through a single signing event, without mandatory medical assessment, without notice to all affected parties, without meaningful oversight, and without any required involvement from Adult Protective Services until after harm had already occurred. By the time authorities became involved, the damage—to finances, trust, and stability—was already substantial.

SB 595 directly addresses this systemic weakness.

The bill does not strip individuals of autonomy, nor does it prevent families from assisting loved ones. Instead, it introduces common-sense safeguards at the moment when autonomy is most easily compromised. Requiring a comprehensive cognitive assessment, written certification of capacity, notice to affected parties, and a mandatory waiting period ensures that changes to powers of attorney reflect informed, voluntary decisions rather than pressure, confusion, or manipulation.

Equally important, SB 595 protects responsible agents who are acting in good faith. In my experience, the law too often treats all family disputes as morally equivalent, even when one party has consistently acted to safeguard the principal's well-being and assets. By requiring investigation into whether an existing agent is in good standing before allowing replacement, this bill discourages opportunistic interference and rewards responsible stewardship.

I also appreciate that the bill is balanced. It allows for emergency court intervention when a principal is in imminent danger, while still preserving due process and judicial oversight. It focuses on prospective protection rather than retroactive punishment, which is both constitutionally sound and practically effective.

Simply put, SB 595 would have prevented much of the harm I witnessed—not by criminalizing families, but by slowing down irreversible decisions, introducing neutral oversight, and ensuring that cognitively impaired individuals are not quietly stripped of their remaining assets under the guise of legal authority.

Hawai‘i’s elders deserve better than a system that reacts only after exploitation has occurred. SB 595 moves protection upstream, where it belongs.

For these reasons, I respectfully urge your support for SB 595.

Mahalo for the opportunity to submit testimony.

Respectfully submitted,

Edward Codelia

Maui Resident | Registered Voter

Direct: 808-283-8288

SB-595

Submitted on: 1/26/2026 5:24:52 PM

Testimony for HHS on 1/28/2026 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Zahava "Zee" Zaidoff	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair San Buenaventura, Vice Chair, Aquino, and members of the HHS committee,

My name is Zahava "Zee" Zaidoff and I stand in strong opposition to SB595.

As both a self and a community advocate in the disability world, I cannot even explain how much harm this bill would cause. I have a developmental disability and am a Substance Use and Mental counselor and trainer.

What constitutes cognitive deficit? Who gets to decide? Because I have a developmental disability, does that mean that if I change my mind around who I want to have my financial power of attorney, I would be subject to a test by a doctor I don't know and have no relationship with? If I "fail" the test, would I be put on guardianship?

This feels like a loophole designed to take away my rights. And the rights of those I work with and fight for. Self determination is everything.

I understand the intention of this bill and I applaud it. Protecting those of us with disabilities is noble. I ask that protection of us, be done with input and design by us. Nothing about us without us.

Please please oppose this bill.

Mahalo for hearing me out!

Zahava "Zee" Zaidoff

Hawaii Island