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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  
Tuesday, February 17, 2026  
9:45 a.m.**

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

**On the following measure:  
S.B. 3164, RELATING TO CHILD WELFARE SERVICE ORGANIZATIONS**

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 bill is to provide liability protections for nonprofit child welfare service organizations that contract with the Department of Human Services. The measure requires state contracts to include indemnification provisions and, when requested, requires organizations to obtain insurance naming the State as an additional insured with primary coverage. It also prohibits punitive damages and pre- and post-judgment interest, requires most actions to be tried by the court unless the parties' consent to a jury, eliminates joint and several liability and removes the requirement to post a bond on appeal.

The Department recognizes that claims arising from the child welfare system often involve deeply personal and traumatic experiences for keiki and their families. Any discussion of market dynamics must begin with an acknowledgement of the real harm suffered by individuals whose trust and safety may have been compromised. The availability of insurance coverage does not diminish the seriousness of these experiences, nor does it lessen the importance of accountability, transparency, and appropriate remedies for those who have been harmed.

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

Over the last several years, child welfare service providers have faced increasing difficulty in accessing and affording liability insurance coverage. Liability insurance is critical to the operation of child welfare and foster care programs, as it functions as a primary risk-management mechanism and financial safety net against claims arising from the provision of services. The child welfare field is inherently high-risk because it serves keiki – one of the most vulnerable populations – often in complex, high-stress environments that increase the likelihood and severity of claims.

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

As a result, insurers have responded by narrowing coverage terms, increasing deductibles and self-insured retentions, reducing policy limits, or exiting the authorized market entirely. With reduced capacity in the admitted market, many child welfare service providers are forced to seek coverage in the surplus market. While surplus lines carriers may offer greater flexibility in underwriting, such coverage is often more expensive, provides fewer consumer protections, and may include more restrictive terms, exclusions, and high retention requirements. These market conditions further exacerbate affordability and sustainability for child welfare services.

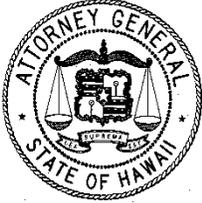
Addressing the insurance challenges facing child welfare service providers will require a multifaceted approach that extends beyond adjustments to tort liability alone. While the proposals in S.B. 3164 may stabilize insurance rates, they do not guarantee a reduction in rates. Potential solutions include 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.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2026**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 3164, RELATING TO CHILD WELFARE SERVICE ORGANIZATIONS.

**BEFORE THE:**

SENATE COMMITTEES ON HEALTH AND HUMAN SERVICES AND ON  
COMMERCE AND CONSUMER PROTECTION

**DATE:** Tuesday, February 17, 2026      **TIME:** 9:45 a.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Lynne M. Youmans or Lila C. King, Deputy Attorneys General

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Chairs San Buenaventura and Keohokalole and Members of the Committees:

The Department of the Attorney General (Department) opposes this bill.

The bill adds a new chapter to the Hawaii Revised Statutes (HRS) that:

(1) prohibits contracts entered into between the State Department of Human Services (DHS) and child welfare service organizations to provide services to children and families (service providers) from requiring that the service providers indemnify the State for the negligence or wrongdoing of its employees in carrying out that work; (2) prohibits the State from requiring that service providers contracting with the DHS maintain insurance to cover the State in the event that the negligence or wrongdoing of a service provider's employees results in a damage award against the State; and (3) limits joint and several liability for the service providers contracting with the State if they are sued in tort actions.

While we appreciate the intent of the bill to lower the costs for service providers contracting with the DHS, eliminating the indemnification and insurance requirements for State contracts places a financial burden on the State for the negligence or wrongdoing of the employees of a contracted service provider. The Department does not believe that the State, through its taxpaying citizens, should bear that burden on behalf of its contracted service providers and relieve those service providers of their

burden to obtain adequate insurance in favor of the State to cover the negligence or wrongdoing of the service providers' employees.

As best practice, all State contracts currently include standard provisions for indemnification of the State. Although not required by statute, indemnification has always been a part of State contracts, in all areas, for public policy reasons. The standard general conditions for contracts for health and human services procured through chapter 103F, HRS, require the provider to indemnify the State for harm or loss "arising out of or in connection with the acts or omissions of the PROVIDER or the PROVIDER's employees, officers, agents, or subcontractors[.]" Similarly, for contracts for other goods and services procured through chapter 103D, HRS, the standard general conditions require contractors to indemnify the State for harm or loss "arising out of or resulting from the acts or omissions of" the contractor.

In general, the system of personal injury liability disfavors allowing entities who cause harm through the negligence or wrongdoing of their own employees to avoid the financial consequences of that negligence or wrongdoing. If the requirement for indemnification of the State by the providers is eliminated, then the State, and ultimately the taxpayers, will bear the burden of fully compensating the harm and loss caused by the service providers.

In addition to the concerns about requiring the State to bear the cost of any harm and loss resulting from the negligence of DHS contracted providers, there is a risk in allowing these entities, by law, to provide services to DHS clients without insurance to cover the State for the full harm that they may cause in providing those services. DHS clients include some of the most vulnerable populations in the community, chiefly children who are in the foster custody of the State. Eliminating the responsibility of the provider to cover the full cost of the harm caused creates a moral hazard that allows these providers to soften their oversight of their own employees and policies to prevent tragic outcomes.

The Department is aware that the rising cost of insurance is a real issue for contracted services providers working with DHS. The Department believes that those service providers, and DHS, need to work through the existing mechanisms of the

procurement process to ensure that the amount paid for the service providers' work under the State's contracts is truly reflective of the cost of that work, including the necessary insurance. The procurement process under chapter 103F, HRS, includes mechanisms for reporting the true cost of doing the work required both pursuant to a request for information and in a proposal in response to a request for proposals, which allows DHS to increase the budget allotted for a particular contracted service to reflect that true cost, and for DHS to add the true cost of the service to its annual budget request.

Finally, we would note that a different bill currently before the Legislature, House Bill No. 1645, House Draft 1, provides other means to address the limitation on costs in a way that is not objectionable.

For these reasons, we ask that this bill be deferred. If the Committee is inclined to pass the bill, we would recommend striking the portions relating to the prohibition on indemnification and insurance requirements for service providers in section -2 of the new chapter added by section 2 of the bill, on page 4, lines 4 to 14, in their entirety.

Thank you for considering our testimony.



## TESTIMONY ON SB 3164 RELATING TO CHILD WELFARE ORGANIZATIONS IN SUPPORT

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

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

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

**DATE:** February 17, 2026, 9:45 AM

**Parents and Children Together (PACT) is in strong support of SB 3164.** The bill 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.

This issue with liability insurance is not unique to Hawaii. A 2025 national survey conducted by the National Organization of State Associations for Children and the Association of Children's Residential & Community Services found that "The crisis in liability insurance for child welfare providers is widespread, severe, and threatens the viability for vulnerable children and families. Many providers... face untenable costs and reduced access to necessary coverage." This report can be found at [www.togetherthevoice.org/insuringcare](http://www.togetherthevoice.org/insuringcare). The executive summary is attached.

Thank you for the opportunity to testify. Please contact me at (808) 847-3285 or [tkajimura@pacthawaii.org](mailto:tkajimura@pacthawaii.org) if you have any questions.





# INSURING CARE: HOW LIABILITY INSURANCE ACCESS THREATENS COMMUNITY SERVICES FOR CHILDREN

## 2025 NATIONAL SURVEY REPORT

*“When the agency has to pay more for liability insurance coverage, it takes dollars away from direct services to our children and families.”*

*- Child welfare services provider*

**There is a liability insurance crisis impacting child and family-serving organizations and the communities they serve.**

Child and family-serving organizations are anchors in communities and critical partners in the delivery of services that support child and family well-being. Community providers, the vast majority of whom are nonprofits, contract with state and county child welfare agencies across the country to provide prevention services, foster family services including kinship care, and a variety of therapeutic services. Mission-driven, sustainable work requires good business practices, including having appropriate liability insurance. Moreover, liability coverage is typically mandated by state statute or contractual agreement with public agencies. Providers are struggling to find or maintain adequate and affordable liability insurance coverage, even when they have no insurance claim or loss history. In many states, insurance companies are drastically increasing premiums or exiting the market altogether, refusing to cover providers doing child welfare-related work. This situation is creating a potential service cliff for children and families served by community providers across the country. A nationwide survey was conducted to gather information about the scope and impact of the problem.

