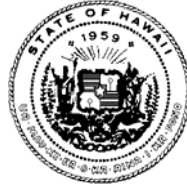


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

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

March 12, 2023

TO: The Honorable Representative John M. Mizuno, Chair
House Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: [SB 398 SD1](#) – RELATING TO THE CHILD WELFARE.

Hearing: March 14, 2023, 9:00 AM.
Conference Room 329 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the Legislature's continued support of the Department's efforts to prevent and address child abuse and neglect in Hawaii. DHS supports the bill, provides amounts for the proposed appropriations, and notes that similar amounts were included in the Department's budget requests.

PURPOSE: Requires the Department of Human Services to collect and analyze data to determine the impact of expanding post-permanency services to families receiving benefits from the adoption assistance program and report to the Legislature before the 2025 Regular Session. Appropriates funds. Effective 12/31/2050 (SD1)

The SD1 amended the measure by:

- (1) Deleting language that would have expanded the investigative powers of the Department of Human Services to include review and investigation of families that receive benefits from the State's adoption assistance program and against whom a post-adoption complaint has been made;

- (2) Deleting language that would have established the Malama Ohana Working Group in the Department of Human Services;
- (3) Inserting an effective date of December 31, 2050, to encourage further discussion;
- (4) Amending section 1 to reflect its amended purpose; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Section 2 directs DHS to collect and analyze data to determine the impact of expanding post-permanency services to families receiving adoption assistance and to provide a report to the Legislature. DHS offers post-permanency support services to all families statewide who adopt children from Hawaii's foster care system. CWS will work with families, youth, advocates, providers, and communities to see how to expand post-permanency services or activities to encourage more participation. Notably, post-permanency services are voluntary, and their status as voluntary is essential to respect the rights of the adoptive family.

Once an adoption is finalized, the rights of the adoptive parents are the same as those of all other legal parents; that is, Child Welfare Services (CWS) cannot require adoptive parents to participate in post-permanency services. CWS only has the statutory authority to mandate services if there are concerns about child abuse and neglect per sections 350-1, 350-2, and Chapter 587A, Hawaii Revised Statutes.

Section 3 makes appropriations for various services that support efforts to improve the child welfare system. Notably, DHS can seek federal reimbursement for a percentage of certain expenditures of general funds. DHS suggests the amounts discussed last session in [HB2424](#) for \$8,000,000 for each fiscal year of the biennium,

- \$8,000,000 or so much thereof for fiscal year 2023-2024 and the same sum or so much thereof as may be necessary for fiscal year 2024-2025 for the procurement of contracted services to provide additional support, resources, and monitoring of families receiving benefits from the State's adoption assistance program and permanency assistance program, to assist with family strengthening and the maintenance of a safe home environment for adopted children. The sums shall be expended by the department of human services for the purpose of this Act; provided that:

- (1) \$1,000,000 shall be expended for the development and maintenance of necessary information technology systems, including the establishment of two full-time equivalents (2.0 FTE) positions;

- (2) \$1,200,000 shall be expended to increase compensation to fill vacancies and retain employees in existing child welfare services branch investigator, case manager, and social worker positions; provided that any increase in compensation shall be subject to collective bargaining with the objective of expeditiously filling all vacancies;¹
- (3) \$800,000 shall be expended for the department of human services to contract with a third party for enhanced permanency support services, including additional training for resource caregivers, wellness visits within a year of adoption or guardianship of children formerly in foster care, respite care, and enhanced supportive services to assist with family strengthening and maintenance of a safe home environment for adopted children; and
- (4) \$100,000 shall be expended for the establishment of one full-time equivalent (1.0 FTE) planner or project specialist position to administer and monitor additional service contracts and assist with additional service coordination, data collection, and analysis of the new program.

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

¹ FIN identified this sum as a highlight in HB300 HD1.

Date: March 14, 2023

To: Senate Committee on Human Services

Chair: Rep. John Mizuno

Vice Chair: Rep. Terez Amato

RE: SB38 OPPOSE

I OPPOSE SB398. This is a different version of Ariel's Law (HB2424) from last year 2022 because it was unconstitutional under the law. SB398 wants to expand services to include investigations done on adoptive parents when there is a complaint. Child Welfare Service (CWS) already has well established policies and procedures that say that CWS must investigate all complaints without discriminating between post-adoptive parents receiving benefits or anyone else who receives a complaint. All complaints should be thoroughly investigated. However, when there is NO complaint there is NO reason to investigate and it becomes unconstitutional under the law.

The problem is not necessarily the expansion of services but rather the way these investigation are handled. CWS often conducts incomplete investigations, or does not follow up on complaints where there is reason to believe that a child is in imminent harm or danger (i.e. Ariels Sellers).

As a victim advocate with 30 years of work experience in the field, I have seen many cases in which there is clear and convincing evidence of harm, yet the child is NOT removed. Likewise, I have also seen cases where there is NO evidence of harm and yet the child is illegally removed from their parents without thorough and complete investigations. These cases are on the opposite side of the same spectrum of care and this gap must be addressed before we can see meaningful change in the system.

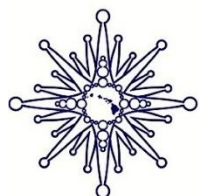
This Committee should be focusing on why this gap exists and how we can better serve our parents and children. Children needlessly placed in foster care are overloading the system and taking time and resources away from those children who desperately need to be removed due to imminent harm.

Please OPPOSE SB398. Thank you for your time and consideration.

Nonohe Botelho, MSCP

Independent Consultant/Victim Advocate

Hawaii Coalition for Child Protective Reform



HAWAII COALITION
FOR
CHILD PROTECTIVE REFORM

SB-398-SD-1

Submitted on: 3/12/2023 4:59:38 PM

Testimony for HUS on 3/14/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Hawaii Coalition for Child Protective Reform	Oppose	Written Testimony Only

Comments:

Committee members,

HB2424 was vetoed last year for being a violation of constitutional rights to conduct wellness visits in Section 3 (3). This year, the same word-for-word language in the same section was re-introduced. Wellness visits are considered to be a “search” in the context of 4th amendment rights. Consent, a court order, or exigency are required to enter a home.

Home visits and mandatory services that violate the fundamental rights of parents and children are **not justice for Ariel Sellers.**

SB-398-SD-1

Submitted on: 3/11/2023 2:20:44 PM

Testimony for HUS on 3/14/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Oppose	Written Testimony Only

Comments:

Good Morning, once again, Chair Mizuno, Vice Chair Amato & House Human Services Committee Members,

Unfortunately, SB398 is a rewrite and resubmission of last session's HB2424 that was vetoed by the Governor *for being in violation of The Constitution*. (Please see Marilyn Yamamoto's previously submitted testimony.)

If a bill is unconstitutional, it cannot be voted into law no matter how good it sounds or how well-intentioned it appears to be.

Respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate