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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
House Committee on Judiciary & Hawaiian Affairs  
Friday, February 13, 2026  
2:00 p.m.  
State Capitol, Conference Room 325 and via Videoconference**

**On the following measure:  
H.B. 1645 H.D. 1, RELATING TO LIABILITY**

Chair Tarnas, Vice Chair Poepoe, 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. 1 is to provide liability protections for nonprofit child welfare service organizations that contract with the Department of Human Services. The measure requires state contracts to include indemnification provisions and, when requested, requires organizations to obtain insurance naming the State as an additional insured with primary coverage. It also 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.

Any discussion of market dynamics must begin with an acknowledgement of the real harm suffered by individuals whose trust and safety may have been compromised. The availability of insurance coverage does not diminish the seriousness of these experiences, nor does it lessen the importance of accountability, transparency, and appropriate remedies for those who have been harmed.

At the same time, the Departments' role as insurance regulator requires balancing the needs of survivors with the long-term sustainability of the systems designed to protect keiki. Ensuring that child welfare service providers are able to obtain and maintain liability coverage is not intended to shield wrongdoing, but rather to preserve the financial capacity necessary to respond to claims, compensate victims where liability is established, and maintain continuity of essential services for keiki currently receiving care.

Over the last several years, child welfare service providers have faced increasing difficulty in accessing and affording liability insurance coverage. 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 keiki – one of the most vulnerable populations – often in complex, high-stress environments that increase the likelihood and severity of claims.

These challenges are not isolated to Hawaii but reflect a nationwide trend. Insurers have experienced a growing volume of litigation involving child welfare services, coupled with statutory changes in many jurisdictions that extend or eliminate statutes of limitation for claims involving minors. The significant developments significantly expand the duration and magnitude of insurer's exposure, resulting in long-tail liability risks that are difficult to underwrite and price with predictability. When claims do arise, they frequently involve substantial defense costs and, in many cases, high-severity settlements or verdicts.

As a result, insurers have responded by narrowing coverage terms, increasing deductibles and self-insured retentions, reducing policy limits, or exiting the authorized market entirely. With reduced capacity in the admitted market, many child welfare

service providers are forced to seek coverage in the surplus market. While surplus lines carriers may offer greater flexibility in underwriting, such coverage is often more expensive, provides fewer consumer protections, and may include more restrictive terms, exclusions, and high retention requirements. These market conditions further exacerbate affordability and sustainability for child welfare services.

Addressing the insurance challenges facing child welfare service providers will require a multifaceted approach that extends beyond adjustments to tort liability alone. The proposals in H.B. 1645 H.D. 1 do not guarantee a reduction in rates. 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 can help stabilize insurer participation 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 the insurance landscape.

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.

Thank you for the opportunity to testify.



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**Alison H. Ueoka**  
President

## TESTIMONY OF ALISON UEOKA

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COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS  
Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

Friday, February 13, 2026  
2:00 p.m.

### **HB 1645, HD1**

Chair Tarnas, Vice Chair Poepoe, and members of the Committee on Judiciary & Hawaiian Affairs, 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.



To: The Honorable David A. Tarnas, Chair  
The Honorable Mahina Poepoe, Vice Chair  
House Committee on Judiciary and Hawaiian Affairs

From: Mark Sektan, Vice President

Re: HB 1645 HD1 – Relating to Liability  
APCIA Position - **Support the Intent**

Date: Friday, February 13, 2026  
2:00 p.m., Conference Room 325

Aloha Chair Tarnas, Vice Chair Poepoe and Members of the Committee:

The American Property Casualty Insurance Association supports the intent of HB 1645 HD1, which provides essential liability protections for nonprofit foster care agencies contracted by the State of Hawai'i to deliver critical services for children and families.

