



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

S.B. NO. 2114, RELATING TO THE CHILDREN'S JUSTICE PROGRAM.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Friday, February 18, 2022

TIME: 9:30 a.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Farshad M. Talebi, Deputy Attorney General

Chair Rhoads and Members of the Committee:

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

This bill would update the purpose of the children's justice program to include supporting suspected or confirmed child witnesses to crime or violence, as well as supporting the interagency investigation and management of cases involving victims of suspected or confirmed child sex trafficking, commercial sexual exploitation of children, and other child maltreatment.

The children's justice program currently plays a vital role in providing support for the special needs of child victims and witnesses of child sex abuse and serious physical child abuse. The bill recognizes that victims of child sex trafficking, commercial sexual exploitation of children, and other child maltreatment and child witnesses to crime or violence are also vulnerable and experience various forms of complex trauma, and would benefit from the support of the children's justice program. Expanding the purpose of the program to include these additional victim populations aligns with the mission of the children's justice program and will help reduce and prevent unnecessary trauma while ensuring justice for children and their families.

The Department respectfully asks the Committee to pass this bill. Thank you for the opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/18/2022

Time: 09:30 AM

Location: Via Videoconference

Committee: Senate Judiciary

Department: Education

Person Testifying: Keith T. Hayashi, Interim Superintendent of Education

Title of Bill: SB 2114 RELATING TO THE CHILDREN'S JUSTICE PROGRAM.

Purpose of Bill: Updates the purpose of the children's justice program to include investigation and management of cases involving suspected or confirmed child sex trafficking, commercial sexual exploitation of children, other child maltreatment, and child witnesses to crime or violence. Makes conforming amendments.

Department's Position:

The Hawaii State Department of Education (Department) fully supports SB 2114. The Department recognizes the importance of awareness, prevention, and the provision of services to victims of sexual exploitation and sex trafficking and is currently committed to delivering training/programming to middle/intermediate and high school students and faculty. As such, the Department supports agencies such as the Children's Justice Centers of Hawaii who specialize in investigations and management of cases involving child victims.

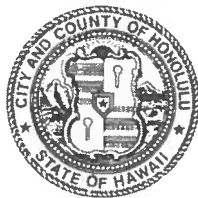
The Department acknowledges the work of the Children's Justice Centers of Hawaii and other government and non-profit agencies as critical in addressing the sexual abuse continuum in Hawaii.

The Department currently collaborates and consults with the Children's Justice Centers of Hawaii and views the expansion of their scope of services to include child sex trafficking, commercial sexual exploitation of children, and other forms of child maltreatment as essential in our continued work toward increased child safety in Hawaii.

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

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



RICK BLANGIARDI
MAYOR

RADE K. VANIC
INTERIM CHIEF

OUR REFERENCE BN-KK

February 18, 2022

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: Senate Bill No. 2114, Relating to the Children's Justice Program

I am Brandon Nakasato, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 2114, Relating to the Children's Justice Program.

The health, safety, and well-being of Hawaii's keiki who are victims or witnesses of any crime or violence continue to be a priority for the HPD and all collaborating partners participating in this program. The HPD supports the proposed amendments to the purpose of the Children's Justice Program, to include all child victims or witnesses of all types of cases, suspected or confirmed.

The HPD supports Senate Bill No. 2114, Relating to the Children's Justice Program.

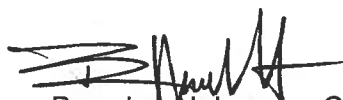
Thank you for the opportunity to testify.

APPROVED:

Sincerely,



Rade K. Vanic
Interim Chief of Police


Brandon Nakasato, Captain
Criminal Investigation Division

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
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STEVEN S. ALM
PROSECUTING ATTORNEY

THOMAS J. BRADY
FIRST DEPUTY
PROSECUTING ATTORNEY



THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-First State Legislature
Regular Session of 2022
State of Hawai'i

February 18, 2022

RE: S.B. 2114; RELATING TO THE CHILDREN'S JUSTICE PROGRAM.

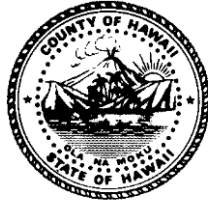
Chair Rhoads, Vice-Chair Keohokalole and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of S.B. 2114.

The Department greatly appreciates the support of The Children's Justice Center ("CJC"), in its work to ensure that child victims (and child witnesses) of sexual abuse, physical abuse, sex trafficking and other such crimes are dealt with in an age-appropriate and trauma-informed manner. The Department agrees that the full scope of the CJC's work should be reflected in its authorizing statutes.

Because the criminal justice system can be very difficult for *any* victim of crime to navigate or understand, children who are victims of violent crime generally fare better in this process when they are able to work with professionals—such as those at the CJC—who are specially trained to elicit accurate and informative responses without re-traumatizing the child. Children as a whole are one of Hawaii's most vulnerable populations, and the Department strongly supports the continued use of services that are specifically designed to aid child victims of crime.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of S.B. 2114. Thank you for the opportunity to testify on this matter.

Mitchell D. Roth
Mayor



Paul K. Ferreira
Police Chief

Kenneth Bugado Jr.
Deputy Police Chief

County of Hawai'i

POLICE DEPARTMENT

349 Kapi'olani Street • Hilo, Hawai'i 96720-3998
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February 16, 2022

Senator Karl Rhoads
Committee on Judiciary
415 South Beretania Street, Room 204
Honolulu, Hawai'i 96813

RE: SENATE BILL 2114, RELATING TO THE CHILDREN'S JUSTICE PROGRAM

Dear Senator Rhoads:

The Hawai'i Police Department **supports Senate Bill 2114**, with its purpose to amend the Children's Justice Program's statute, HRS 588 by including definitions of sexual exploitation, serious physical abuse, child witnesses to crime and child trafficking.

As a partner agency of the Children's Justice Centers, we work in collaboration to meet the special needs of children who are alleged victims of child abuse or witnesses to crime.

In closing, we are in strong support of Senate Bill 2114 and ask for your assistance in its passing during this legislative session.

Thank you for allowing the Hawai'i Police Department to provide comments relating to Senate Bill 2114.

Sincerely,

for
PAUL K. FERREIRA
POLICE CHIEF

Executive Director
Cindy Shimomi-Saito

ADVISORY BOARD

President
Mimi Beams

Joanne H. Arizumi

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David I. Haverly

Linda Jameson

Lindsay Norcross Mist

Nadine Tenn Salle, M.D.

Joshua A. Wisch

Date: February 16, 2022

To: Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

From: Lynn Costales Matsuoka, Associate Director
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Support of SB 2114
Relating to the Children's Justice Center

Hearing: February 16, 2022, via video conference 9:30

Good Morning Chair Rhoads and Vice Chair Keohokalole, and Members of the Committee on Judiciary and Hawaiian Affairs:

The Sex Abuse Treatment Center (SATC) is in support of SB 2114, Relating to the Children's Justice Center.

The Children's Justice Center (CJC) has long been a leader in managing the interagency and inter professional coordination and cooperation between agencies who handle the treatment, identification, and investigation (civil and criminal) of child abuse both physical and sexual. Over the course of many years it has established professional relationships with government and non-government agencies that respond to child abuse.

The proposed legislation in SB 2114 is a natural extension of the statutory purview of the CJC in developing and coordinating a seamless system response to child abuse, to include child sex trafficking and commercial sexual exploitation of children.

The SATC supports the continued work of the CJC and supports HB 1537. Thank you for your consideration.



U.S. Department of Health and Human Services
Office for Civil Rights Administration for Children and Families

U.S. Department of Health and Human Services

Office for Civil Rights Administration for Children and Families



U.S. Department of Justice

Civil Rights Division
Disability Rights Section

**Protecting the Rights of Parents and Prospective Parents with Disabilities:
Technical Assistance for State and Local Child Welfare Agencies and Courts under
Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act**

The United States Department of Health and Human Services (HHS) and the United States Department of Justice (DOJ) are issuing this technical assistance to assist state and local child welfare agencies and courts to ensure that the welfare of children and families is protected in a manner that also protects the civil rights of parents and prospective parents¹ with disabilities. This guidance provides an overview of the issues and application of civil rights laws, answers to specific questions and implementation examples for child welfare agencies and courts, and resources to consult for additional information.

Section 504 of the Rehabilitation Act of 1973 (Section 504)² and Title II of the Americans with Disabilities Act of 1990 (ADA)³ protect parents and prospective parents with disabilities from unlawful discrimination in the administration of child welfare programs, activities, and services.⁴ At the same time, child welfare agencies and courts have the responsibility to protect children from abuse and neglect. The goals of child welfare and disability non-discrimination are mutually attainable and complementary. For example, ensuring that parents and prospective parents with disabilities have equal access to parenting opportunities increases the opportunities for children to be placed in safe and caring homes.

Need for This Technical Assistance

Both the HHS Office for Civil Rights (OCR) and DOJ Civil Rights Division have received numerous complaints of discrimination from individuals with disabilities involved with the child welfare system, and the frequency of such complaints is rising. In the course of their civil rights enforcement activities, OCR and DOJ have found that child welfare agencies and courts vary in the extent to which they have implemented policies, practices, and procedures to prevent discrimination against parents and prospective parents with disabilities in the child welfare system.

For example, in a recent joint investigation by OCR and DOJ of practices of a State child welfare agency, OCR and DOJ determined that the State agency engaged in discrimination against a parent with a disability.⁵ The investigation arose from a complaint that a mother with a developmental disability was subject to discrimination on the basis of her disability because the State did not provide her with supports and

services following the removal of her two-day-old infant. The supports and services provided and made available to nondisabled parents were not provided to this parent, and she was denied reasonable modifications to accommodate her disability. As a result, this family was separated for more than two years.

These issues are long-standing and widespread. According to a comprehensive 2012 report from the National Council on Disability (NCD), parents with disabilities are overly, and often inappropriately, referred to child welfare services, and once involved, are permanently separated at disproportionately high rates.⁶ In a review of research studies and other data, NCD concluded that among parents with disabilities, parents with intellectual disabilities and parents with psychiatric disabilities face the most discrimination based on stereotypes, lack of individualized assessments, and failure to provide needed services.⁷ Parents who are blind or deaf also report significant discrimination in the custody process, as do parents with other physical disabilities.⁸ Individuals with disabilities seeking to become foster or adoptive parents also encounter bias and unnecessary barriers to foster care and adoption placements based on speculation and stereotypes about their parenting abilities.⁹

Discriminatory separation of parents from their children can result in long-term negative consequences to both parents and their children. In addition to the OCR and DOJ case where a mother and daughter were deprived of the opportunity for maternal/child bonding for two years, the National Council on Disability report is replete with case studies with similar consequences. For example, a child welfare agency removed a newborn for 57 days from a couple because of assumptions and stereotypes about their blindness, undermining precious moments for the baby and parents that can never be replaced.¹⁰ Similarly, after a child welfare agency removed a three-year-old from his grandmother because she had arthritis and a mobility disability, the toddler developed behavioral issues and progressively detached from his grandmother, though he had had no such experiences before this separation.¹¹ Any case of discrimination against parents and caregivers due to their disability is not acceptable.

Role of HHS and DOJ

The Children's Bureau in the HHS Administration for Children and Families administers funding for child welfare agencies and courts and provides guidance and technical assistance to child welfare agencies regarding child welfare law. HHS OCR is responsible for ensuring that entities receiving Federal financial assistance from HHS, including child welfare agencies and state courts, comply with their legal obligation under Section 504 to provide equal access to child welfare services and activities in a nondiscriminatory manner. In addition, both DOJ and HHS OCR enforce Title II of the ADA against public entities, including child welfare agencies and state courts.

Overview of Legal Requirements

Title II of the ADA

Title II of the ADA provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such entity.¹² Title II of the ADA applies to the services, programs, and activities of all state and local governments throughout the United States, including child welfare agencies and court systems.¹³ The “services, programs, and activities” provided by public entities include, but are not limited to, investigations, assessments, provision of in-home services, removal of children from their homes, case planning and service planning, visitation, guardianship, adoption, foster care, and reunification services. “Services, programs, and activities” also extend to child welfare hearings, custody hearings, and proceedings to terminate parental rights.

Section 504 of the Rehabilitation Act

Section 504 provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of any entity that receives Federal financial assistance, or be subjected to discrimination by such entity.¹⁴ Federal financial assistance includes grants, loans, and reimbursements from Federal agencies, including assistance provided to child welfare agencies and the courts.¹⁵ An entity can be a recipient of Federal financial assistance either directly or as a sub-recipient.¹⁶ Section 504 applies to all of the operations of agencies and sub-agencies of state and local governments, even if Federal financial assistance is directed to one component of the agency or for one purpose of the agency.¹⁷ Recipients of Federal financial assistance must agree to comply with Section 504, and generally other civil rights laws, as a condition of receiving Federal financial assistance.¹⁸

Application

A child welfare agency or court may not, directly or through contract or other arrangements, engage in practices or methods of administration that have the effect of discriminating on the basis of disability, or that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the child welfare agency’s or court’s program for persons with disabilities.¹⁹ Under these prohibitions, a child welfare agency could be responsible for the discriminatory actions of a private foster care or adoption agency with which it contracts when those actions are taken in fulfillment of the private entity’s contractual obligations with the child welfare agency. For example, if the private foster care or adoption agency imposed discriminatory eligibility requirements for foster or adoptive parents that screened out prospective parents with HIV, the state child welfare agency would most likely be responsible for the contractor’s practice of discriminating on the basis of disability.

Two principles that are fundamental to Title II of the ADA and Section 504 are:

(1) individualized treatment; and (2) full and equal opportunity. Both of these principles are of particular importance to the administration of child welfare programs.

Individualized treatment. Individuals with disabilities must be treated on a case-by-case basis consistent with facts and objective evidence.²⁰ Persons with disabilities may not be treated on the basis of generalizations or stereotypes.²¹ For example, prohibited treatment would include the removal of a child from a parent with a disability based on the stereotypical belief, unsupported by an individual assessment, that people with disabilities are unable to safely parent their children. Another example would be denying a person with a disability the opportunity to become a foster or adoptive parent based on stereotypical beliefs about how the disability may affect the individual's ability to provide appropriate care for a child.

Full and equal opportunity. Individuals with disabilities must be provided opportunities to benefit from or participate in child welfare programs, services, and activities that are equal to those extended to individuals without disabilities.²² This principle can require the provision of aids, benefits, and services different from those provided to other parents and prospective parents where necessary to ensure an equal opportunity to obtain the same result or gain the same benefit, such as family reunification.²³

This does not mean lowering standards for individuals with disabilities; rather, in keeping with the requirements of individualized treatment, services must be adapted to meet the needs of a parent or prospective parent who has a disability to provide meaningful and equal access to the benefit.²⁴ In some cases, it may mean ensuring physical or programmatic accessibility or providing auxiliary aids and services to ensure adequate communication and participation, unless doing so would result in a fundamental alteration to the nature of the program or undue financial and administrative burden.²⁵ For example, a child welfare agency must provide an interpreter for a father who is deaf when necessary to ensure that he can participate in all aspects of the child welfare interaction. In other instances, this may mean making reasonable modifications to policies, procedures, or practices, unless doing so would result in a fundamental alteration to the nature of the program.²⁶ For example, if a child welfare agency provides classes on feeding and bathing children and a mother with an intellectual disability needs a different method of instruction to learn the techniques, the agency should provide the mother with the method of teaching that she needs.

Under Title II of the ADA or Section 504, in some cases, a parent or prospective parent with a disability may not be appropriate for child placement because he or she poses a significant risk to the health or safety of the child that cannot be eliminated by a reasonable modification.²⁷ This exception is consistent with the obligations of child welfare agencies and courts to ensure the safety of children. However, both the ADA and Section 504 require that decisions about child safety and whether a parent or prospective parent represents a threat to safety must be based on an individualized assessment and objective facts, including the nature,

duration, and severity of the risk to the child, and the probability that the potential injury to the child will actually occur.²⁸ In addition, if the risk can be eliminated by a reasonable modification of policies, practices, or procedures, or by the provision of auxiliary aids or services, the child welfare agency must take such mitigating actions.²⁹ A public entity may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities, but they may not be based on stereotypes or generalizations about persons with disabilities.³⁰

By applying these principles consistently in the child welfare system, child welfare agencies and courts can ensure that parents and prospective parents with disabilities have equal access to parenting opportunities while ensuring children safely remain in or are placed in safe and caring homes. The attached Questions and Answers provide more detailed information and specific implementation examples for child welfare agencies and courts.

QUESTIONS AND ANSWERS

1. *What are the basic requirements of ADA Title II and Section 504?*

Answer: Title II of the ADA provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in, the services, programs, or activities of state and local government entities.³¹ Section 504 similarly prohibits discrimination on the basis of disability against qualified individuals with a disability in programs, services, and activities receiving Federal financial assistance.³²

Under the ADA and Section 504, programs cannot deny people with disabilities an opportunity to participate,³³ and must provide people with disabilities with meaningful and equal access to programs, services, and activities.³⁴ Programs and services must be accessible to and usable by people with disabilities.³⁵ In addition, programs must provide people with disabilities with an equal opportunity to participate in and benefit from the programs, services and activities of the entity;³⁶ they are also prohibited from using methods of program administration, which includes written rules as well as agency practices, that have a discriminatory effect on individuals with disabilities.³⁷ Moreover, programs must provide reasonable modifications in policies, practices, and procedures when necessary to avoid discrimination,³⁸ and must take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others through the provision of auxiliary aids and services.³⁹

Who is protected by disability nondiscrimination laws?

2. Who is considered a person with a disability under Title II of the ADA and Section 504?

Answer: The ADA and Section 504 protect the rights of individuals with disabilities.⁴⁰ A “disability” is defined as a physical or mental impairment that substantially limits a major life activity, such as caring for oneself, performing manual tasks, breathing, standing, lifting, bending, speaking, walking, reading, thinking, learning, concentrating, seeing, hearing, eating, sleeping, or working.⁴¹ Major life activities also include the operation of major bodily functions, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, or bladder, neurological, brain, and respiratory, circulatory, endocrine, and reproductive functions.⁴²

Congress has made clear that the definition of disability in the ADA and Section 504 is to be interpreted broadly.⁴³ Even if an individual’s substantially limiting impairment can be mitigated through the use of medication; medical supplies, equipment, and devices; learned behavioral or adaptive neurological modifications; assistive technology (e.g. a person with a hearing disability who uses hearing aids that substantially restores the sense of hearing); or reasonable modifications to policies, practices, or procedures, the individual is still protected by the ADA and Section 504.⁴⁴ The ADA and Section 504 also apply to people who have a record of having a substantial impairment (e.g., medical, military, or employment records denoting such an impairment), or are regarded as having such an impairment, regardless of actually having an impairment.⁴⁵

An “individual with a disability” under the ADA and Section 504 does not include an individual who is currently engaged in the illegal use of drugs, when the state or local government program or program receiving Federal financial assistance acts on the basis of the illegal drug use.⁴⁶ However, an individual is not excluded from the definition of disability on the basis of the illegal use of drugs if he or she (1) has successfully completed a drug rehabilitation program or has otherwise been successfully rehabilitated and is no longer engaging in drug use, or (2) is participating in a supervised rehabilitation program and is no longer engaging in drug use.⁴⁷

To be eligible, an individual with a disability must be “qualified.” An individual with a disability is qualified if he or she meets the essential eligibility requirements of a service, program, or activity, with or without the provision of reasonable modifications, the provision of appropriate auxiliary aids and services, or the removal of architectural and communication barriers.⁴⁸

3. Who do Title II of the ADA and Section 504 protect in child welfare programs?

Answer: Title II of the ADA and Section 504 protect qualified individuals with disabilities, which can include children, parents, legal guardians, relatives, other caretakers, foster and adoptive

parents, and individuals seeking to become foster or adoptive parents, from discrimination by child welfare agencies and courts.⁴⁹ Title II also protects individuals or entities from being denied or excluded from child welfare services, programs or activities because of association with an individual with a disability.⁵⁰ For example, Title II prohibits a child welfare agency from refusing to place a child with a prospective foster or adoptive parent because the parent has a friend or relative with HIV.

Title II and Section 504 also protect “companions” of individuals involved in the child welfare system when the companion is an appropriate person with whom the child welfare agency or court should communicate. A companion may include any family member, friend, or associate of a person seeking or receiving child welfare services.⁵¹ For instance, when a child welfare agency communicates with an individual’s family member who is deaf, appropriate auxiliary aids and services to the family member must be provided by the agency to ensure effective communication.⁵²

Finally, the ADA and Section 504 protect individuals from any retaliation or coercion for exercising their right not to experience discrimination on the basis of disability. Individuals enjoy this protection whether or not they have a disability.⁵³

Who is required to comply with the disability nondiscrimination laws?

