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

**Before the  
Senate Committees on Health and Human Services  
and  
Commerce and Consumer Protection**

**Friday, March 20, 2026**

**9:30 a.m.**

**State Capitol, Conference Room 229 and via Videoconference**

**On the following measure:**

**H.B. 1645, H.D. 3, RELATING TO LIABILITY**

Chair San Buenaventura, Chair Keohokalole, and Members of the Committees:

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 this measure is to establish a new liability framework for nonprofit child welfare service organizations under contract with the Department of Human Services. The measure limits liability by prohibiting punitive damages and pre- and post-judgment interest, requiring most actions be tried by bench trial, eliminating joint and several liability, and removing the requirement to post a bond on appeal.

The Department recognizes that claims arising from the child welfare system often involve serious and often traumatic circumstances involving children and families. Accountability and appropriate remedies remain essential. At the same time, as the

State's insurance regulator, the Department must consider the efficacy of insurance-based reform to ensure long-term sustainability of liability coverage for organizations that provide mandated services on behalf of the State.

This is a national issue. Over the last several years, nonprofit child welfare service providers throughout the United States 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.

This measure seeks to reduce insurance rates and premiums through tort reform initiatives. Tort reform is a complex process and may not necessarily lead to the intended results. As such, preliminary questions should be answered:

1. Will insurance companies reduce their rates and premiums if the proposed reforms are enacted?
2. If so, what is the estimated rate and premium reduction?
3. What is the duration (in years) of the rate and premium reductions?
4. Will insurance companies return to the Hawaii market?

Answers to these preliminary questions are important for the following reasons. 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. 3 may affect certain components of litigation exposure, insurer pricing and participation decisions are driven by a broader set of actuarial and market factors. While the measure limits certain categories of damages, nonprofit child welfare service organizations would remain subject to compensatory damages, including damages arising from severe or catastrophic claims. These exposures – particularly those

involving long-tail liability – are primary drivers of insurer underwriting decisions and may limit the extent to which the measure affects pricing or availability in the near-term.

Accordingly, the measure does not ensure premium reductions, increased insurer participation, or expanded market capacity, as insurers generally require credible loss experience over time before reflecting statutory changes in pricing or underwriting decisions. 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 is actively working with the National Association of Insurance Commissioners (NAIC) to mitigate this issue. The NAIC has identified this topic as a national priority. The Western Zone Insurance Commissioners have also formed a task force in part to identify potential geographic solutions. 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 began working with Hawaii's child welfare nonprofit organizations in November 2025 to explore alternative insurance models and risk-management approaches that may improve long-term coverage stability and affordability. The Department has enlisted the involvement of the Hawaii Community Foundation to assess the feasibility of forming a captive insurance model for nonprofit organizations without the need for public funding. The feasibility study is being expedited and if actuarially sound, a model could be established within one year.

In the short term, the Legislature should consider increasing appropriations to enable nonprofit organizations to pay the cost of additional liability insurance.

Again, the Department recognizes the urgency of this matter and has taken significant steps to find real solutions for nonprofit organizations. The Department will continue to monitor market conditions while its work is ongoing.

Thank you for the opportunity to testify.



## CATHOLIC CHARITIES HAWAI'I

### **SUPPORT FOR HB 1645 HD3: RELATING TO LIABILITY**

TO: Senate Committees on Commerce and Consumer Protection  
Senate Committee on Health and Human Services  
FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawai'i  
Hearing: Friday, March 20, 2026; 9:30 AM; CR 229 and via Videoconference

Chair Keohokalole, Chair San Buenaventura, and Members of the Committees on Commerce and Consumer Protection, and Health and Human Services:

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 HD3**, which provides certain 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. 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 respectfully request you to amend HD3 and change the language back to the language of HD2, including the following in Section 1 as a purpose of the Act:** *“(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;”*

Current requirements shift significant liability and defense costs to nonprofits acting as agents of the State. Removing these provisions (as stated in HD2) 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. 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 with the language of HD2.** If you have any questions, please contact Betty Lou Larson, at (808) 527-4813.





**Parents And  
Children Together**

**BUILDING THE RELATIONSHIPS  
THAT MATTER MOST**

ParentsAndChildrenTogether.org

## **TESTIMONY ON HB 1645 HD3 RELATING TO LIABILITY IN SUPPORT, Requesting Amendment**

**TO:** Chair Keohokalole, Vice-Chair Fukunaga, & Members,  
Senate Committee on Commerce and Consumer Protection

Chair San Buenaventura, Vice-Chair McKelvey, & Members,  
Senate Committee on Health and Human Services

**FROM:** Trisha Kajimura, PACT Vice-President of Strategy and External Affairs  
Ryan Kusumoto, PACT President & CEO

Attachment: National report executive summary

**DATE:** March 20, 2026 9:30 AM

**Parents and Children Together (PACT) strongly supports HB 1645 HD3**, 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.

