

# SB 271

Measure Title:	RELATING TO THE CHILD PROTECTIVE ACT.
Report Title:	Child Protective Act; Definition; Aggravated Circumstances
Description:	Expands the definition of "aggravated circumstances", as used in chapter 587A, Hawaii Revised Statutes, the Child Protective Act, to include situations where the parent has provided unstable housing and is a repeat criminal offender of specific crimes; has been repeatedly incarcerated, resulting in the child's placement in foster care; has placed the child or a sibling of the child in foster care more than once; had parental rights voluntarily or involuntarily terminated; failed to comply with pre-permanency or permanency requirements; has physically abused the child; or the parent has engaged in human trafficking involving the child or another child of the parent or has solicited, aided, abetted, attempted, or conspired to engage in human trafficking of the child or another child of the parent.
Companion:	<a href="#">HB1321</a>
Package:	None
Current Referral:	HSH, JDL
Introducer(s):	CHUN OAKLAND (Introduced by request of another party)



STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 13, 2015

**TO:** The Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services and Housing

**FROM:** Rachael Wong, Director

**SUBJECT: S.B. 271 Relating to the Child Protective Act**

Hearing: Thursday, February 17, 2015, 1:20 pm  
Conference Room 016, State Capitol  
415 South Beretania Street, Honolulu

**PURPOSE:** The purpose of this bill is to expand the definition of “aggravated circumstances”, as used in chapter 587A, Hawaii Revised Statutes, the Child Protective Act.

**DEPARTMENT’S POSITION:** The Department of Human Services (DHS) opposes this bill.

Federal law requires states to demonstrate that reasonable efforts have been made to provide assistance and services to prevent the removal of a child from his or her home; and to provide assistance and services to allow the child to be reunited with his or her family. The Adoption and Safe Families Act of 1997 (ASFA), established that the child's health and safety were the paramount concern in determining the extent to which reasonable efforts should be made.

Provisions of ASFA allowed states to define the "aggravated circumstances" when a state did not have to provide reasonable efforts to preserve or reunify the family.

Currently, section 587A-4, Hawaii Revised Statutes (HRS), defines "Aggravated Circumstances" as follows:

- (1) The parent has murdered, or has solicited, aided, abetted, attempted, or conspired to commit the murder or voluntary manslaughter of, another child of the parent;
- (2) The parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent;
- (3) The parent's rights regarding a sibling of the child have been judicially terminated or divested;
- (4) The parent has tortured the child;
- (5) The child is an abandoned infant;
- (6) The parent has committed sexual abuse against another child of the parent; or
- (7) The parent is required to register with a sex offender registry under section 113(a) of the Adam Walsh Child Protection and Safety Act of 2006, title 42 United States Code section 16913(a).

CWS believes the current statutory provisions are adequate to address the issue of "aggravated circumstances" that would allow the CWS to forgo making reasonable efforts to provide assistance and services to a family.

Currently, with clear and convincing evidence, the CWS may file a motion to terminate parental rights at any time that CWS has determined that the parents cannot provide a safe home for the child and will not be able to do so within a reasonable timeframe. The CWS can do this without the court's finding that "aggravated circumstances" exist. The proposed changes are not necessary.

The additional instances of "aggravated circumstances" may have unintended consequences, such as: discouraging an individual from willingly placing a child up for adoption, deterring individual, family or community members from seeking assistance with parenting issues or other family crises, like eviction. Further, the proposed changes would be contrary to the CWS' practice model of family engagement, collaboration, and partnership as the proposed

changes may serve to bar a family the opportunity to address problems and have their children returned to their care.

In SFY 2014, 66% of children (636 children) who left foster care were successfully and safely reunified with their families. If this bill became law, that percentage and number may likely decrease.

Thank you for the opportunity to testify.



**SB271**  
**RELATING TO THE CHILD PROTECTIVE ACT**  
Senate Committee on Human Services and Housing

February 17, 2015

1:20 p.m.

Room 016

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The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend to the Board of Trustees a position of **COMMENT** for SB271. This measure would expand the definition of "aggravated circumstances" under the Child Welfare Protection Act that would allow the Department of Human Services to terminate parental rights without a reasonable opportunity for parent rehabilitation. While OHA appreciates the concern for the welfare and best interests of our most vulnerable keiki, the breadth of this measure may result in unintended consequences relating to the unnecessary separation of children from their parents.

Under the Child Welfare Protection Act, in pursuing the best interests of a child, the Department of Human Services (DHS) is required to make reasonable efforts to rehabilitate the child's family and reunify the child with their parents. However, in "aggravated circumstances," DHS may move to terminate parental rights without first providing parents the opportunity to seek rehabilitation or other help. Currently, such "aggravated circumstances" include a parent's commission of murder, sexual abuse, torture, felony assault, or where parental rights have been terminated for a sibling.

