
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 further finds that establishing an
4 independent and autonomous office of the child advocate in the
5 State is necessary to provide impartial oversight of the
6 delivery of services to children and their families by state
7 agencies, including the department of human services, and its
8 child welfare services branch, and other entities that serve
9 children and their families through funds provided by the State.
10 The 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 **§28-B Office of the child advocate; establishment;**

2 **purpose.** There is established within the department of the
3 attorney general for administrative purposes only, the office of
4 the child advocate. The office shall be independent of any
5 agency in the performance of the office's duties. The office
6 shall:

7 (1) Ensure that children involved with agencies receive
8 timely, safe, and effective services in accordance
9 with applicable laws;

10 (2) Perform a system-wide examination of the care and
11 services that agencies provide to and for children;
12 and

13 (3) Advise agencies on how the State can improve its
14 services to and for children and their families.

15 **§28-C Child advocate; appointment, tenure, removal,**

16 **qualifications, salary, and vacancy.** (a) The office shall be
17 headed by the child advocate for the proper administration and
18 enforcement of this part.

19 (b) The legislature, by a majority vote of each house in
20 joint session, shall appoint the child advocate who shall serve
21 for a period of six years and thereafter until a successor shall



1 have been appointed. The child advocate may be reappointed but
2 may not serve for more than three terms. The legislature, by
3 two-thirds vote of the members in joint session, may remove or
4 suspend the child advocate from office, but only for neglect of
5 duty, misconduct, or disability.

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

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

18 If the child advocate dies, resigns, becomes ineligible to
19 serve, or is removed or suspended from office, the first
20 assistant to the child advocate becomes the acting child



1 advocate until a new child advocate is appointed for a full
2 term.

3 **§28-D Assistance, staff, delegation, and funding.** (a)

4 The child advocate shall appoint a first assistant and other
5 officers and employees as may be necessary to carry out this
6 part. All employees, including the first assistant, shall be
7 hired by the child advocate and shall serve at the child
8 advocate's pleasure.

9 (b) In determining the salary of each employee, the child
10 advocate shall consult with the department of human resources
11 development and shall follow as closely as possible the
12 recommendations of the department. The first assistant's salary
13 shall be no more than ninety-two per cent of the salary of the
14 child advocate.

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

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



1 (e) The funds for the support of the office shall be
2 provided for as a separate program in the budget or supplemental
3 budget of the department of the attorney general.

4 **§28-E Powers and duties.** (a) The child advocate shall:

5 (1) Oversee and evaluate the delivery of services to
6 children and their families by agencies and entities
7 that provide services to children and their families
8 through funds provided by the State;

9 (2) Periodically review the records of agencies and
10 procedures established by agencies to carry out this
11 part, ensure the agencies' compliance with applicable
12 laws, and recommend revisions as necessary;

13 (3) Receive and review complaints of persons concerning
14 the actions of any agency and of any entity that
15 provides services to children and their families
16 through funds provided by the State, make appropriate
17 referrals and investigate any complaint for which the
18 child advocate determines that a child or a child's
19 family may be in need of assistance from the child
20 advocate or that a systemic issue in the State's



- 1 provision of services to children and their families
2 is raised;
- 3 (4) Periodically review the facilities, procedures, and
4 records of any and all entities, institutions, or
5 residences, whether public or private, where a child
6 has been placed by any agency;
- 7 (5) Recommend changes in state policies concerning
8 children, including systemic changes relating to the
9 provision of juvenile justice, child care, and foster
10 care;
- 11 (6) Serve or designate a person to serve as a member of
12 the child protective review panel established in
13 section 587A-43;
- 14 (7) Establish procedures for receiving and processing
15 complaints, conducting investigations, and issuing
16 appropriate responses to ensure safety of the child
17 and complainant; and
- 18 (8) Develop and implement an outreach plan to educate the
19 public of the purposes and services of the office and
20 procedures to contact or submit a complaint to the
21 office.



