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February 5, 2009

**LATE
Testimony**

MEMORANDUM

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

FROM: Lillian B. Koller, Director

SUBJECT: H. B. 1094, RELATING TO PERMANENCY HEARINGS

Hearing: February 5, 2009, Thursday, 8:15 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of H.B. 1094, an Administration bill, is to amend chapter 587, HRS, to ensure compliance with Federal Title IV-E hearing requirements.

DEPARTMENT'S POSITION: The Department of Human Services cannot over emphasize the importance of passage of this bill. If the statute is not amended with the specific language proposed by the Department to ensure compliance with Federal Title IV-E requirements, over of \$50,000,000 in Federal Title IV-E funds annually will be lost.

This legislation is necessary to ensure that chapter 587, Hawaii Revised Statutes, is compliant with Federal Title IV-E provisions related to permanency hearings. Currently, chapter 587, HRS, does not specifically address the Federal requirement for permanency hearings at 12-month intervals to determine the

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permanency plan for a child in accordance with Section 475(5)(C)(1) of the Federal Social Security Act and 45 CFR 1356.21(h). Instead, chapter 587 continues to require 18-month dispositional hearings along with requirements that were made obsolete by the amendments in the Federal Adoption and Safe Families Act of 1997 (P.L. 105-89).

The Department is in the process of submitting an updated Title IV-E State Plan and this is one of the Federal requirements needed to ensure compliance and finalize approval of the State Plan. If the proposed statutory changes are not made, the Department has been informed by the Federal government that our State Plan will not be approved and the State will be restricted from obtaining Federal Title IV-E funds until the statute is revised.

Currently, the Department is drawing down over \$50 million in Title IV-E Federal funds for Hawaii, including foster board, treatment and services, staffing and administrative costs.

Prior to submitting this legislation the Department explored implementation via Administrative Rules, and changes to the procedures in chapter 587 review and permanent plan hearing sections.

We have also offered the possibility of implementing the requirement through Court rules.

As of February 4, 2009, we have been informed by our Regional Administration for Children and Families (ACF), in consultation with the ACF Central Office that the options we

proposed in lieu of the proposed legislation will not be acceptable.

We believe, based on the information and instructions given to the Department by ACF that we do not have any other viable option besides this legislation that will ensure compliance with the requirements of Title IV-E prior to our deadline, at the end of the Legislative session in May.

Thank you for the opportunity to testify