**A national survey sheds light on the problem and the impact.**

A survey of 327 community providers in 46 states shows that the child welfare liability insurance crisis is widespread and threatens the public-private partnership and infrastructure of community-based services to children, youth, and families. **Four themes emerged from the survey responses:**

### ***Threat to Service Continuity***

- Just this sample of providers served over 400,000 children last year through child welfare prevention, family foster care, kinship care, reunification and/or adoption services, and therapeutic residential interventions.
- **Services beyond foster family care are at risk. Three-fourths of respondents provide services outside the child welfare system**, including community-based mental health services, afterschool programs, early childhood schools, parenting or home visiting services, housing services, and substance use services, among others.
- **Many providers indicated they may need to reduce or eliminate programs, or have already closed services, due to unsustainable insurance costs.** Two-thirds of survey respondents were willing to contemplate or were planning to make changes to the services they offer due to liability insurance concerns.
- This creates direct risk for children and families who depend on these services. As providers weigh the sustainability of their work and consider reducing or eliminating their footprint in the child welfare field (or are forced out due to having no insurance coverage options), it will have a direct impact on child and family outcomes.

### ***Skyrocketing Premiums***

- Premiums are rising at an unsustainable rate, diverting taxpayer and donor dollars away from services to children and families. **This sample alone documents more than \$200 million spent on liability insurance premiums this year.**
- Across respondents, **the average premium increase since 2019 is 163%.**
- Almost half of respondents have had their premiums double. **A quarter of respondents had their premiums increase a staggering 200%-1800%.**
- Premiums are rising regardless of individual claims histories; providers cannot “risk manage” their way out of this crisis. Individual providers, and even county and state child welfare administrators, are limited in what they can do to control costs.

### **Loss of Coverage and Market Instability**

- **Nearly two-thirds (63%) of respondents reported they had changed carriers in the last five years** due to coverage limitations, nonrenewal by their carrier, unaffordable premiums, and carriers exiting the market (i.e., refusing to cover organizations doing child welfare-related work).
- **Nearly two-thirds of respondents report difficulty getting bids.** Fewer insurance carriers are willing to participate in the child welfare market, and the policies they offer are limited in scope.
- Some providers face contract termination or the inability to bid on contracts because they can't meet insurance requirements.
- Rising costs are also reported in auto, property, cyber, and umbrella insurance policies.

### **Calls for Systemic Solutions**

- Stakeholders in some states are attempting to work with legislators, but few report meaningful progress.
- Many providers urge legislative action and collaboration to solve this problem.

### **Federal action is needed.**

Youth and families who have been harmed should absolutely be able to bring lawsuits and recover damages from responsible individuals and organizations. All youth and families should also be able to receive the supports they need. This report reveals that there is a national problem that calls for a federal response. Further, the federal government, in partnership with states, has a special interest and responsibility to ensure that children and families impacted by the child welfare system have access to high-quality care, services, and supports. Policymakers should consider the following broad recommendations and approaches to addressing the urgent challenge:

- 1. Partners must work together to look at the data and address the underlying challenges.**
  - The National Association of Insurance Commissioners could play a pivotal role.
  - Regulators, public agency leaders, lawmakers, community-based providers, in partnership with youth and families, should work together to identify strategies that will ensure accountability for wrongdoers while allowing effective child and family serving organizations to remain viable and available to families and communities in need.
- 2. Congress has provided federal solutions in other sectors impacting the public good and should step in here, because both the federal and state governments have a special, shared responsibility to support children and families involved, or at risk of involvement, in the child welfare system and the services they need.**
  - Amendments to federal law, offering federally-backed insurance options, and creation of special compensation funds are just a few of the ways Congress acted in the past.
- 3. Solving this challenge will likely require a suite of policy solutions, not a one-size-fits-all approach. Several recommendations that have been suggested by stakeholders include:**
  - a reinsurance program supported and guaranteed by the federal government;
  - a national risk pool, that encourages insurers to participate in the child welfare insurance market by spreading risk more widely across states and organizations; or
  - federal incentives for insurance providers to cover child welfare organizations, paired with quality assurance measures that ensure better outcomes for children and families (i.e., premiums or coverage tied to an agency's actual performance and compliance with best practices).

These are just a few possible solutions that protect the rights of victims to recover when they are harmed, incentivize high-quality service provision, and ensure that needed services remain available in our communities. **A national problem calls for national solutions.** While a one-size-fits-all solution is unlikely, a national dialogue and steadfast commitment to problem solving will generate options, but there is no time to waste.

**Access the full report and additional resources at [www.togetherthevoice.org/insuringcare](http://www.togetherthevoice.org/insuringcare).**

### **QUESTIONS AND MORE INFORMATION**

If you have questions or would like additional information about this report, please email Lisette Burton, *Chief Policy and Practice Advisor*, ACRC ([Lburton@togetherthevoice.org](mailto:Lburton@togetherthevoice.org)) and Andrea Durbin, *CEO*, Illinois Collaboration on Youth, and *Vice President*, NOSAC ([adurbin@icoyouth.org](mailto:adurbin@icoyouth.org)).



## CATHOLIC CHARITIES HAWAI'I

### **SUPPORT FOR SB 3164: RELATING TO CHILD WELFARE SERVICE ORGANIZATIONS**

TO: Senate Committee on Health and Human Services and  
Senate Committee on Commerce and Consumer Protection  
FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawai'i  
Hearing: Tuesday, February 17, 2026; 9:45 AM; CR 229 or via Videoconference

Aloha Chair San Buenaventura, Vice Chair McKelvey, and Members, Committee on Health and Human Services  
Chair Keohokalole, Vice Chair Fukunaga, and Members, Committee on Commerce and Consumer Protection:

I am Betty Lou Larson, Legislative Liaison with Catholic Charities Hawai'i. Thank you for the opportunity to testify in **strong support of SB 3164**, which provides essential liability protections for nonprofit child welfare service organizations partnering with the State to serve children and families.

Catholic Charities Hawai'i (CCH) is a tax-exempt, community-based organization that has served Hawai'i for over 78 years, assisting more than 40,000 individuals statewide each year. We provide a wide range of services for children, families, kūpuna, immigrants, and individuals experiencing homelessness. 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 strongly support this bill's provisions regarding indemnification and additional insured requirements in state contracts. Current requirements shift significant liability and defense costs to nonprofits acting as agents of the State. This places an unfair burden on organizations that are already operating with limited resources. By removing these provisions, the bill would reduce disproportionate liability exposure while preserving accountability for areas an organization directly manages. Current requirements may force nonprofits to pay legal defense costs unrelated to their own actions, driving insurance premiums higher and pushing providers into expensive excess and surplus lines markets with reduced coverage.

This bill offers a balanced approach by limiting each organization's liability to its proportional share of damages. It ensures that accountability is maintained—but focused on those actually responsible for any harm. We respectfully urge your support for this bill.

If you have any questions, please contact Betty Lou Larson, at (808) 527-4813.



CLARENCE T. C. CHING CAMPUS • 1822 Ke'eaumoku Street, Honolulu, HI 96822  
Phone (808) 527-4813 •



**SB-3164**

Submitted on: 2/15/2026 1:47:39 PM

Testimony for HHS on 2/17/2026 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lynn and Jeff Watanabe	Testifying for Child and Family Service	Support	Written Testimony Only

Comments:

**WRITTEN Testimony before the SENATE COMMITTEES on**

**Health and human services &**

**commerce and consumer protection**

**SB 3164**

**Relating to Child Welfare Service Organizations**

Tuesday, February 17, 2026

9:45 a.m.

State Capitol, Conference Room 229

Submitted by [INSERT YOUR NAME]

Dear Chair San Buenaventura and Chair Keohokalole, Vice Chair McKelvey and Vice Chair Fukunaga and Members of the Committee,

Our names are Jeffrey and Lynn Watanabe and we are submitting testimony **in support of SB 3164**. The purpose of this bill is to ensure child welfare service organizations, like Child and

Family Service, can continue to provide at-risk youth with the resources they need to thrive. Many of the youth being served do not have access to the basic needs that many of us take for granted. This bill is necessary to help stabilize Hawaii's child welfare system and address liability pressures that have distorted the insurance market.

Over the last several years in Hawaii and across the United States, child welfare service providers have faced challenges securing liability insurance due to recent claims and litigation. This instability risks nonprofit organizations walking away from providing such care to our most vulnerable population. The State of Hawaii cannot risk the unavailability of these services and nonprofits would like to continue to serve our most vulnerable population of children and families.

We request that the committees pass SB 3164. This bill is necessary to ensure child welfare service providers can continue to operate and provide the love and care that children. Thank you for the opportunity to support SB 3164.

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www.childandfamilyservice.org

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February 17, 2026

**RE: SB 3164**  
**Relating to Child Welfare Service Organizations**

Dear Chair San Buenaventura and Chair Keohokalole, Vice Chair McKelvey and Vice Chair Fukunaga and Members of the Committee,

Child and Family Service (CFS) supports SB 3164.

SB 3164 provides important liability protections for organizations under contract with the State to deliver child welfare services. These protections are critical to ensuring that community-based providers can continue to obtain professional liability insurance while mitigating its rapidly escalating cost. Without such protections, the State risks losing its ability to contract with non-profit organizations for essential child welfare services.