Under this measure, "aggravated circumstances" would include a number of other situations combining "unstable housing" with events that may not necessarily warrant the termination of a biological parent-child relationship. For example, such circumstances could include a parent who has an "unstable housing" situation, and who makes the difficult decision to temporarily place a child in foster care more than once, for any reason. Similarly, a parent with "unstable housing" due to financial difficulties, and who must resort to theft to feed their child, may also have their rights terminated with no opportunity for rehabilitation, due to such "aggravated circumstances." In addition, a parent with "unstable housing" who is incarcerated on more than one occasion resulting in their child's temporary placement in foster care – including incarceration for petty offenses, such as trespassing or driving without a license – would likewise be subject to having their parental rights terminated.

OHA notes that the expansion of the grounds in which parental rights may be terminated due to financial hardship may have a disproportionate impact on the Native Hawaiian community. OHA notes that Native Hawaiians face economic hardships and housing insecurity at higher rates than other communities in our state. The impact of separation from one's biological family can also be particularly detrimental to Native Hawaiian children, insofar as it may include terminating a child's connection to his or her Native Hawaiian genealogy and culture. A measure that expands the circumstances when DHS does not have to make reasonable efforts for reunification prior to terminating parental rights, to include many economic- and criminal justice- related criteria not necessarily warranting parent-child separation, may therefore cause disproportionate and significant harm to Native Hawaiian children and their families.

OHA notes that there is no data to show the need for the changes proposed by the bill, or a need for family reunification to be removed as a goal in the circumstances covered by this measure.

Mahalo nui loa for the opportunity to testify.

**SB271**

Submitted on: 2/9/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Campagna	Hawaii Friends of Civil Rights	Support	No

Comments: Hawaii Friends of Civil Rights in support of SB271 and the companion bill HB1321. We do recommend that "Houselessness" be removed from items #8-11. 1.We have Federal Authority to make this change. 2.This will not cost the state any additional money. 3.This language is consistent with near 50% of the other US States and territories. a.And trending upward 4.This bill agrees with reunification with reasonable efforts. 5.This bill is intended to be in collaboration with the Department of Human Services, Child Protective Services. 6.This language is consistent with the Guiding Principle of the Democratic Party of Hawaii Platform. 7.This bill seeks to help protect children in the rare cases where such circumstances exist. 8.South Carolina is currently being sued by a couple dozen foster children based on a reunification policy consistent with Hawaii's current language. 9. This bill is intended to protect children from repeated and chronic abusing, abandoning, neglectful and drug using parents.

**SB271**

Submitted on: 2/9/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Kenneth Ordenstein	Olomea Inc.	Support	No

Comments: I support SB 271 that expands the definition of “aggravated circumstances” as used in chapter 587A, Hawaii Revised Statutes. It increases the level of protection for our children in foster care, and will not cost the state additional money to extend these protections. Further defining “aggravated circumstances” can make a positive, life changing difference for a child and for the community that supports that child. My name is Kenneth Ordenstein. I am executive director of Olomea, a non profit formed to provide all young people, particularly Native Hawaiians, leaving foster care the chance to become self sufficient, successful adults.



**TESTIMONY OF THOMAS D. FARRELL**  
Regarding Senate Bill 271, Relating to the Child Protective Act

Committee on Human Services and Housing  
Senator Suzanne Chun Oakland, Chair

Tuesday, February 17, 2015 1:20 p.m.  
Conference Room 016, State Capitol

Dear Senator Chun Oakland and Members of the Committee:

I oppose SB 271.

This bill would add to the definition of “aggravated circumstances” in the Child Protective Act. Please understand that when the legislature creates an “aggravated circumstance,” it isn’t merely denouncing a particular situation as bad for children; it is putting parents on a fast track to have their parental rights permanently extinguished. Currently, Chapter 587A requires a hearing on whether there are aggravated circumstances within 30 days, and if the court finds such circumstances exist, DHS must file a petition to terminate parental rights within 60 days. No service plan or other help is required to be provided to the parents.

SB 271 proposes to add a list of new “aggravated circumstances” all but one of which are paired with “unstable housing.” That’s a rather vague term, and where the constitutional rights of parents are concerned, it would probably fail to pass judicial scrutiny. I believe what the proponents of this bill intend to say is “homelessness.” While I agree that children of homeless parents should generally be in foster care and not living in parks or under freeway overpasses, I don’t believe that homeless people should be put on a fast track to permanently lose their parental rights.

I am also concerned that the bill proposes to add “physical abuse” to the list of aggravated circumstances. I once represented a single father who slapped his fourteen year old daughter in the face because she told him to “go f\*\*\* yourself, I’m not going to school!” Maybe you disagree with his parenting, but is that someone you want to put on the fast track to permanent termination of parental rights?

Thank you for the opportunity to testify this afternoon.

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Testimony of Hawai'i Appleseed Center for Law and Economic Justice  
Opposing SB 271 Relating to the Child Protective Act  
Senate Committee on Human Services and Housing  
Scheduled for Hearing Tuesday, February 17, 2015, 1:20 PM, Room 016

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*Hawai'i Appleseed Center for Law and Economic Justice is a nonprofit law firm created to advocate on behalf of low-income individuals and families in Hawai'i on legal and policy issues of statewide importance. Our core mission is to help our clients access to the resources and fair treatment they need to realize their opportunities for self-achievement and economic security.*

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Thank you for the opportunity to testify in **opposition** to Senate Bill 271, which would dramatically expand the definition of “aggravated circumstances” as used in the Child Protective Act. While we appreciate the intent of the bill to protect vulnerable children, the additional aggravated circumstances are far too broad and would greatly reduce the number of children in foster care who are successfully reunited with their families.

As advocates for low-income individuals and families, we are particularly concerned that this bill would almost exclusively impact economically struggling families. Aggravated circumstances should be solely based on a family’s ability to care for their child, not on their income. Including “unstable housing” as part of an aggravated circumstance would effectively make reasonable reunification requirements contingent on a family’s income, rather than the health or safety of a child.

According to the Child Welfare Information Gateway’s 2012 summary of state statutes on reasonable efforts to preserve or reunify families and achieve permanency for children, all but one of the proposed aggravated circumstances would be entirely unprecedented, including “unstable housing.” The additional provisions do not take into consideration why or when the circumstances occurred and would cover many families who could be successfully reunited with their children. (However, Appleseed would support Section 2 (14) related to human trafficking.)

This legislation could also deter struggling families from seeking help because increased contact with service providers or the child welfare system could result in aggravated circumstances, including foster care placements. The very purpose of foster care is to maintain the health and safety of a child while her family seeks to remedy the underlying conditions that have limited their ability to provide care. In this light, placement in foster care may represent the most responsible choice that can be made by a parent—the acknowledgment that the parent needs help caring for her child.

Again, thank you for an opportunity to testify in opposition to SB 271. While this bill has good intentions, it would work against the best interests of children in the foster care system by eliminating reasonable reunification efforts for far too many families who, with the supports provided by Child Welfare Services, would be able to care for their children.



February 9<sup>th</sup> 2015

COMMITTEE ON HUMAN SERVICES & HOUSING

Sen. Suzanne Chun-Oakland, Chair

Sen. Josh Green, Vice Chair

Sen. Breene Harimoto

Sen. Gil Riviere

Sen. Sam Slom

NOTICE OF HEARING

DATE: Thursday, February 17, 2015

TIME: 1:20pm

PLACE: Conference Room 016

State Capitol

415 South Beretania Street

**RE: TESTIMONY IN STRONG OPPOSITION OF SB271  
RELATING TO CHILD PROTECTIVE ACT**

Dear Committee on Housing and Human Services:

While we support the intent of this measure to protect children, the Pacific Alliance to Stop Slavery (PASS) strongly opposes **SB271**. We provide services to houseless families in Kakaako, a population of about 400 persons in need. A substantial percentage of this are families with young children. PASS is also Hawaii's leading agency solely focused on serving survivors of human trafficking.

**SB271** would harm houseless families which children who have been recently criminalized simply for being poor. The selective enforcement of current City Ordinances, making their presence in public spaces illegal, lead to the incarceration of mothers and fathers whose only crime is poverty. Taking away children of parents who have fallen into houselessness is morally wrong. PASS is certain that this was not the intent of this measure but it would be a result in practice if this bill were to pass into law.

By definition under **SB271**, if houseless parents are incarcerated multiple times for the petty offenses of Sit-Lie, Sidewalk Nuisance, Park Closure, Stored Property, or if they simply cannot pay their fines because they are houseless and then are incarcerated, this proposed measure would further harm these families by taking their children away. Most houseless families are loving households. While the state and city struggle to provide best solutions for helping alleviate poverty for the houseless, we cannot pass measures that would aggravate or prolong their poverty or harm their pursuit of happiness. This bill in practice would do just that.

Passing **SB271** would epitomize the injustice and unconstitutionality of criminalization laws which some of Hawaii's policy makers have imposed on the houseless. Please be a part of the solution.



Please defer indefinitely **SB271**. Mahalo for your consideration and time.


Sincerely,

Kathryn Xian  
Executive Director  
Pacific Alliance to Stop Slavery



DATE: February 16, 2015

TO: STATE OF HAWAII SENATE HUMAN SERVICES & HOUSING COMMITTEE  
Chair, Senator Suzanne Chun Oakland, Vice Chair: Senator Josh Green  
Members: Senator Breene Harimoto, Senator Sam Slom and Senator Gil Riviere

FROM: STACEY MONIZ, EXECUTIVE DIRECTOR 

RE: SB 271 / HB 1321: RELATING TO THE CHILD PROTECTIVE ACT  
OPPOSITION

Aloha Chair Chun Oakland, Vice Chair Green and members of the Senate Committee on Human Services and Housing:

I am writing today in strong opposition of SB 271/HB 1321, Relating to The Child Protective Act.

I am concerned that the spirit behind the law may inadvertently harm families who are homeless due to domestic violence and other factors. Poverty and victimization are not forms of abuse and many homeless families are very loving and caring families. Victims of domestic violence fleeing for their safety make up nearly 50% of the homeless women populations in our communities. I believe we need careful consideration for the ways that we define "aggravated circumstances."

Please be extremely mindful when considering SB271 and remember that homelessness, domestic violence, and poverty do not equal harm to children. I oppose SB271 and thank you for your consideration.

I can be reached at 446-7343 or via email at [director@whwmaui.net](mailto:director@whwmaui.net).



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Aloha Legislators, mahalo for your time and consideration.

I am Carl Campagna and I am in strong support of HB1321 and the companion bill SB271 – specifically considering the inclusion of the revised language below.

My wife and I have been licensed Foster Parents for over two years and have seen and experienced both good and difficult cases.

The purpose and intent of this bill is to modify the existing foster child reunification policy of the Department of Human Services, Child Protective Services since roughly 2005, as it pertains to the time frame, criteria, and justification for family placement and reunification. This time period was under the Direction of Ms. Lillian Koller, who has subsequently resigned two Director positions, one in Hawaii and one in South Carolina just prior to receiving a vote of No Confidence from the respective State Legislatures based on her policy – which is our current policy. Some refer to it as “Reunification at All Costs”.

Last year I learned of young Zachary from Hilo on the Big Island who was taken into Foster Care on allegations of physical abuse by the biological parents. After a short investigation he was quickly reunified with his biological parents. We applaud the efforts and need for reunification with biological family. It is important, because where else can we feel completely safe than with our parents. However, in this case, perhaps the reunification was too soon or even unadvisable. Shortly after reunification the family left Hilo and moved to Oregon. Young Zachary was later found beaten to death by his biological parents. He was 4 years old.

Also last year, there was the ruling from a Hawaii State Supreme Court case (AS) where the findings of the court indicated that the Hawaii Revised Statutes do **not** require or even suggest preference for reunification with biological family as what is meant by “the best interests of the child” other than for emergency placement if possible.

1. We have Federal Authority to make this change.
2. This will not cost the state any additional money.
3. This language is consistent with near 50% of the other US States and territories.
  - a. And trending upward
  - b. The 2012 study by the Child Welfare Information Gateway lays out the various approaches and measures other states are taking on this subject matter, much of the language consistent with this bill
4. This bill agrees with reunification with reasonable efforts.
5. This bill is intended to be in collaboration with the Department of Human Services, Child Protective Services.
6. This language is consistent with the Guiding Principle of the Democratic Party of Hawaii Platform.
7. This bill seeks to help protect children in the rare cases where such circumstances exist.
8. South Carolina is currently being sued by a couple dozen foster children based on a reunification policy consistent with Hawaii’s current language.

9. Mothers who have had their children taken away for drug use and victimized foster children understand and support this bill. I hope you will see that in the testimony. Other support comes from foster parents, some current and prior GALs, some case workers, and many organizations that cannot submit testimony in support for fear of retribution by way of lost contracts and program funding.

My wife and I had one placement of three siblings from a larger total sibling set of seven, between the ages of 3 and 13. Another foster family had the other four. Of the three that we had, one, the 5 year old, was medically dependant. She needed a full blood transfusion every 3 to 4 weeks at Kapiolani Hospital, she was at least one year behind on her cleft pallet and cleft lip repair surgeries and all of her molars were rotted and black. When we got her, she was also ashen-gray in color due to a need of a blood transfusion and not taking her medication to help remove iron from her blood. We also had her twin siblings, 9 years old.

The conditions of the case included drug use and addiction, domestic violence and short term imprisonment for the father. The mother opted out of services and was excluded from the service plan. The father, released from prison 30 days after foster care placement, was given a service plan that included parenting, domestic violence and substance abuse classes as well as getting a job and a requirement to find a suitable place for all eight of them to live. The father indicated that he could get a job as a laborer, but needed hernia surgery before he could go to work, and not having a vehicle, he would be taking the bus to and from.

Over the period of the next 53 days, he did attend some classes and then with the help of the State, he found a 9 month transitional housing program in Kapolei where all eight could live, paid for by the state. He had not yet had his surgery, did not begin working and was still without a vehicle. It was at this time that the Department of Human Services, Child Protective Services decided to reunify all seven children with the father and within a week they did – a total of 90 days from date of initial intake.