The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

Nonprofit social service organizations play a vital role in Hawai'i's child welfare system by delivering mandated services that the State would otherwise be required to perform directly. However, these nonprofits face severe challenges in securing general and professional liability insurance, due in large part to increases in lawsuits involving child-related tragedies—often including agencies even when not found responsible. This has resulted in insurers withdrawing from the market, reducing coverage limits, or imposing drastically higher premiums, making adequate coverage increasingly unaffordable or unavailable.

Without sufficient liability coverage, many foster care providers are at risk of losing their state contracts, which would disrupt essential services for vulnerable children and families and place an unsustainable burden on state agencies.

HB 1645 HD1 addresses this urgent problem by implementing practical, targeted reforms that help stabilize the nonprofit insurance environment. Specifically, the bill:

- Requires contracts between foster care agencies and the State to include a state indemnification clause and ensures agencies name the State as an additional insured.
- Prohibits punitive damages and pre- and post-judgment interest in actions involving foster care agencies;
- Requires actions against agencies to be tried by the court, except under certain circumstances;
- Eliminates joint and several liability for nonprofit foster care agencies; and
- Ensures no bond is required for an agency to appeal a case.

Additionally, while we support the intent of the provisions of HB 1645 HD1, APCIA requests for the committee to consider the concerns about indemnification and additional insured provisions which could result in premium increases. There are further issues that also should be addressed, including setting some standards on time-limited demands and a limit on non-economic damages which is what results in nuclear verdicts.

The provisions of HB 1645 HD1 will help begin restoring stability in the insurance market, promote fair legal standards, and ensure that Hawai'i's foster care providers can continue their mission of serving children safely and sustainably. By supporting the intent of HB 1645 HD1, the Legislature will help secure a more reliable system for the nonprofits that partner so closely with the State and protect the continuity of critical foster care services across Hawai'i.

For these reasons, APCIA asks the committee to pass HB 1645 HD1.



**Parents And  
Children Together**

**BUILDING THE RELATIONSHIPS  
THAT MATTER MOST**

ParentsAndChildrenTogether.org

## **TESTIMONY ON HB 1645 HD1 – IN SUPPORT WITH AMENDMENTS RELATING TO LIABILITY**

**TO:** Chair Tarnas, Vice-Chair Poepoe, & Members,  
House Committee on Judiciary & Hawaiian Affairs

**FROM:** Trisha Kajimura, PACT Vice-President of Strategy and External Affairs  
Ryan Kusumoto, PACT President & CEO  
Attachment: National report executive summary

**DATE:** February 13, 2026, 2:00 PM

**Parents and Children Together (PACT) supports HB 1645 HD1, requesting amendments.** HB 1645 HD1 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.

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. Coverage is required by the contracts.

This bill proposes changes to the terms of non-profit liability when contracted by the state to do foster care work and will make organizations like PACT viewed more favorably by insurers. These solutions are critical to continued operations.

Proposed Amendments:

In order to ensure the bill can accomplish what our community needs, we request an amendments to eliminate the use of indemnification in state contracts for child welfare services.

HB 1645 HD1 requires contracts between agencies and the State to include a state indemnification clause and requires agencies to name the State as an additional insured. This is already required by state contracts and is causing child welfare service organizations to be burdened with paying for defense and liability costs for the State. **We propose that the bill should disallow the use of an indemnification clause by either party in child welfare service contracts, so that both parties are responsible for their own liability, insurance, and legal costs, as follows below.**

Section 1 (preamble)– page 3, lines 9-16 – Replace existing language with:

**(1) Prohibiting 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;**

Section 2 – page 4, line 13 - page 5 line 9 - Amend with

**§ -2 Nonprofit child welfare service organizations; state contracts; indemnification; additional insured.** (a) Any contract entered into between a nonprofit child welfare service organization and the State shall **not** include a **any** provision that **allows either party to indemnify or hold** ~~indemnifies and holds~~ harmless the **other party** ~~State of Hawaii and its officers, agents, and employees~~ from and against any and all claims arising out of ~~or resulting from the organization's~~ **the** provision of child welfare services, ~~unless there is a finding of gross negligence on the part of the State.~~