4. What types of child welfare programs and activities are covered by these laws?

Answer: Title II covers *all* of the programs, services, and activities of state and local governments, their agencies, and departments.⁵⁴ Similarly, Section 504 applies to all of the activities of agencies that receive Federal financial assistance.⁵⁵ Therefore, all child welfare-related activities and programs of child welfare agencies and courts are covered, including, but not

All activities of child welfare agencies are covered by Title II and Section 504, including removal proceedings and agencies’ programs and activities must not discriminate on the basis of disability.

limited to, investigations, witness interviews, assessments, removal of children from their homes, case planning and service planning, visitation, guardianship, adoption, foster care, reunification services, and family court proceedings. Title II and Section 504 also make child welfare agencies responsible for the programs and activities of private and non-profit agencies that provide services to children and families on behalf of the state or municipality.⁵⁶

5. Do Title II and Section 504 apply to the programs, services, and activities of family courts?

Answer: Yes. State court proceedings, such as termination of parental rights proceedings, are state activities and services for purposes of Title II.⁵⁷ Section 504 also applies to state court proceedings to the extent that court systems receive Federal financial assistance.⁵⁸

Title II and Section 504 require court proceedings to be accessible to persons with disabilities, and persons with disabilities must have an equal opportunity to participate in proceedings.⁵⁹ For example, if a conference or hearing is scheduled in a location that is inaccessible to wheelchair users, it should be moved to an accessible location in order to ensure a wheelchair user can participate fully in the conference or hearing.

Courts are required to provide auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.⁶⁰ For example, courts should provide appropriate auxiliary aids and services to a parent who is deaf so that he or she can access court proceedings as fully and effectively as those who are not deaf.

Like child welfare agencies, courts must also make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination on the basis of disability.⁶¹ For example, it may be necessary to adjust hearing schedules to accommodate the needs of persons with disabilities, if the need for the adjustment is related to the individual's disability. Or it may be necessary to provide an aide or other assistive services in order for a person with a disability to participate fully in a court event.⁶² Such assistance should be provided unless doing so would result in a fundamental alteration.⁶³

6. Do Title II and Section 504 apply to private contractors of child welfare agencies and courts?

Answer: Yes. Title II prohibits discrimination in child welfare programs and services when those services are provided by contractors.⁶⁴ Section 504 prohibits discrimination in child welfare programs receiving federal financial assistance, including programs receiving federal financial assistance operated by private entities under contract with child welfare agencies.⁶⁵ Accordingly, to the extent that courts and agencies contract with private agencies and providers to conduct child welfare activities, the agencies should ensure that in the performance of their contractual duties contractors comply with the prohibition of discrimination in Title II and Section 504.⁶⁶

What do the disability nondiscrimination laws require of child welfare agencies and courts?

7. What is a reasonable modification?

Answer: Under Title II of the ADA and Section 504, child welfare agencies and courts must make changes in policies, practices, and procedures to accommodate the individual needs of a qualified

person with a disability, unless the change would result in a fundamental alteration to the nature of the program.⁶⁷ Parenting skills do not come naturally to many parents, with or without disabilities. To provide assistance to parents with disabilities that is equal to that offered to parents without disabilities, child welfare agencies may be required to provide enhanced or supplemental training, to increase frequency of training opportunities, or to provide such training in familiar environments conducive to learning. For example, child welfare agencies may have a parenting skills class once per week. For a parent with a disability who requires individualized assistance in learning new skills because of her or his disability, child welfare agencies may need to modify this training to allow more frequent, longer, or more meaningful training.

8. What are auxiliary aids and services? What does it mean to provide effective communication?

Answer: Child welfare agencies and courts are required to take appropriate steps – including the provision of appropriate auxiliary aids and services – where necessary to ensure that individuals with communication disabilities understand what is said or written and can communicate as effectively as individuals without disabilities.⁶⁸ Examples of auxiliary aids and services include, among others, qualified interpreters, note takers, computer-aided transcription services, accessible electronic and information technology, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, qualified readers, taped texts, audio recordings, braille materials, large print materials, and modifications to existing devices.⁶⁹

Child welfare agencies and courts should consider whether they are taking appropriate steps to ensure that effective communication is provided in different settings and as cases develop. For example, a qualified interpreter may be necessary for smaller settings involving only a few people, such as home visits or assessments, whereas the use of real-time captioning may be appropriate during larger group meetings, such as family team meetings or in court, where numerous people are present or where the layout of the room makes it difficult to view an interpreter and obtain visual cues from the speaker.

The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual with a disability; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place.⁷⁰ For example, a local child welfare agency may be required to provide qualified interpreters to ensure effective communication with individuals with disabilities during agency

meetings to discuss service planning. However, to communicate a simple message such as an appointment date or address, handwritten notes may be sufficient.

State and local child welfare agencies and courts must give primary consideration to the auxiliary aid or service requested by the individual.⁷¹ This means, for example, that if a parent with a disability requests a qualified interpreter who is an oral transliterator (a type of interpreter who facilitates spoken communication between individuals who are deaf or hard of hearing and individuals who are not), the agency must provide a qualified oral transliterator, unless the agency can

Child welfare agencies must refrain from using minor children as interpreters except in limited exigent circumstances. Adult companions may be used as interpreters only in emergencies and only when other factors are met.

demonstrate that it would pose a fundamental alteration or an undue administrative or financial burden and an alternative auxiliary aid or service provides communication to the individual that is as effective as communication provided to others.⁷² If provision of a particular auxiliary aid or service would result in a fundamental alteration in the nature of a service, program, or activity, or if it would result in undue financial and administrative burdens, a child welfare agency or court need not provide it.⁷³ These entities must nonetheless provide auxiliary aids or services that do not result in a fundamental alteration or undue burdens that place the individual with a disability on equal footing with individuals without disabilities to the maximum extent possible.

In order to be effective, auxiliary aids and services must be provided in a timely manner and in such a way as to protect the privacy and independence of the individual with a disability.⁷⁴

Child welfare agencies and courts are prohibited from requiring individuals with disabilities to supply their own interpreters or other auxiliary aids and services.⁷⁵ Child welfare agencies and courts may not rely on minor children accompanying individuals with disabilities to interpret, except in emergencies involving imminent threats to the safety or welfare of an individual or the public where no interpreter is available.⁷⁶

Child welfare agencies should consult with and include organizations that support and advocate for the rights of individuals with disabilities in their policy-making and training efforts.

Child welfare agencies and courts may rely on adults accompanying individuals with disabilities to interpret, but only in emergencies or where the individual with a disability specifically makes such a request, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.⁷⁷

State and local child welfare agencies and courts are also prohibited from placing a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of the provision of auxiliary aids or other services that are required to provide that individual or group with nondiscriminatory treatment.⁷⁸

9. What steps are child welfare agencies required to take to ensure that parents and prospective parents with disabilities involved with the child welfare system have an equal opportunity to participate in and benefit from their programs and activities?

Answer: Child welfare agencies are required to ensure that parents and prospective parents with disabilities involved in the child welfare system are afforded an opportunity to preserve their families and/or to become parents that is equal to the opportunity that the entities offer to individuals without disabilities.⁷⁹

Title II and Section 504 require that agency staff refrain from basing assessments, services, or decisions on assumptions, generalizations, or stereotypes about disability.

Agencies should take steps to ensure, for example, that investigators, social workers, supervisors, and others base their assessments of and decisions regarding individuals with disabilities on actual facts that pertain to the individual person, and not on assumptions, generalizations, fears, or stereotypes about disabilities and how they might manifest. The child welfare agency's obligation to ensure individualized assessments applies at the outset and throughout any involvement that an individual with a disability has with the child welfare system.

Child welfare agencies should take steps to ensure that their obligations under Title II and Section 504 are met by reviewing the following:

- existing policies, practices, and procedures;
- how the agency actually processes cases;
- the agency's licensing and eligibility requirements for foster parents and guardians; and
- whether there are staff training or professional development needs.

Service plans for parents and prospective parents should address the individual's disability-related needs and the auxiliary aids and services the agency will provide to ensure equal opportunities. At the same time, service plans should not rely on fears or stereotypes to require parents with

disabilities to accept unnecessary services or complete unnecessary tasks to prove their fitness to parent when nondisabled parents would not be required to do so.

Agencies also have an obligation to ensure that the aids, benefits, and services provided to parents and prospective parents in support of appropriate service plan activities and goals – such as visitation, parenting skills training, transportation assistance, counseling, respite, and other “family preservation services” and “family support services” – are appropriately tailored to be useful to the individual.⁸⁰ For example, if a child welfare agency provides transportation to visits for individuals without disabilities, it should provide accessible transportation to individuals with disabilities to ensure equal opportunity.

To ensure that persons with disabilities have equal opportunity to retain or reunify with their children, it may be necessary for the agency to reasonably modify policies, practices, and procedures in child welfare proceedings. In general, agencies should consider whether their existing policies, practices, and procedures; their actual processing of cases; and their training materials comply with the nondiscrimination requirements of Title II and Section 504 for individuals with disabilities. Agencies should also take appropriate steps to ensure that components of child welfare processing, such as “fast-track” and concurrent planning, are not applied to persons with disabilities in a manner that has a discriminatory effect and that denies parents with disabilities the opportunity to participate fully and meaningfully in family reunification efforts.

In some instances, providing appropriate supports for persons with disabilities means selecting an appropriate alternative already provided in the Federal child welfare statutes. For instance, section 475 of the Social Security Act provides that the child welfare agency is required to file a petition to terminate parental rights when the child is in foster care for the preceding 15 out of 22 months. However, the law provides exceptions to this requirement and gives child welfare agencies the flexibility to work with parents who have a child in foster care beyond the 15 month period, including parents with disabilities.⁸¹ Exceptions to the termination of parental rights requirement include situations where: (1) at the state’s discretion, the child is being cared for by a relative; (2) there is a compelling reason for determining that filing the petition would not be in the best interests of the child; or (3) the state, when reasonable efforts are to be made, has failed to provide such services deemed necessary for the safe return of the child to his or her home.⁸² As to number (3), a child welfare agency should provide the family of the child with the services necessary for the safe return of the child to the child’s home in a manner that meets the unique needs of the family. Failure to provide services, including services to address family members’ disability-related needs, could qualify as an exception to the termination of parental rights requirement. Decisions about

whether this exception applies to a situation in which the supports necessary for a person with a disability to access services were not provided should be made on a case-by-case basis.

Given the responsibilities of agencies discussed above, we also recommend that courts consider whether parents and prospective parents with disabilities have been afforded an equal opportunity to attain reunification, including whether they have been provided with appropriate services and supports and other reasonable modifications to enable them to participate fully and meaningfully in family preservation efforts. Additionally, we suggest that courts consider whether any reasonable modifications are necessary and should be made for parents with disabilities. We also recommend that courts consider evidence concerning the manner in which the use of adaptive equipment or supportive services may enable a parent with disabilities to carry out the responsibilities of parenting.

Foster care and adoption agencies must also ensure that qualified foster parents and prospective parents with disabilities are provided opportunities to participate in foster care and adoption programs equal to opportunities that agencies provide to individuals without disabilities.⁸³ This may require foster care and adoption agencies to reasonably modify policies, practices, and procedures, where necessary to avoid discrimination on the basis of disability. For example, an adoption agency may be required to provide large print and electronically accessible adoption materials to accommodate the known needs of a visually impaired adoption program applicant.

10. When a child welfare agency or court provides or requires an assessment of a parent during the processing of the child welfare case, what do Title II and Section 504 require regarding the assessment?

Answer: Title II and Section 504 require that assessments be individualized.⁸⁴ An individualized assessment is a fact-specific inquiry that evaluates the strengths, needs, and capabilities of a particular person with disabilities based on objective evidence, personal circumstances, demonstrated competencies, and other factors that are divorced from generalizations and stereotypes regarding people with disabilities. Child welfare agencies and courts may also be required to provide reasonable modifications to their policies, practices, or procedures and/or appropriate auxiliary aids and services during assessments to ensure equal opportunities for individuals with disabilities. For example, a child welfare agency or court may be required to provide a qualified sign language interpreter to accommodate an individual with a communication disability during an evaluation to ensure an accurate assessment.

11. How does the equal opportunity requirement apply to case planning activities of child welfare agencies?

Answer: The equal opportunity requirement applies throughout the continuum of a child welfare case, including case planning activities. In many instances, providing the same services and resources to an individual with a disability that are provided to individuals without disabilities will not be sufficient to provide an equal opportunity to an individual with a disability. Where this is the case, Title II and Section 504 may require agencies to provide additional, individually tailored services and resources to meet the requirement to provide an equal opportunity to participate in and benefit from the program. For example, when providing training to parents, agencies should consider the individual learning techniques of persons with disabilities and may need to incorporate the use of visual modeling or other individualized techniques to ensure equal opportunity to participate in and benefit from the training.

Staff should consider whether the agency is appropriately assisting family members in meeting service plan tasks and case goals, and whether modifications must be made. For example, if parenting training is not working, staff should evaluate whether there are any unnecessary barriers to the training that could be removed or reasonably modified, such as increased opportunities for modeling behavior. Agencies should also ensure that staff members develop appropriate service plan tasks and goals that address the individualized needs of all affected family members with disabilities, recognizing that allowing parents with disabilities to use family members as part of their support network may be appropriate.

12. Is an agency required to arrange for services to parents and prospective parents with disabilities that are necessary to avoid discrimination but are not available within the agency's programs?

Child welfare agencies may be required to modify their own services, or, when necessary, to arrange for services outside of the agency, in order to ensure equal opportunity for parents and prospective parents with disabilities under Title II and Section 504.

Answer: In addition to providing to parents with disabilities all reunification services that it provides to parents without disabilities, a child welfare agency may be required, under Title II and Section 504, to arrange for available services from sources outside of the agency as a reasonable modification of its procedures and practices for parents with disabilities so long as doing so would not constitute a fundamental alteration. Arranging for such services from outside sources may be necessary to provide an

equal opportunity to participate in and benefit from the agency's programs. Many specialized

services to support persons with disabilities are often available from other social service agencies, as well as disability organizations. For example, for a person with a mental health disability, mental health services and supports, such as supportive housing, peer supports, assertive community treatment, and other community-based supports are often available from mental health service agencies. Child welfare agencies should coordinate with such agencies and organizations to ensure that parents and prospective parents with disabilities receive the most complete set of support services possible, and also to ensure that reunification and other services are specifically tailored to their needs.⁸⁵ This requirement does not change an entity's responsibility to make available those reunification services provided to parents without disabilities or to reasonably modify them to provide equal opportunity.

13. Are child welfare agencies and courts permitted to impose a surcharge on persons with disabilities for the provision of reasonable modifications or auxiliary aids and services?

Answer: No. Title II prohibits the imposition of surcharges to cover the costs of measures required to provide an individual with nondiscriminatory treatment.⁸⁶ For example, child welfare agencies and courts may not charge persons with disabilities for any costs associated with providing effective communication during visitation, meetings, and court hearings, and may be required to provide transportation to accessible facilities when needed to fulfill their program access obligations.

14. Child welfare agencies have an obligation to ensure the health and safety of children. How can agencies comply with the ADA and Section 504 while also ensuring health and safety?

