

Honolulu, Hawaii
, 2026

MAR 06

RE: H.B. No. 1645
H.D. 3

Honorable Nadine K. Nakamura
Speaker, House of Representatives
Thirty-Third State Legislature
Regular Session of 2026
State of Hawaii

Madame:

Your Committee on Consumer Protection & Commerce, to which
was referred H.B. No. 1645, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO LIABILITY,"

begs leave to report as follows:

The purpose of this measure is to provide certain liability
protections for nonprofit child welfare service organizations that
are under contract with the State to provide child welfare
services to children and families, including:

- (1) Prohibiting contracts between nonprofit child welfare
service organizations and the State from including an
indemnification clause or requiring either party to name
the other as an additional insured in their respective
liability insurance policies;
- (2) Prohibiting pre- and post-judgment interest and punitive
damages for nonprofit child welfare service
organizations;
- (3) Requiring actions against nonprofit child welfare
service organizations to be tried by the court, except
in certain circumstances;



- (4) Removing joint and several liability for nonprofit child welfare service organizations; and
- (5) Specifying that no bond shall be required from a nonprofit child welfare service organization on appeal.

Your Committee received testimony in support of this measure from the Hawaii Insurers Council; Catholic Charities Hawai'i; Hawai'i Community Foundation; Parents and Children Together; Child & Family Service; SanHi Government Strategies; and numerous individuals. Your Committee received testimony in opposition to this measure from the Department of the Attorney General and Hawaii Association for Justice. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs and one individual.

Your Committee finds that nonprofit child welfare service organizations are critical partners in delivering services that support child and family well-being. These organizations contract with the State to provide prevention services, foster family services including kinship care, and a variety of therapeutic services.

Your Committee further finds that liability insurance is critical to the operation of child welfare and foster care programs, as it functions as a primary risk-management mechanism and financial safety net against claims arising from the provision of services. The child welfare field is inherently high-risk because it serves children in complex, high-stress environments that increase the likelihood and severity of claims. This has led to insurance carriers either withdrawing from the market, reducing coverage, or increasing premiums to unaffordable levels. This measure seeks to resolve this issue by providing essential liability protections for nonprofit child welfare service organizations.

Your Committee has amended this measure by:

- (1) Removing language that prohibited child welfare service contracts between nonprofit child welfare service organizations and the State from utilizing indemnification clauses;



- (2) Removing language that prohibited nonprofit child welfare service organizations and the State from requiring either party to name the other as an additional insured; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committee notes that joint and several liability is the main factor responsible for rising liability insurance rates currently faced by nonprofit child welfare service organizations. However, as this measure moves through the legislative process, future committees may wish to consider the impact indemnification clauses have on liability insurance rates. If indemnification clauses are indeed a key contributing factor in rising premiums, similar to joint and several liability, future committees may wish to consider reinserting provisions in this measure that prohibited the utilization of indemnification clauses in contracts between the State and nonprofit child welfare service organizations.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1645, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1645, H.D. 3.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



SCOT Z. MATAYOSHI, Chair