Child and Family Service is a statewide, community-based organization dedicated to strengthening children and families through prevention, intervention, and treatment services. Each year, CFS serves approximately 4,000 children and 7,000 families through Department of Human Services contracts, and in a typical year supports more than 8,000 children and families. Nearly 90 percent of the families we serve experience positive outcomes. In the past year alone, CFS impacted over 116,000 individuals statewide, representing a 30% increase across four years.

Like many child welfare service organizations, CFS is experiencing unprecedented challenges related to liability insurance. Since last year, CFS's professional liability insurance costs have **tripled**, while coverage options have narrowed significantly. Rising provisional and operational costs combined with stagnant contract rates and increasing service demand have created serious sustainability and ethical concerns. Insurance coverage is a contractual requirement, and without access to affordable and appropriate coverage, CFS would be unable to continue delivering critical services to thousands of children and families.



**“We’re all about FAMILY”**

*Mission: Strengthening Families and Fostering the Healthy Development of Children*

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SB 3164 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.

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

Sincerely,

*Amanda Pump*

Amanda Pump

President and CEO



“We’re all about FAMILY”

Mission: Strengthening Families and Fostering the Healthy Development of Children



**SanHi**

GOVERNMENT STRATEGIES  
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 16, 2026

TO: Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair  
Committee on Commerce & Consumer Protection

FROM: Mihoko Ito / Ryan Toyomura

RE: **S.B. 3164 – Relating to Liability**  
**Hearing Date: Wednesday, February 18, 2026 at 9:45 a.m.**  
**Conference Room: 229**

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Dear Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

We submit this testimony in **strong support** of S.B. 3164, in support of our work with Parents and Children Together.

This measure provides reasonable, balanced liability protections for child welfare service agencies who contract with the State to provide essential services to Hawai'i's most vulnerable children and families, affording them the same liability protection that the State already has.

S.B. 3164 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 Hawai'i's child welfare service organizations. This past year, child welfare service providers were very close to turning back thousands of child welfare service cases to the State when they faced extreme increases in their insurance premiums. This bill addresses these issues by extending various liability protections the state already enjoys to the service providers.

Child welfare service agencies serve one of the most difficult roles in our public service system: caring for children who have experienced trauma, abuse, neglect, and instability. These agencies already face severe challenges in recruitment, retention, staffing, and funding.

Excessive liability exposure is destabilizing this already fragile system. The child welfare service providers are not looking to eliminate liability, or lessen what injured parties can recover. However, the current apportionment of liability is imbalanced and potentially could result in injured parties recovering more than the actual liability. This is because the State is only responsible for their

proportionate share of fault, while the child welfare service providers are jointly and severally liable for the entire judgment.

S.B. 3164 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 some of the same protections that are afforded to the State. The bill is intended to address the risk profile of these organizations to bring stability to what is currently a very volatile insurance market.

This bill will help to ensure that agencies can continue operating, securing insurance coverage, and delivering critical services without the threat of catastrophic liability. Without these protections, agencies could face withdrawing from providing child welfare services altogether — outcomes that will directly harm vulnerable children and families.

For these reasons, we strongly support this bill and ask the Committee to keep it moving to allow for continued discussion. Thank you for the opportunity to submit testimony on this important measure.

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII  
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION OF  
SB 3164**

Date: Wednesday February 17, 2026

Time: 9:45 P.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 **SB 3164 - RELATING TO CHILD WELFARE SERVICE ORGANIZATIONS.**

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.** SB 3164 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.

Furthermore, this measure fails to address the root causes of abuse within the foster care system and removes accountability to implement systematic changes to prevent future abuse. HB 1645 attempts to address the consequences of abuse on the backs of those very same abuse victims rather than trying to employ changes that will actually reduce the risk of abuse.

**Moreover, SB 3164'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.

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.

SB 3164 would significantly alter longstanding civil liability principles in a manner that reduces accountability and limits remedies for the most vulnerable party impacted by SB 3164, 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.

**SB-3164**

Submitted on: 2/13/2026 5:26:27 PM

Testimony for HHS on 2/17/2026 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, Support

3164 SB RELATING TO CHILD WELFARE SERVICE ORGANIZATIONS.

WRITTEN TESTIMONY BEFORE THE SENATE COMMITTEES ON  
HEALTH AND HUMAN SERVICES &  
COMMERCE AND CONSUMER PROTECTION  
SB 3164

Relating to Child Welfare Service Organizations

Tuesday, February 17, 2026

9:45 a.m.