### **Amendment Requested**

We respectfully request an amendment to this version of the bill (HD3), changing it back to the language of HD2, which included the following sub-section related to indemnification and additional insureds:

**Nonprofit child welfare service organizations; state contracts; indemnification; additional insured.** Any contract entered into between a nonprofit child welfare service organization and the State shall not include any provision that allows either party to indemnify or hold harmless the other party from and against

any and all claims arising out of the provision of child welfare services. The State and nonprofit child welfare service organizations shall not be required to name each other as additional insureds in their respective liability insurance policies.

Prohibiting the use of an indemnification clause for both parties in this type of state contract makes both parties responsible for their own liability, insurance, and legal costs.

### **Background**

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](http://www.togetherthevoice.org/insuringcare). The executive summary is attached.

Thank you for the opportunity to testify. Please contact Trisha Kajimura 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)).

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

Date: Friday March 20, 2026

Time: 9:30 A.M.

Aloha Chair San Buenaventura, Chair Keohokalole, Members of the Committees:

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 HD3 - 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 places egregious barriers against victims of abuse and 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 HD3 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 HD3 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.

HAJ 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, it will not provide the intended benefits and only result in the limitation of abuse victim's claims.

**Additionally, HAJ believes this measure fails to address the actually root causes of abuse within the foster care system and removes accountability to implement systematic changes to prevent future abuse.** HB 1645 HD3 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.

**HB 1645 HD3's 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 are a constitutional right and 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 previous 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 HD3 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 HD3: 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.



**SanHi**

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: March 18, 2026

TO: **Senator Jarrett Keohokalole**  
Chair, Committee on Commerce & Consumer Protection

**Senator Joy San Buenaventura**  
Chair, Committee on Health & Human Services

FROM: Ryan Toyomura / Mihoko Ito

RE: **HB1645 HD3 – Relating to Liability**  
**Hearing Date: Friday, March 20, 2026 at 9:30 a.m.**  
**Conference Room: 229**

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Dear Chair Keohokalole, Chair San Buenaventura, and Members of the Joint Committees:

We are in **STRONG SUPPORT** of HB1645 HD3, in furtherance of our work with Parents and Children Together. 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.

We respectfully request the following **AMENDMENT** related to indemnification and additional insureds as a new sub-section which was part of the previous HD2.

**Nonprofit child welfare service organizations; state contracts; indemnification; additional insured.** Any contract entered into between a nonprofit child welfare service organization and the State shall not include any provision that allows either party to indemnify or hold harmless the other party from and against any and all claims arising out of the provision of child welfare services. The State and nonprofit child welfare service organizations shall not be required to name each other as additional insureds in their respective liability insurance policies.

The amendment ensures that the State and the child welfare services agencies are responsible for their own share of liability, attorneys' fees, and costs related to or

arising from a lawsuit. It does not impact or prohibit a plaintiff's right to recover damages in a tort action.

This measure provides certain liability protections for nonprofit child welfare service organizations who provide contracted child welfare services under the Department of Human Services.

HB1645 HD3 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 and the proposed amendment address 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 HD3 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.



P. O. Box 893315  
Mililani, Hawaii 96789  
Telephone (808) 997-5876

**Alison H. Ueoka**  
President

## TESTIMONY OF ALISON UEOKA

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COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair

COMMITTEE ON HEALTH AND HUMAN SERVICES  
Senator Joy A. San Buenaventura, Chair  
Senator Angus L.K. McKelvey, Vice Chair

Friday, March 20, 2026  
9:30 a.m.

### **HB 1645, HD3**

Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee on Commerce and Consumer Protection, and Chair San Buenaventura, Vice Chair McKelvey, and members of the Committee on Health and Human Services, 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:** SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
The Honorable Jarrett Keohokalole, Chair  
The Honorable Carol Fukunaga, Vice Chair, and  
Members of the Committee

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES  
The Honorable Joy A. San Buenaventura, Chair  
The Honorable Angus L.K. McKelvey, Vice Chair, and  
Members of the Committee

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

**RE:** Testimony in Support for HB 1645 HD 3, Relating to Liability

**DATE:** Friday, March 20, 2026 at 9:30 am

**LOCATION:** Hearing Room 229

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The Hawai'i Community Foundation (HCF) **supports HB 1645 HD 3**, which 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. We respectfully request that this version of the bill be **amended to reflect the language of HB 1645 HD 2**, adding back in the provision that would prohibit the use of an indemnification clause for both nonprofit organizations and the State in these types of contracts, making both parties responsible for their own liability, insurance, and legal costs.