~~—(b) The nonprofit child welfare service organization shall obtain sufficient insurance to provide the indemnification under subsection (a), if requested to do so by the department of human services.~~

~~(c) Any insurance policy obtained by a nonprofit child welfare service organization shall name the State of Hawaii, and its officers, agents, and employees as additional insured and shall constitute primary insurance for the State, with respect to operations performed for the State.~~ **The State and non-profit child welfare service organizations shall not be required to name each other as additional insureds in their respective liability insurance policies.**

This change in state contracts will lower liability risk for the agencies that are acting as agents of the state in conducting child welfare work while retaining liability and requirements appropriate to an organization’s actual responsibility for claims.

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](http://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](mailto: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](http://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](mailto:Lburton@togetherthevoice.org)) and Andrea Durbin, *CEO*, Illinois Collaboration on Youth, and *Vice President*, NOSAC ([adurbin@icoyouth.org](mailto:adurbin@icoyouth.org)).



## CATHOLIC CHARITIES HAWAI'I

### **SUPPORT FOR HB 1645 HD1: RELATING TO LIABILITY**

TO: House Committee on Judiciary and Hawaiian Affairs  
FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawai'i  
Hearing: Friday, 2/13/26, 2:00 PM; CR 325 or via Videoconference

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee

My name is Betty Lou Larson, Legislative Liaison with Catholic Charities Hawai'i. Thank you for the opportunity to testify in strong support of **HB1645 HD1 with amendments**, 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.

While we support the bill's intent, we respectfully request an amendment regarding indemnification and additional insured requirements in state contracts. We propose prohibiting indemnity clauses and prohibiting the requirement that nonprofits name the State 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. These requirements also 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.

Catholic Charities Hawai'i respectfully **supports HB1645 HD1 and urges the Committee to adopt the proposed amendment**. If you have any questions, please contact Betty Lou Larson, at (808) 527-4813.



**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII  
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION OF  
HB1645**

Date: Friday February 13, 2026

Time: 2:00 P.M.

Aloha Chair Tarnas, Vice Chair Poepoe, Members of the Committee on Judiciary and Hawaiian Affairs:

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 HB1645 - 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.** HB1645 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.** HB1645 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.

Furthermore, this measure fails to address the root causes of abuse within the foster care system and removes accountability to implement systematic changes to prevent future abuse. HB 1645 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.

**Moreover, HB1645'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 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.

HB1645 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, 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.

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Representative David Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair  
Committee on Judiciary & Hawaiian Affairs

Friday, February 13, 2026; 2:00 PM  
Conference room 325

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

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

Child and Family Service (CFS) supports HB 1645 HD1 and respectfully requests an amendment to strengthen its effectiveness.

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.



**“We’re all about FAMILY”**

Mission: Strengthening Families and Fostering the Healthy Development of Children

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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. However, we respectfully propose the following amendment to ensure the bill fully meets the needs of our community:

**Prohibit the use of indemnification clauses in State contracts, rather than require them.**

Current contracts require agencies to indemnify the State and name the State as an additional insured, shifting liability and defense costs onto non-profit providers that are acting as agents of the State. We propose prohibiting indemnification clauses and the requirement to name the State as an additional insured. This change would more appropriately align liability with actual responsibility for claims, reduce insurance risk, and help stabilize insurance costs while preserving accountability.

This amendment would strengthen HB 1645 HD1 and better support the non-profit organizations that serve as the backbone of the State's child welfare system. Child and Family Service urges the Legislature to adopt these changes and 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*

Amanda Pump

President and CEO



**“We’re all about FAMILY”**

Mission: Strengthening Families and Fostering the Healthy Development of Children

**TO:** HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS  
The Honorable David A. Tarnas, Chair  
The Honorable Mahina Poepoe, Vice Chair, and  
Members of the Committee

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

**RE:** Testimony in Support for HB 1645 HD 1, Relating to Liability

**DATE:** Friday, February 13, 2026 at 2:00 pm

**LOCATION:** Hearing Room 325

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The Hawai'i Community Foundation (HCF) **supports** HB 1645 HD 1, Relating to Liability. HB 1645 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."<sup>1</sup> 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 1.

