



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
KA 'OIHANA PILI KĀLEPA  
335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: 1-844-808-DCCA (3222)  
Fax Number: (808) 586-2856  
cca.hawaii.gov

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO  
DIRECTOR | KA LUNA HO'OKELE

DEAN I. HAZAMA  
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

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

**Before the  
House Committee on Human Services & Homelessness  
Tuesday, February 3, 2026  
9:00 a.m.**

**State Capitol, Conference Room 329 and via videoconference**

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

Chair Marten, Vice Chair Olds, 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 this bill is to provide certain liability protections for foster care agencies that are under contract with the State to provide foster care services to children in foster care. Requires contracts between foster care agencies and the State to include a state indemnification clause and requires foster care agencies to name the State as an additional insured. Prohibits punitive damages and pre- and post-judgement interest for foster care agencies. Requires actions against foster care agencies to be tried by the court, except in certain circumstances. Removes joint and several liability for foster care agencies. Specifies that no bond shall be required from a foster care agency 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 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.

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



RYAN I. YAMANE  
DIRECTOR  
KA LUNA HO'ŌKELE

JOSEPH CAMPOS II  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'ŌKELE

STATE OF HAWAII  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF HUMAN SERVICES**  
KA 'OIHANA MĀLAMA LAWELAWE KANAKA  
Office of the Director  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

TRISTA SPEER  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'ŌKELE

February 1, 2026

TO: The Honorable Representative Lisa Marten, Chair  
House Committee on Human Services & Homelessness

FROM: Ryan I. Yamane, Director

SUBJECT: **HB 1645 – RELATING TO LIABILITY.**

Hearing: February 3, 2026, 9:00 a.m.  
Conference Room 329 & Via Videoconferencing, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the legislature's effort to provide liability protections for "foster care agencies" contracted by the State to provide services to children in foster care and provides comments. DHS defers to the Department of Commerce & Consumer Affairs.

The Child Welfare Services Branch (CWSB) contracts with and relies on community providers to deliver services to children involved in the child welfare system, including those in foster care. The Department has received reports from contracted child welfare services providers that they are having increasing difficulty obtaining affordable general liability insurance. CWS has also been informed that contracted providers are obtaining coverage through mainland-based companies because local insurers are not underwriting. This bill proposes limits on liability that may reduce uncertainty and encourage insurance companies to underwrite the important work that community organizations provide for children who are experiencing abuse and neglect.

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



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

**Alison H. Ueoka**  
President

## TESTIMONY OF ALISON UEOKA

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COMMITTEE ON HUMAN SERVICES & HOMELESSNESS  
Representative Lisa Marten, Chair  
Representative Ikaika Olds, Vice Chair

Tuesday, February 3, 2026  
9:00 a.m.

### **HB 1645**

Chair Marten, Vice Chair Olds, and members of the Committee on Human Services & Homelessness, 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 organizations providing essential services would reduce claims payouts for the nonprofit organizations. Specifically, abolishing joint and several liability would have a huge impact on the nonprofit 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.



## TESTIMONY IN SUPPORT OF HB1645, WITH AMENDMENTS RELATING TO LIABILITY

**Aloha Chair, Vice Chair, and Members of the Committee,**

My name is **Venus Kau‘iokawēkiu Rosete-Medeiros**, and I respectfully submit this testimony on behalf of **Hale Kipa**, in **strong support of HB1645, with amendments**.

Hale Kipa is a Hawai‘i-based, community-based organization that has served children, youth, and families for over 55 years. We partner closely with the State to provide critical child welfare and foster care related services to some of Hawai‘i’s most vulnerable keiki, often in moments of crisis, transition, and trauma. We also provide emergency shelters for DHS/CWS youth under the age of 18. Our ability to continue this work depends on the stability and sustainability of our contracts with the State, including the ability to secure and maintain liability insurance.

Like many child welfare service organizations, Hale Kipa is experiencing the **rapid escalation of liability insurance costs**, shrinking coverage options, and increasing difficulty securing insurers willing to underwrite child welfare related services. These pressures are not theoretical; they are already threatening the viability of essential programs statewide.

HB1645 is a necessary and timely response. By addressing liability exposure, indemnification practices, and legal standards that directly impact insurers’ risk assessments, this bill takes an important step toward stabilizing the child welfare service system and preserving the State’s ability to contract with nonprofit partners.

Without these protections, Hawai‘i faces a very real risk: **community-based organizations may no longer be able to obtain insurance at any price**, leaving the State without essential service providers and children without care.

### **Recommended Amendments**

While we strongly support the intent of HB1645, Hale Kipa respectfully joins other community-based providers in requesting **two critical amendments**, consistent with those proposed by Parents and Children Together (PACT).