1 (b) Notwithstanding any law to the contrary, the child
2 advocate shall have access to, including the right to inspect
3 and copy, any records necessary to carry out the child
4 advocate's duties, including records held by any agency, except
5 where specifically prohibited by federal law; provided that the
6 child advocate shall maintain confidentiality with respect to
7 all records and matters, including the identities of
8 complainants and witnesses except so far as disclosures may be
9 necessary to enable the child advocate to carry out the child
10 advocate's duties and to support the child advocate's
11 recommendations.

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

14 (1) Compel at a specified time and place, by a subpoena,
15 the appearance and sworn testimony of any person who
16 the child advocate reasonably believes may be able to
17 give information relating to a matter under
18 investigation; and

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



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

3 (d) If the child advocate has a reasonable basis to
4 believe that there may be a breach of duty or misconduct by any
5 officer or employee of an agency, the child advocate may refer
6 the matter to the appropriate authorities without notice to that
7 person.

8 **§28-F Annual report.** No later than twenty days prior to
9 the convening of the regular session of 2028 and each regular
10 session thereafter, the child advocate shall submit to the
11 legislature, governor, and public an annual report discussing
12 the office's activities during the preceding year and findings
13 and recommendations, including any proposed legislation.

14 **§28-G Letters to the child advocate.** A letter to the
15 child advocate from, or a letter written on behalf of, a child
16 held in custody by any agency or any entity that provides
17 services to children and their families through funds provided
18 by the State, including child caring institutions and resource
19 family homes, shall be forwarded immediately, unopened, to the
20 child advocate.



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



- 1 (26) The executive director of the agribusiness development
2 corporation;
- 3 (27) The executive director of the campaign spending
4 commission;
- 5 (28) The executive director of the Hawaii community
6 development authority;
- 7 (29) The executive director of the Hawaii housing finance
8 and development corporation;
- 9 (30) The president and chief executive officer of the
10 Hawaii tourism authority;
- 11 (31) The executive officer of the public utilities
12 commission;
- 13 (32) The state auditor;
- 14 (33) The director of the legislative reference bureau;
- 15 (34) The ombudsman;
- 16 (35) The permanent employees of the legislature, other than
17 persons employed in clerical, secretarial, or similar
18 positions;
- 19 (36) The administrative director of the courts;
- 20 (37) The executive director of the state ethics commission;



- 1 (38) The executive officer of the state land use
2 commission;
- 3 (39) The executive director of the natural energy
4 laboratory of Hawaii authority;
- 5 (40) The executive director of the Hawaii public housing
6 authority; [~~and~~]
- 7 (41) The first deputy to the chairperson of the commission
8 on water resource management; and
- 9 (42) The child advocate;

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

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

16 "**§353-29 What officials may visit.** The governor,
17 lieutenant governor, attorney general, director of finance,
18 director of health, comptroller, judges of all state courts, the
19 ombudsman, the child advocate, the mayors of the counties,
20 members of the legislature, and members of county councils shall



1 be allowed at suitable hours to visit any state correctional
2 facility."

3 SECTION 5. Section 587A-43, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The department shall establish a child protective
6 review panel to review each case of child abuse or neglect that
7 leads to near fatality or death as a result of acts or omissions
8 of the child's legal caretaker. Based upon its review, the
9 panel shall submit a report of its findings and recommendations
10 to the director of the department. The department shall appoint
11 members of the child protective review panel, who may include:

- 12 (1) Any physician treating the child for abuse;
13 (2) Any child protective services worker assigned to the
14 case and the worker's supervisor;
15 (3) The guardian ad litem for the child, appointed under
16 section 587A-16, if applicable;
17 (4) The members of the child's multidisciplinary team or a
18 child protective services consultant; ~~and~~
19 (5) The child advocate appointed pursuant to section 28-C
20 or the child advocate's designee; and



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 3000.



Report Title:

Office of the Child Advocate; Establishment; Department of the Attorney General; Child Welfare; Juvenile Justice; Oversight; Investigation; Reports; Positions; Appropriation

Description:

Establishes an independent Office of the Child Advocate within the Department of the Attorney General 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. Effective 7/1/3000. (HD1)

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