We asked the questions, “why rush?”, “Why not give the father more time to complete his service plan, get organized, have his surgery and begin his job?” The answer we got was “the housing opened up and we do not know when the next opening will be.” We were concerned about the ability to get the children to and from school, get the 5 year old to all of her doctors appointments – which amounted to at least one per week, and then be able to find a place to live after the 9 months and maintain those conditions... not to mention having the children attend their 3<sup>rd</sup> or 4<sup>th</sup> school in a year. We are not aware of the circumstances of that family at this time. We hope that they are all well and that the now 6 year old is receiving all of her medical care.

Our most recent placement began last year, February 2014, the infant girl was 4 months old at the time. We were told that it would only be for a couple of days because extended family will eventually take her. Well, they did not, they declined, in fact. The conditions of the case include the father, currently in federal prison for the next 20 years on murder charges and the mother, pregnant with the child while in prison for theft and drug use. The mother was released to a transitional home to care for the child, but then was subsequently kicked out for an inappropriate relationship - whatever that means. This is



when we were placed with the child. We then came to learn through the ohana conferences that there were two other siblings, one 7 year old and one 5 year old - all with different fathers. The 7 year old has already gone through the foster care process and was officially adopted by her grandmother, who takes care of her to this day. The 5 year old was apparently never placed in foster care until around the same time as the mother gave birth to the new born. However, the stories we heard were that the 5 year old would be regularly handed to friends as they drove by while the mother disappeared for several days or longer. She has been bounced around different places and has seen and heard things that no child should. It has been since determined that she is dangerous to children younger than her and has significant attachment and emotional issues. Six weeks after we received the infant, the mother was arrested again and placed in jail.

She immediately requested that she be let out of jail again and returned to the transitional home to care for her baby. No mention of her 5 year old. This was granted and 5 months after we received the child – now 9 months old – the Department of Human Services, Child Protective Services arranged the reunification of the infant with the mother. We requested that a two week transition period be granted to give the mother and child time to adjust. And frankly, we expected the mother to be kicked out again. The Department of Human Services, Child Protective Services allowed this request, though were not happy that we requested it. We were asked, “What if your house burns down and the child is killed and the State is sued because we allowed the transition?” We were stunned by this response, but grateful that the transition period was granted.

Well, unfortunately, we were correct. Before the two week transition period was completed, the mother was kicked out again and disappeared again, this time for 10+ weeks – when she was arrested again and placed back in jail. This time, she was pregnant again and again asked to be let out of jail to care for her baby – now 12 months old – while pregnant. Again, no mention of her 5 year old. The case was postponed for 3 months. In our minds, clearly the mother had not taken appropriate steps to improve her conditions/circumstances. There was a push for reunification still.

As of January 27<sup>th</sup>, 2015, 11 months after we first received the 4 month old, the judge granted the termination of parental rights and we have the adoption hearing set for April 23<sup>rd</sup>, 2015. We are very pleased for the outcome of this child. Not on our behalf, but on hers.

However, there are very many concerns and questions. How was this not seen or identified as an aggravated circumstances case early on? Why was this woman being given so many chances considering her 7 year plus history of drug use, theft, neglect and abandonment with no clear improvement in the conditions that led to foster care and previous parental termination to begin with? What would have happened to this infant if the reunification happened without the two week transition? How would this have impacted the poor child? How is it that we saw what was happening, but nobody else from within the Department of Human Services, Child Protective Services seem to have?

**The answer:** the definition of Aggravated Circumstances does not currently include these factors for consideration and the internal policy of the program seems to be “reunification at all costs”.



This bill is NOT about us or our experiences alone or the children and families that we have helped and supported. It is about all of the children that are at risk of repeated exposure, abuse, neglect, abandonment or worse.

We have all heard and read the stories in the news about children being beaten, abused or neglected; about domestic violence, sex trafficking, drug use and children seeing more than they should at young ages.

Unfortunately, there are countless stories like this, somewhat rare yes, compared to the total number of children who enter the program, but still too many. Not always do they lead to death, but quite often they lead to physical, emotional and psychological scars that last a lifetime. I am all for reunification, just not at those costs.

This bill adds to the definition of Aggravated Circumstances as it pertains to the reunification of foster children with their biological family.

I would like to propose a few amendments to the current language:

1. add "rare and chronic" between specifying and additional - on page 2, line 11
2. remove homeless and houselessness wherever it appears in the text
3. add "case workers," between support and judges - on page 2, line 15
4. add "items 8-11 are to be taken as an aggregate/combination of circumstances within each item and not have each circumstance within each item singled out. Thereby grouping those circumstances per item for consideration as a whole" - on page 2, after line 19

**It is important to note that this bill agrees with and supports the policy of reunification and that all reasonable efforts should be taken to keep families together.**

It is also important to know that Aggravated Circumstances is already a trigger in the Department of Human Services, Child Protective Services process for the assessment of permanent placement of children once they enter the foster care system. However, the definition is insufficient.

What is more, there is a growing trend from state to state, now equaling near 50% of all other states and territories that have adopted language consistent with this bill. Clearly the rest of the country sees the need for these additional considerations.

According to Federal Regulations, we have the right to define Aggravated Circumstances as we see fit for our State.

Department of Human Services, Child Protective Services has, up to now, had concerns about this bill, their response has been to cite policy as best interest of the child and the constitutional right to have a child. They will also suggest that they trust the judgments of their dedicated case workers. I for one agree that the best interests of the child should be paramount when considering placement. However, I do not believe that violent, abusive, neglectful and drug addicted parents are always the best choice for placement.

And I agree that the case workers are well educated and understand their cases better than anyone, along with the Foster Parents – also called Resource Care Givers. I also believe that there are far too few case workers and that they are overworked and that their decisions are subject to a more narrow view and that there are conflicting interests such that their decisions may not always be based on what they truly believe to be best.

The conflicting interests include: best interest of the child vs. parental rights to have and keep their children. I support the idea that all parents and their children who enter foster care should be kept together utilizing all reasonable efforts, but clearly there is room for closer examination for some cases.

Again, families should stay together, but we must take better care of the children who have no voice, no control and did not ask to be born into harsh conditions. All children should have the opportunity and the right to lead a long, full and healthy life in safe, secure and caring families. Most likely reunified with biological parents, but sometimes, rarely outside of the biological family.

I do not know how many people will testify in favor of this bill, but I am aware of the numerous people and stakeholders at all stages of the system that fear retribution in some way if they stand up in favor of this bill, which can be perceived as standing up against Department of Human Services, Child Protective Services. I think that is wrong. I also think that this bill is not in opposition to Department of Human Services, Child Protective Services, but actually supports the agency. In fact, this should really be their bill with their language and I hope with full Department of Human Services, Child Protective Services collaboration we can advance these additions legally and concretely.

I hope you will all support and ultimately vote in favor of this bill and the suggested amendments within this testimony.

Mahalo,

Carl Campagna  
Citizen of the USA, State of Hawaii

**SB271**

Submitted on: 2/9/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Aaron Landry	Individual	Support	No

Comments: As a friend of a family – as well as a child – who have both been directly impacted by the issues this Bill strives to resolve, I strongly support this. Thank you for working to address this for future families and for Hawaii's future. Mahalo for the opportunity to testify.

TO: Senator Suzanne Chun Oakland  
Senator Josh Green, Vice Chair  
Committee on Human Services and Housing

SUBJECT: Relating to the Child Protective Act

HEARING: Tuesday, February 17, 2015 1:20pm  
Conference Room 016  
415 South Beretania Street, Honolulu

**Testimony in Support of SB271 Relating to the Child Protective Act**

As a graduate student at the University of Hawaii, Myron B. Thompson School of Social Work and as a mother of four, I am strongly in support of SB271. Our judges and guardians ad litem need clear guidelines which specify the conditions for which biological families may no longer be considered a safe placement for a child. Although I am in support of children being united with their biological parents when appropriate, there are “aggravated circumstances” which may make placement not in the best interest of the child. Clarification of what these circumstances are as outlined in SB 271 will help with the decision making process and will ensure children’s safety. I am in support of this bill as I strongly believe that every child deserves to be raised in a safe and supportive environment, free of abuse and neglect. The “aggravated circumstances” are meant to protect our children and although the terms may seem harsh in regards to unstable housing, they are necessary to remind everyone of the privilege it is to be a parent and the responsibilities and duties that go along with that.

Aileen R. Maertens  
Graduate Student  
808-285-2066

**SB271**

Submitted on: 2/6/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Support	No

Comments:

**SB271**

Submitted on: 2/10/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
April Pita	Individual	Oppose	Yes

Comments: It is not that parents can't provide a home. It is more like they make it so hard to get into one. 1 for the amount of income my family and I make we would most likely qualify for a 1 bedroom. 2 i have 7 children... landlords, property managers etc would look and say we need a 4-5 bedroom. 3 most places need credit... of course if we had any credit of course it would be easy. 4 Public housing is a joke, i have been on the wait list for 7 years, when I go to tell them my situation they tell me go to a shelter. I would rather take my chances out there then in only because sheltered aren't what everyone think it is. They treat you like it is a prison. Then one of my friends who did live in one. Moved back home cause jet daughter got molested in the shelter at IHS. Anyways this bill has to be shut down. Until they can come up with real solutions for the houseless!!

**SB271**

Submitted on: 2/10/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Carlton York	Individual	Oppose	No

Comments: this is not a good bill , strong opposition !

**SB271**

Submitted on: 2/10/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Cheryl O. Ho	Individual	Oppose	No

Comments: HB1321 re: Child Protective Act: I OPPOSE this bill if it contains the following descriptions: "(9) The parent has provided unstable housing and has been incarcerated more than once, resulting in the child's repeated placement in foster care; (10) The parent has provided unstable housing and placed the child or a sibling of the child in foster care more than once;" I am a retired social worker with a strong interest in child development and family systems. In my retirement, I help to care for my youngest grandchild. On our strolls through InHa park, I became acquainted with a Hawaiian father and mother and their two young children. Gradually, over many months, they shared their story. It traced their core loss of sovereignty, and the many successive losses of their honest, hardworking attempts to establish a stable shelter for their family at various sites on O'ahu. On two occasions, I witnessed the 5-year-old clutching her arms close to her body, head lowered, standing apart from her mother and sister, and mumbling to herself. Her mom explained to me that the girl went into this mode when the police came and arrested her dad. As a grandma interested in trauma and its effects, I was troubled to witness the after-effects of an HPD raid on houseless people. On another occasion, the mother described her extreme distress, while pacing back and forth on Ke'eaumoku St. with her daughters in tow, looking for their husband/father after his arrest at their tent site while she and the girls were on an errand. This family has disappeared from the sidewalks of these environs. My searches for them have been fruitless, but I am hopeful that perhaps they were among the lucky beneficiaries of Housing First. They will live in my memory as parents who continually amazed me with their resourcefulness, meticulous care for the girls, and incredible courage in standing up to the authorities, and in presenting their claim to the bounty of this 'āina to the Department of the Interior's representatives. They are a family who symbolized to me strength, protection, emotional nurturing, and resilience. They stood as examples of how even the flawed and conflict-ridden security provided by their parents, were central to the emotional health of their children. Respectfully submitted, Cheryl Ho, MSW



**SB271**

Submitted on: 2/10/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl	Individual	Oppose	No

Comments: This bill like many others seems designed to punish people rather than solve the actual problems. Who will determine what is abuse and who is not capable of taking care of their children? There are no parameters. This bill seems to have been designed by those of privilege and not people who actually understand. I have met and helped people who are houseless who are parents and they do their very best within the situations we have put them. I am totally against this bill and hope that common sense and compassion begin to take more of a precedent than \$\$\$ on our islands soon. Who benefits from this law ? Not the children that it states. it's the for profit prisons and other agencies of profit.

## **COMMITTEE ON HUMAN SERVICES AND HOUSING**

Senator Suzanne Chun Oakland, Chair

Senator Josh Green, Vice Chair

Tuesday, February 17, 2015

1:20 pm

Conference Room 016

### **In support of SB 271-Child Protective Act; Definition; Aggravated Circumstances**

Aloha Chair Oakland, Vice Chair Green and Members of the Committee:

My name is Fay Dwyer and I am a student at the University of Hawaii at Manoa, School of Social Work Master's Program. My testimony is in support of expanding the definition of "aggravated circumstances" in the Chapter 587A Hawaii Revised Statute, Child Protective Act.

For the safety and protection of the child it is imperative that "aggravated circumstances" be clearly defined. When it comes to a child's safety, there is no room for ambiguity. There must be clear guidelines set forth to appropriately manage the welfare of the child.

By defining "aggravated circumstances" as proposed in this bill, decisions made by judges and guardian ad litem, can be based on clear and specific criteria that will help facilitate and support the difficult decision that the biological family is no longer considered a safe placement.

This Bill is for our children and their welfare both short and long-term. As difficult a decision as it is to remove a child from their biological family, we must uphold safety first. If the biological or any guardian of a child repeatedly demonstrates poor judgment, irresponsibility, intentional harm and abuse, we must question their ability and or desire to continue to parent the child, and act accordingly.

The guidelines outlined in this Bill will convey a better understanding of the expectations of a parents' fitness, and ensure that we as a society our protecting the welfare of our children.

Thank you,

Fay Dwyer  
Student, University of Hawaii at Manoa  
School of Social Work, Master's Program

**SB271**

Submitted on: 2/9/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Isis Usborne	Individual	Oppose	No

Comments: I oppose this bill because it is an extension of existing policies criminalizing houselessness, and it would break apart families harmfully and unnecessarily. It is hard enough to live without a home, why would we seek to take their children away from them as well? Why not focus on providing shelter and affordable housing instead? This bill would punish those who are often merely the victims of unfortunate circumstances, and would not eliminate nor meaningfully alleviate the problem. Furthermore, it would most likely hurt the children affected by it in the long run.