1. **Replace the term “foster care agencies” with “child welfare service organizations.”**  
Foster care is only one component of the broader child welfare continuum. Many organizations including Hale Kipa, provide essential services such as prevention, family support, placement stabilization, and reunification, even when children remain in

their family homes. The current language is too narrow and risks excluding key providers that are integral to the child welfare system.

2. **Prohibit indemnification clauses in state contracts, rather than requiring them.**

Current state contracting practices require nonprofit agencies to indemnify the State and name the State as an additional insured, effectively shifting the State's liability onto nonprofit providers acting as agents of the State. This practice has directly contributed to skyrocketing insurance premiums and insurers exiting the market. Prohibiting indemnification clauses and additional insured requirements would more appropriately align liability with actual responsibility and materially reduce risk exposure for community-based organizations.

## **Conclusion**

HB1645, with these amendments, represents sound policy, responsible risk management, and a recognition of the essential role community-based organizations play in Hawai'i's child welfare system. This bill will help stabilize insurance markets, protect nonprofit providers, and ensure continuity of services for children and families who depend on them.

Hale Kipa respectfully urges the Committee to pass **HB1645 with the recommended amendments**.

Mahalo nui loa for the opportunity to testify and for your commitment to protecting Hawai'i's keiki and the organizations that serve them.

Me ka ha'aha'a,



**Venus Kau'iokawēkiu Rosete-Medeiros**  
President & CEO, Hale Kipa



**Parents And  
Children Together**

**BUILDING THE RELATIONSHIPS  
THAT MATTER MOST**

ParentsAndChildrenTogether.org

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

**TO:** Chair Marten, Vice-Chair Olds, & Members,  
House Committee on Human Services & Homelessness

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

Attachments: Bill draft with proposed amendments, National report executive summary

**DATE:** February 3, 2026, 9:00 AM

**Parents and Children Together (PACT) supports HB 1645, requesting amendments.** HB 1645 provides certain liability protections for foster care agencies that are under contract with the State so that these agencies 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. However, we would like to propose two amendments to the bill to ensure that it can accomplish what our community needs:

1. **Replace “foster care agencies” with “child welfare service organizations.”** Foster care is just one specific service in the array of child welfare services being provided by contracted organizations and the phrase is exclusionary of services provided when a child remains in the family home. PACT does not specifically provide foster care services and is not a foster care agency.
2. **Prohibit the use of indemnity clauses in state contracts, rather than require them.** The bill requires contracts between agencies and the State to include a state 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 *prohibit* the use of indemnification clause in state contracts and *prohibit* agencies to name the State as an additional insured. 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.

Please see the attached draft of HB 1645 with redline edits to include the above changes.

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.



RELATING TO LIABILITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The legislature finds that ~~nonprofit social~~child welfare service organizations provide essential, mandated services to children and families in partnership with the State, that otherwise would have to be performed by the State itself. The legislature further finds that these ~~nonprofit~~child welfare service organizations are now facing ~~increasing~~extreme challenges in securing general and professional liability insurance coverage. Many insurance carriers have withdrawn from the market, reduced coverage limits, or imposed drastically higher premiums, making coverage either unavailable or unaffordable.

The legislature additionally finds that without adequate liability insurance coverage, ~~nonprofit~~child welfare service organizations cannot maintain state contracts or deliver critically needed services. Furthermore, the legislature finds that rising insurance costs combined with stagnant contract reimbursements threaten the financial sustainability of these ~~nonprofit~~child welfare service organizations. These circumstances risk disrupting services provided by ~~nonprofit~~child welfare service organizations under contract with the State, which would leave vulnerable children and families

without necessary resources and place an unsustainable burden on state agencies.

Moreover, the legislature finds that the underlying cause of the crisis faced by these nonprofit child welfare service organizations is the growing frequency and severity of lawsuits involving child related tragedies. Litigation strategies often include nonprofit naming child welfare service organizations in lawsuits even when they are not found responsible, resulting in nuclear judgments that destabilize the insurance market. As a result, nonprofit child welfare service organizations are increasingly forced to rely on excess and surplus lines insurance coverage, which offers reduced liability protection at significantly higher costs.

The legislature finds that if this issue is not addressed, nonprofit child welfare service organizations may withdraw from this type of work, creating significant gaps in services and straining state agencies that are tasked with filling those gaps.— The legislature further finds that legislative and administrative solutions are needed to ensure that nonprofit child welfare service organizations that provide foster care services can obtain reasonable and sustainable liability insurance coverage, thereby safeguarding the continuity of essential services for children and families across the State.

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

(1) ~~Requiring~~ Prohibiting contracts between ~~foster care agencies~~child welfare service organizations and the State ~~to include~~ from including state indemnification ~~clause~~ and clauses or requiring ~~foster care agencies to name~~ the State ~~as to be~~ an additional insured under child welfare service organization insurance policies;

(2) Prohibiting punitive damages and pre- and post-judgment interest for ~~foster care agencies~~child welfare service organizations;

(3) Requiring actions against ~~foster care agencies~~child welfare service organizations to be tried by the court, except in certain circumstances;

(4) Removing joint and several liability for ~~foster care agencies~~and child welfare service organizations; and

(5) Specifying that no bond shall be required from a ~~foster care agency~~child welfare service organization on appeal.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER**

**~~FOSTER CARE AGENCIES; FOSTER CARE~~CHILD WELFARE SERVICE**

**ORGANIZATIONS; LIABILITY**

§ -1 **Definitions.** As used in this chapter:

~~—"Authorized agency"~~"Child welfare service organization"  
means ~~the~~ a child welfare service organization that is  
contracted with the department of human services, ~~other public~~  
~~agency, or a foster care agency that is licensed by the~~  
~~department of human~~ to provide services ~~or approved by the~~  
~~family court to receive~~ to children for control, care,  
~~maintenance, or placement.~~

~~—"Foster care" means continuous twenty-four-hour care~~  
and ~~supportive services provided for a child by an authorized~~  
~~agency or the family court.~~families.

~~—"Foster care agency" means a nonprofit organization or~~  
~~entity that is under contract with the State to provide foster~~  
~~care services for children in foster care.~~

§ -2 ~~Foster care agencies~~ Child welfare service  
organizations; state contracts; indemnification; additional  
insured. (a) ~~Any~~ (a) A State contract entered into between a

~~foster care agency~~ child welfare service organization and the State ~~to provide foster care shall include a provision that indemnifies~~ may not require that the child welfare service organization defend, indemnify, and hold ~~hold~~ harmless the State of Hawaii and its officers, agents, ~~and employees from~~ and ~~against any and all claims arising out of or resulting from the foster care agency's provision of foster care, unless there is a finding of gross negligence on the part of the State,~~ suits, costs or attorney's fees.

~~—(b)—The foster care agency 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 ~~foster care agency shall name the~~ child welfare service organization may not require that State of Hawaii, and its officers, agents, and employees be named as additional insured ~~and shall constitute primary insurance for the State, with respect to operations performed for the State.~~

**§ -3 Liability; interest; punitive damages.** ~~A foster care agency~~ A child welfare service organization shall not be liable for:

- (1) Interest prior to or after judgment; or
- (2) Punitive damages.

§ -4 **Jury trial, when.** Any action against a ~~foster care agency~~child welfare service organization under this chapter shall be tried by the court without a jury; provided that the court, with the consent of all the parties, may order a trial with a jury, whose verdict shall have the same effect as if trial by jury had been a matter of right.

§ -5 ~~Foster care agency~~ **Child welfare service organization** as a tortfeasor; **abolition of joint and several liability.** (a) ~~Any~~ Notwithstanding any other law to the contrary ~~notwithstanding~~, in any case in which a ~~foster care agency~~child welfare service organization is determined to be a tortfeasor along with one or more other tortfeasors, the ~~foster care agency~~child welfare service organization shall be liable for no more than that percentage share of the damages attributable to the ~~foster care agency~~child welfare service organization.

(b) For purposes of this section, the liability of a ~~foster care agency~~child welfare service organization shall include its vicarious liability for the acts or omissions of its officers and employees.

§ -6 **Judgment on appeal; no bond.** When an appeal is taken by a ~~foster care agency~~child welfare service organization, and the operation or enforcement of the judgment is stayed, no bond,

obligation, or other security shall be required from the ~~foster~~  
~~care agency~~child welfare service organization."

SECTION 3. This Act does not affect rights and duties that  
matured, penalties that were incurred, and proceedings that were  
begun before its effective date.

SECTION 4. This Act shall take effect upon its approval.



# 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) and Andrea Durbin, *CEO*, Illinois Collaboration on Youth, and *Vice President*, NOSAC (adurbin@icoyouth.org).

91-1841 Fort Weaver Road  
Ewa Beach, Hawaii 96706  
Phone 808.681.3500  
Fax 808.681.5280  
www.childandfamilyservice.org

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Committee on Human Services & Homelessness

Re: HB 1645, Relating to Liability

Tuesday, Feb. 3, 2026 9:00 a.m.

Dear Chair Marten, Vice-Chair Olds, and Members of the Committee,

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

HB 1645 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.