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



**SanHi**

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 12, 2026

TO: Representative David Tarnas  
Chair, Committee on Judiciary & Hawaiian Affairs

Representative Mahina Poepoe  
Vice Chair, Committee on Judiciary & Hawaiian Affairs

FROM: Mihoko Ito / Ryan Toyomura

RE: **H.B. 1645 HD1 – Relating to Liability**  
**Hearing Date: Friday, February 13, 2026 at 2:00 p.m.**  
**Conference Room: 325**

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Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

We submit this testimony in **strong support** of H.B. 1645 HD1, in support of our work with Parents and Children Together.

This measure 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 protection that the State already has.

H.B. 1645 HD1 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 Hawaii'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.

H.B. 1645 HD1 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.

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.

**HB-1645-HD-1**

Submitted on: 2/12/2026 2:23:08 PM

Testimony for JHA on 2/13/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Brad Ishimaru	Child and Family Service	Support	Remotely Via Zoom

Comments:

Written testimony previously submitted by Amanda Pump of Child and Family Service.

**TESTIMONY IN SUPPORT OF H.B. 1645, HD 1  
RELATING TO LIABILITY  
BEFORE THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS  
February 13, 2026 2:00 P.M. State Capitol, Room 325**

Dear Chair Tarnes, Vice Chair Poepoe, and Members of the House Committee on Judiciary & Hawaiian Affairs:

My name is Donalyn Dela Cruz, and I submit written testimony in **support of HB 1645, HD1** with a critical amendment. I offer this testimony in my capacity as a board member of Child & Family Service to help ensure the organization can continue delivering state-mandated child welfare services amid an increasingly unstable liability insurance market.

Child welfare service organizations provide frontline, contracted services that the State relies on to protect Hawai'i's most vulnerable children and families. 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 mean providers cannot legally operate, placing service continuity at risk.

As drafted, state contracts already require indemnification clauses and mandate that providers name the State as an additional insured. These provisions have resulted in nonprofit child welfare organizations absorbing defense and liability costs on behalf of the State—costs that insurers increasingly view as unmanageable or uninsurable. Contract requirements remain fixed even as premiums spike, leaving even high-performing, compliant providers vulnerable to disruption.

Respectfully, HB 1645, HD1 would more effectively stabilize Hawai'i's child welfare system by prohibiting, rather than requiring, indemnity clauses in state contracts. This amendment would align liability with actual responsibility, improve how insurers assess risk for state-contracted providers, and reduce insurance volatility that threatens service continuity, all while preserving accountability for an organization's own actions.

If providers are forced to reduce services or withdraw from the system, the cost does not disappear, it shifts back to the State. Children face placement instability and delayed care, families lose access to prevention and reunification services, and courts, hospitals, and emergency systems absorb downstream impacts at significantly higher public cost .

I respectfully urge your **support for HB 1645, HD1 with the proposed amendment.**

Mahalo for the opportunity to provide testimony.



Donalyn Dela Cruz

**WRITTEN TESTIMONY BEFORE THE HOUSE  
COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS**

**HB 1645, HD1  
Relating to Liability**

Friday, February 13, 2026  
2:00 p.m.  
State Capitol, Conference Room 325

Submitted by Linda Jenkins

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

My name is Linda Jenkins and I am submitting testimony **in support of HB 1645, HD1, with an important amendment -- to remove the requirement of an indemnity clause for state contracts that involve nonprofit child welfare service organizations and remove agencies naming the State as an additional insured.** This amendment is important so child welfare service organizations, like Catholic Charities Hawaii can continue serving our most vulnerable youth population. This change will lower liability risk for the agencies that are acting as agents of the state.