State Capitol, Conference Room 229

Submitted by Linda Jenkins

Dear Chair San Buenaventura and Chair Keohokalole, Vice Chair McKelvey and Vice Chair Fukunaga and Members of the Committee,

My name is Linda Jenkins and I am submitting testimony in support of SB 3164. This bill, if passed, will ensure that child welfare service providers, like Catholic Charities Hawaii, can continue to serve at-risk youth. So many keiki, here in Hawaii, do not have access to the basic needs that many of us take for granted. We need this bill to pass to help stabilize Hawaii's child welfare system and address liability pressures that have distorted the insurance market.

Over the last several years in Hawaii (and indeed across the United States), child welfare service providers have faced challenges securing liability insurance, due to the increase in recent claims and litigation. This instability increases the risk that child welfare service organizations will be forced to walk away from providing such care to those most vulnerable. The State of Hawaii cannot risk the loss of these services. Hawaii's nonprofits would like to keep serving the children and families who need us.

Please pass SB 3164. Hawaii needs this bill to ensure child welfare service providers can continue to operate and provide the love and care that children need.

**LATE**

**TO:** Chair San Buenaventura, Vice-Chair McKelvey, & Members,  
Senate Committee on Health and Human Services  
Chair Keohokalole, Vice-Chair Fukunaga, & Members,  
Senate Committee on Commerce and Consumer Protection

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

**DATE:** February 16, 2026

Aloha Chair San Buenaventura, Vice-Chair McKelvey, & Members, Senate Committee on Health and Human Services, Chair Keohokalole, Vice-Chair Fukunaga, & Members, Senate Committee on Commerce and Consumer Protection:

Thank you for the opportunity to submit testimony in support of HB 3164, relating to general and professional liability insurance. I am Carol Davis and have been an insurance agent/broker for over 30 years in Hawaii. Personally, I have represented several of Hawaii's Non-Profit Organizations on their insurance program over the course of the last 30 years.

I submit this testimony to draw attention to the severe instability currently affecting the commercial liability insurance market, particularly for nonprofit organizations that provide child-welfare, foster care, and foster-care-adjacent services under state contracts.

The challenges facing these nonprofits are not limited to Hawaii. The few insurance markets that specialize in nonprofits across the United States are either significantly increasing premiums, decreasing coverage and limits, or withdrawing from the market.

National market briefings document insurers non-renewing foster care, foster adjacent, and child-welfare providers on a class-of-business basis, independent of individual loss experience.

As a result, nonprofit providers increasingly face situations where coverage is either unavailable or offered only at costs and limits that cannot meet contract requirements or be sustained operationally. Some organizations are now evaluating whether they can continue providing state-contracted services, not due to a lack of mission or demand, but because liability insurance is no longer attainable under reasonable terms.

These market disruptions are being driven by national litigation trends, rather than an increase in nonprofit misconduct.

Industry studies consistently cite large jury verdicts, unpredictable claim outcomes, and expanding theories of liability as primary drivers of insurer retreat from these markets. In many cases, damages are awarded without a direct finding of fault, creating actuarial uncertainty that cannot be reliably priced.

From an underwriting perspective, this unpredictability directly results in higher premiums, reduced capacity, non-renewals, or complete market exits, even for organizations with strong governance, training, and risk management practices.

HB 1645 provides an important opportunity for the Legislature to consider how liability insurance dynamics directly affect the State's ability to rely on nonprofit partners to deliver essential services.

When liability insurance becomes unavailable or unaffordable:

- Critical child-welfare and family-support services may be reduced or eliminated
- Public-private partnerships are destabilized
- The State may ultimately incur higher downstream costs to replace these services

Any changes to general or professional liability insurance should be evaluated with careful attention to market sustainability, carrier participation, and unintended impacts on essential service delivery.

The data is clear: nonprofits serving some of Hawai'i's most vulnerable residents are facing historic and unsustainable liability insurance cost increases, combined with diminishing insurer participation and reduced coverage capacity.

Without thoughtful policy consideration in limiting the liability for organizations that are contracted by the State to do child welfare work, continued market instability threatens not only nonprofit organizations, but the essential services that children and families across Hawai'i rely upon.

Thank you for your consideration and for the opportunity to provide testimony on this important issue.

Respectfully submitted,

Carolyn Davis, CPCU, MBA