CFS 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% 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.

HB 1645 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 two amendments to ensure the bill fully meets the needs of our community:



Aloha United Way

“We’re all about FAMILY”

Mission: Strengthening Families and Fostering the Healthy Development of Children

91-1841 Fort Weaver Road  
Ewa Beach, Hawaii 96706  
Phone 808.681.3500  
Fax 808.681.5280  
www.childandfamilyservice.org

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**1. Replace “foster care agencies” with “child welfare service organizations.”**

Foster care is only one component of the broader child welfare system. Many organizations, including CFS, provide prevention, in-home, reunification, and family support services without operating as foster care agencies. The current language is exclusionary and does not reflect the full scope of contracted child welfare services.

**2. 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. As written HB 1645 would shift 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.

By incorporating these amendments, HB 1645 would more fully support the non-profit organizations that serve as the backbone of the State’s child welfare system. CFS respectfully urges the committee to adopt these amendments and advance HB 1645.

Thank you for the opportunity to submit testimony and for your continued commitment to children and families across our state.

Sincerely,

Amanda Pump

President and CEO



Aloha United Way

“We’re all about FAMILY”

Mission: Strengthening Families and Fostering the Healthy Development of Children



To: The Honorable Lisa Marten, Chair  
The Honorable Ikaika Olds, Vice Chair  
House Committee on Human Services and Homelessness

From: Mark Sektnan, Vice President

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

Date: Tuesday, February 3, 2026  
9:00 a.m., Conference Room 329

Aloha Chair Marten, Vice Chair Olds and Members of the Committee:

The American Property Casualty Insurance Association supports the intent of HB 1645, which provides essential liability protections for nonprofit foster care agencies contracted by the State of Hawaii 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 Hawaii’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 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, 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 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, 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 Hawaii.

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

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

Date: Tuesday February 3, 2026

Time: 9:00 A.M.

Aloha Chair Marten, Vice Chair Olds, Members of the Committee on Human Services  
& Homelessness:

My name is Evan Oue and thank you for allowing me to submit testimony on behalf of the  
Hawaii Association for Justice (HAJ) in **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.

**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.

**HB-1645**

Submitted on: 2/2/2026 2:57:57 PM

Testimony for HSH on 2/3/2026 9:00:00 AM

| <b>Submitted By</b> | <b>Organization</b>    | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|------------------------|---------------------------|------------------------|
| Susan Richard       | Child & Family Service | Support                   | Written Testimony Only |

Comments:

Previously submitted. Support with amendments.

**TESTIMONY IN SUPPORT OF H.B. 1645**  
**RELATING TO LIABILITY**  
**BEFORE THE HOUSE COMMITTEE ON HUMAN SERVICES & HOMELESSNESS**  
**February 3, 2026 9:00 A.M. State Capitol, Room 329**

Dear Chair Marten, Vice-Chair Olds, and Members of the Committee,

As a Board Member of Child & Family Service (CFS), I am writing to express my **support for HB 1645 and respectfully request amendments to increase its effectiveness.**

HB 1645 provides important liability protections for State contracted organizations to deliver child welfare services. These protections are needed to ensure 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.

As with other 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 reduced significantly. Insurance coverage is a contractual requirement, and without access to affordable and appropriate coverage, organizations like CFS would be unable to continue delivering critical services to thousands of children and families.

HB 1645 proposes meaningful change to how liability is addressed for non-profit organizations contracted by the State to conduct child welfare work. These changes are essential to maintaining continued operations, however, I respectfully request two amendments to ensure this bill fully meets the needs of our community:

**1. Replace “foster care agencies” with “child welfare service organizations.”**

Foster care is only one part of the broader child welfare system. Many organizations, including CFS, provide prevention, in-home, reunification, and family support services without operating as foster care agencies. Changing the current language will allow this bill to include the full scope of contracted child welfare services.

**2. 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. As written, HB 1645 would shift liability and defense costs onto non-profit providers that are acting as agents of the State. We propose excluding indemnification clauses

and the requirement to name the State as an additional insured. This would more appropriately align liability with actual responsibility for claims, reduce insurance risk, and help stabilize insurance costs while preserving accountability.

By incorporating these amendments, HB 1645 would more effectively support the non-profit organizations that serve Hawai'i's child welfare system. On behalf of Child & Family Service, I respectfully urge the committee to adopt these amendments and advance HB 1645.

Mahalo for the opportunity to submit my testimony and for your continued commitment to Hawai'i's children and families across our state.

Respectfully,

A handwritten signature in black ink, reading "Lisa Rapp". The signature is written in a cursive, flowing style with a large initial "L" and "R".

Lisa Rapp