**SB271**

Submitted on: 2/10/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jack De Feo	Individual	Oppose	No

Comments: This bill SB271 is a crime against humanity!

**SB271**

Submitted on: 2/13/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Julie LaTendresse	Individual	Oppose	No

Comments:

**SB271**

Submitted on: 2/9/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Kahana	Individual	Oppose	No

Comments: Re: Opposition to SB 271 RELATING TO THE CHILD PROTECTIVE ACT. (S HSH Hearing 2/17/2015) Aloha Mai, Esteemed Chair Chun-Oakland, Vice-Chair Green, and members of the Senate Committee on Human Services and Housing: As a life-long resident of Hawai'i, I am writing to express my OPPOSITION TO SB 271 RELATING TO THE CHILD PROTECTIVE ACT.", which "Expands the definition of "aggravated circumstances", as used in chapter 587A, Hawaii Revised Statutes, the Child Protective Act." The aim of this bill is laudable, and I have no opposition to the proposed §587A-4 (12)-(14). but it has considerable flaws that place homeless families, (absent any Homeless Bill of Rights that protect such families) at considerable risk of unnecessary, and even unjustifiable disintegration, with its concomitant effects on the children of such families. I wish to express my opposition specifically to the unqualified inclusion in Section 2, of new statutory material that may adversely affect houseless/undomiciled families. This includes the additions to §587A-4 defining "Aggravating circumstances" in §587A-4 (5), and §587A-4 (8) - (11). In particular, unstable housing often is linked to all of the other conditions indicated in these proposed amendments, but is not necessarily an indicator that the housing situation warrants removal of the child. A person may have been convicted of a petty offense of possession of marijuana, lose her/his job, and subsequently, domicile, and yet be working to the best of her/his ability within the limits of the existing services to ensure adequate and appropriate care for her/his child)ten). A worse example is if a family, through no fault of the parents, finds itself undomiciled, is subsequently cited and convicted for violation of various anti-homelessness statutes and ordinances, then qualifies as subject to the proposed amendments regarding "Aggravating circumstances". I believe that the individual situation of each family should be assessed carefully, rather than using a blanket statutory definition. In such cases, guardians-ad-litem, DHS social workers, Child Welfare Services workers, Homeless Services providers, Homeless advocates, and other professionals as may be necessary and/or appropriate, and above all, the family itself, should be involved in creating a comprehensive plan of action and services for such families, Unless either A) specific provisions for protecting the rights and welfare of undomiciled families and youth including individualized case assessment and services are added, or B) proposed additions §587A-4 (5) and (8)-(11) are struck, I believe that the bill will inflict undue harm on undomiciled families by creating overly broad definitions of "Aggravating circumstances". Therefore, I respectfully request that the members of the Committee vote to defer SB 271 in its original form, or else to add draft amendments that address my concerns noted above. Me ke aloha pūmehana, Ms. Kahana H.

**SB271**

Submitted on: 2/10/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Katie Ranney	Individual	Oppose	No

Comments: The focus should be on programs for rehabilitation and support for homeless families with children. Help provide families with housing instead of separating children from their parents because, as is true in many cases, the system makes it difficult for the parents to establish stable housing on their own.



To whom it may concern,

I oppose SB271 and HB1321.

I volunteer with families in Kaka'ako who are homeless and have a difficult time raising their families. That said, nothing they have done constitutes "criminal action" and, therefore, their parental rights should not be terminated just because they are poor.

By attaching the term "unstable housing" to the definition of "aggravated circumstances" the bills require DHS to recognize houseless families as establishing extreme abuse of their children by poverty, not extreme child abuse or extreme mental trauma.

Please oppose these overly broad and sweeping bills in order to protect the most vulnerable among us from unfair and unjust criminalization of poverty.

Thank you.

Sincerely,  
Lani Kwon

Founder and CEO of The Creating CoPOWERment® Center LLC  
and Creating YOUR Calling® LLC  
lani@coPOWERment.com  
<http://www.coPOWERment.com>

**SB271**

Submitted on: 2/6/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	No

Comments: We need to protect the keiki and this bill will help do that.

**SB271**

Submitted on: 2/12/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Blair	Individual	Oppose	No

Comments: Lets don't be inhumane, mean.

**SB271**

Submitted on: 2/9/2015

Testimony for HSH on Feb 17, 2015 13:20PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
robin knox	Individual	Oppose	No

Comments: There are already laws against child abuse and trafficking. This seems designed to take parental rights away because the parent's socioeconomic status . Given that homeless families can be arrested for simply sitting on the ground, it is brutish to then use the criminal charges as the basis to take away parental rights

Santos Alvarez  
Wed 2/11/2015 10:19 AM  
To:

HSH Testimony;

...

I strongly oppose this bill against the houseless. Please do not pass.