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.

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

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 3 with the requested amendment.**



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

Mar 20, 2026

#### MISSION

Aloha Independent Living Hawaii (AILH) dedicated to providing independent living programs and services for persons with disabilities in Hawaii.

We work together with the community and consumers to improve the quality of life through individual choices and access to services.

#### EXECUTIVE DIRECTOR

Roxanne U. Bolden

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The Honorable Jarrett Keohokalohe, Chair  
Senate Committee on Commerce and Consumer Protection  
The Honorable Joy A. San Buenaventura, Chair  
Senate Committee on Health and Human Services  
The Thirty-Third Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

**SUBJECT:** HB1645 HD3 – Relating to Liability

Chair and Members of the Committee:

Aloha Independent Living Hawaii (AILH) is a statewide Center for Independent Living (CIL) that serves people of all ages and all disabilities across Hawaii. We respectfully **oppose HB1645 HD3**.

HB1645 HD3 would create a special liability regime for nonprofit child welfare service organizations under contract with the Department of Human Services by prohibiting pre- and post-judgment interest and punitive damages, requiring most cases to be tried without a jury, eliminating joint and several liability, and waiving appeal bonds. While we recognize the serious insurance challenges facing child welfare providers, we are deeply concerned that shifting risk away from contractors and onto children, families, and the State will weaken accountability and safety in a system that already disproportionately impacts disabled children and parents.

Nationally, children with disabilities are more likely to experience abuse or neglect, more likely to re-experience maltreatment, and more likely to be placed in foster care than their non-disabled peers. Parents with disabilities are also consistently overrepresented at every stage of child protection involvement, reflecting persistent discrimination and systemic bias. In Hawaii, Native Hawaiian children are significantly overrepresented in foster



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

## MISSION

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## EXECUTIVE DIRECTOR

Roxanne U. Bolden

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care, and Native Hawaiian and Pacific Islander children with disabilities and complex trauma histories are more likely to be cared for by non-relative foster parents in higher-risk settings. These overlapping inequities mean that disabled children, Native Hawaiian children, and children in other marginalized communities bear the brunt of system failures.

The House Consumer Protection & Commerce Committee report notes that liability insurance is critical as a primary risk-management mechanism and financial safety net in a high-risk field, and that joint and several liability has been identified as a major factor in rising insurance costs. However, testimony from the Department of Commerce and Consumer Affairs cautions that tort reforms like those in HB 1645 may not actually guarantee premium reductions or expanded market capacity, because insurers price coverage based on broader actuarial experience and long-tail risk, not statutory changes alone. At the same time, the Department of the Attorney General has warned that removing indemnification and relating protections shifts the financial burden of contractor negligence or wrongdoing onto the State and weakens tools to hold providers fully accountable when children are harmed.

From an Independent Living perspective, accountability and transparency when the State or its contractors fail are non-negotiable. Eliminating punitive damages and pre- and post-judgment interest reduces the deterrent effect of civil actions in the most egregious cases and can leave families—often caring for disabled children with lifelong support needs—without meaningful compensation. Restricting access to a jury trial and abolishing joint and several liability can make it harder for families to obtain full recovery when multiple actors share responsibility, especially in complex cases involving systemic neglect or failure to provide appropriate community-based services. These are precisely the types of cases where courts and juries have been a vital check on unsafe practices, including over-reliance on institutional placements and failure to provide disability-related supports.

Instead of weakening remedies for children and families, we encourage the Legislature to pursue alternatives already suggested in prior testimony,



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

#### **MISSION**

Aloha Independent Living Hawaii (AILH) dedicated to providing independent living programs and services for persons with disabilities in Hawaii.

We work together with the community and consumers to improve the quality of life through individual choices and access to services.

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including risk-sharing mechanisms such as state-supported excess coverage, reinsurance backstops, pooled risk arrangements, and investments in robust risk-management and data systems that reduce harm before it occurs. These approaches can support provider stability without reducing the legal protections that children and families—especially those with disabilities—need when the system fails them.

For these reasons, AILH respectfully urges the Committees to HOLD HB1645 HD3.

Thank you for the opportunity to testify.

Aloha,

Roxanne Bolden

Executive Director

**HB-1645-HD-3**

Submitted on: 3/18/2026 1:36:29 PM

Testimony for HHS on 3/20/2026 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Laurie Tochiki	Individual	Support	Written Testimony Only

Comments:

I am writing in support of this action. Our non profit organizations supporting children and parents in the child welfare world are essential and vital to our families. They must be supported.