The purpose of this bill is to provide at-risk youth 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 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. Over the years in Hawaii and across the United States, nonprofit providers have faced challenges securing liability insurance due to recent claims and litigation. This instability risks nonprofit organizations walking away from providing such care to our most vulnerable population. The State of Hawaii cannot risk the unavailability of these services.

I respectfully request the committee pass HB 1645, HD1 with the amendment to remove the requirement of an indemnity clause. HB 1645, HD1 is necessary to ensure non-profit providers like Catholic Charities Hawaii can continue to operate and provide the love and care that our children need to thrive. Thank you for the opportunity to support HB 1645, HD1 with amendments.

**WRITTEN TESTIMONY BEFORE THE  
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS**

**HB 1645, HD1  
Relating to Liability**

Friday, February 13, 2026  
2:00 p.m.  
State Capitol, Conference Room 325

Submitted by Shannon Alivado

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

My name is Shannon Alivado and I am submitting testimony **in support of HB 1645, HD1, with a request for important amendments – first, to remove the requirement of an indemnity clause for state contracts that involve nonprofit child welfare service organizations and second, to remove agencies naming the State as an additional insured.** These amendments are important so child welfare service organizations, like Catholic Charities Hawaii can continue serving our most vulnerable youth population. The proposed changes to the bill will lower liability risk for the agencies that are acting as agents of the state.

The purpose of this bill is to provide at-risk youth 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 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. Over the years in Hawaii and across the United States, nonprofit providers have faced challenges securing liability insurance due to recent claims and litigation. This instability risks nonprofit organizations walking away from providing such care to our most vulnerable population. The State of Hawaii cannot risk the unavailability of these services.

If nonprofit providers are unable to access affordable liability insurance – the needs of these children and families may not be met – and the burden will then fall on the State of Hawaii to care for them. We urge the Committee to recognize this as a crisis that must be addressed immediately or else the risk of nonprofit providers being unable to serve this vulnerable population.

I respectfully request the committee pass HB 1645, HD1 with amendments to remove the requirement of an indemnity clause and naming the state an additional insured. HB 1645, HD1 is necessary to ensure non-profit providers like Catholic Charities Hawaii can continue to operate and provide the love and care that our children need to thrive. Thank you for the opportunity to support HB 1645, HD1 with amendments.

**WRITTEN Testimony before the HOUSE**  
**COMMITTEE on JUDICIARY & HAWAIIAN AFFAIRS**

**HB 1645, HD1**  
**Relating to Liability**

Friday, February 13, 2026  
2:00 p.m.

State Capitol, Conference Room 325

Submitted by Jeff and Lynn Watanabe

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

Our names are Jeffrey and Lynn Watanabe and we are submitting testimony **in support of HB 1645, HD1, with an important amendment -- to remove the requirement of an indemnity clause for state contracts that involve nonprofit child welfare service organizations.** This amendment is important so child welfare service organizations, like Child & Family Service can continue serving our most vulnerable youth population.

The purpose of this bill is to provide at-risk youth 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 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. Over the years in Hawaii and across the United States, nonprofit providers have faced challenges securing liability insurance due to recent claims and litigation. This instability risks nonprofit organizations walking away from providing such care to our most vulnerable population. The State of Hawaii cannot risk the unavailability of these services.

We respectfully request the committee pass HB 1645, HD1 with the amendment to remove the requirement of an indemnity clause. HB 1645, HD1 is necessary to ensure non-profit providers like Children and Family Services can continue to operate and provide the love and care that our children need to thrive. Thank you for the opportunity to support HB 1645, HD1 with amendments.

**TO:** Chair Tarnas, Vice-Chair Poepoe, & Members,  
House Committee on Judiciary & Hawaiian Affairs

**FROM:** Carolyn Davis, CPCU, MBA, Insurance Agent

**DATE:** February 13, 2026

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

Thank you for the opportunity to submit testimony in support of HB 1645, 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.

HB 1645 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