Answer: Under child welfare law, child welfare agencies must make decisions to protect the safety of children. The ADA and Section 504 are consistent with the principle of child safety. For example, the ADA explicitly makes an exception where an individual with a disability represents a "direct threat."⁸⁷ Section 504 incorporates a similar principle.⁸⁸

Under the ADA and Section 504, a direct threat is a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.⁸⁹ In determining whether an individual poses a direct threat to the health or safety of a child or others, child welfare agencies and courts must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain the nature, duration, and severity of the risk to the child; the probability that the potential injury to the child will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk.⁹⁰

As such, in some cases an individual with a disability may not be a qualified individual with a disability for child placement purposes. What both the ADA and Section 504 require, however, is that decisions about child safety and whether a parent, prospective parent, or foster parent represents a direct threat to the safety of the child must be based on an individualized assessment and objective facts and may not be based on stereotypes or generalizations about persons with disabilities.⁹¹

15. What are some other best practices for child welfare agencies and courts?

Answer: We recommend that child welfare agencies and courts review and update their policies and procedures on a regular basis to ensure that they comply with the ADA and Section 504. We recommend that child welfare agencies and courts also ensure that their employees and contractors are sufficiently trained in ADA and Section 504 compliance. In addition, we recommend that they look for ways to coordinate with disability organizations and agencies to assist in service planning and to support them in their efforts to ensure equal opportunity for parents and prospective parents with disabilities.

How can aggrieved persons file a complaint?

16. What can individuals do when they believe they have been subjected to discrimination in violation of Title II or Section 504?

Answer: An aggrieved person may raise a Title II or Section 504 claim in child welfare proceedings. Additionally, subject to certain limitations, an aggrieved person may pursue a complaint regarding discrimination in child welfare services, programs, or activities under Title II or Section 504 in federal court.⁹²

Aggrieved individuals may also file complaints with HHS and DOJ. HHS and DOJ also have authority to initiate compliance review investigations of child welfare agencies and courts with or without receiving a complaint. If an investigation of a complaint or a compliance review reveals a violation, HHS or DOJ may issue letters of findings and initiate resolution efforts.⁹³ DOJ may initiate litigation when it finds that a child welfare agency or court is not in compliance with Title II. HHS may also refer cases to DOJ for litigation where a violation is found and is not voluntarily resolved.⁹⁴

Title II and Section 504 allow for declaratory and injunctive relief, such as an order from a court finding a violation and requiring the provision of reasonable modifications. Title II and Section 504

also allow for compensatory damages for aggrieved individuals. Individuals who prevail as parties in litigation may also obtain reasonable attorney's fees, costs, and litigation expenses.⁹⁵

Under Section 504, remedies also include suspension and termination of Federal financial assistance, the use of cautionary language or attachment of special conditions when awarding Federal financial assistance, and bypassing recalcitrant agencies and providing Federal financial assistance directly to sub-recipients.⁹⁶

Additional Resources

For more information about the ADA and Section 504, you may call the DOJ's toll-free ADA information line at 800-514-0301 or 800-514-0383 (TDD), or access its ADA website at www.ada.gov. For more information about the responsibilities of child welfare agencies under the ADA and Rehabilitation Act, see "DOJ/HHS Joint Letter to Massachusetts Department of Children and Families," at www.ada.gov/new.htm. For more information about Title II of the ADA, including the Title II Technical Assistance Manual and Revised ADA Requirements: Effective Communication, see www.ada.gov/ta-pubs-pg2.htm.

Information about filing an ADA or Section 504 complaint with DOJ can be found at www.ada.gov/filing_complaint.htm. Individuals who believe they have been aggrieved under Title II or Section 504 should file complaints at the earliest opportunity.

You can also file a Section 504 or Title II ADA complaint with OCR at <http://www.hhs.gov/ocr/civilrights/complaints/index.html>.

General information about civil rights and child welfare issues can be found at: <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/adoption/index.html>.

For information about ACF's Children Bureau, please visit: <http://www.acf.hhs.gov/programs/cb>.

For ACF and OCR regional offices, please visit:

- <http://www.acf.hhs.gov/programs/oro>
- <http://www.hhs.gov/ocr/office/about/rgn-hqaddresses.html>

Duplication of this document is encouraged.

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1 The term “parents” includes biological, foster, and adoptive parents. It also includes caretakers such as legal guardians or relatives.

Prospective parents include individuals who are seeking to become foster or adoptive parents.

2 29 U.S.C. § 794.

3 42 U.S.C. §§ 12131-12134.

4 Children with disabilities also have nondiscrimination protections under Section 504 and Title II of the ADA, but the focus of this technical assistance is on parents and prospective parents with disabilities.

5 Letter from the U.S. Department of Justice, Civil Rights Division and U.S. Department of Health and Human Services, Office for Civil Rights to the Massachusetts Department of Children and Families (Jan. 29, 2015), at www.ada.gov/ma_docf_lof.pdf and www.hhs.gov/ocr/civilrights/activities/examples/Disability/mass_lof.pdf (Massachusetts Department of Children and Families).

6 National Council on Disability, *Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and Their Children* at 14, 18 (2012), at www.ncd.gov/publications/2012/Sep272012/.

7 *Id.* at 114, 122-26.

8 *Id.* at 92-93.

9 *Id.* at 194-199.

10 *Id.* at 114.

11 *Id.* at 125-26.

12 42 U.S.C. § 12132.

13 42 U.S.C. § 12131(1)(A), (B); *see also, e.g.*, 28 C.F.R. § 35.130(b)(1) (prohibiting disability discrimination directly or through contractual, licensing, or other arrangements), 35.130(b)(3) (prohibiting methods of administration that have a discriminatory effect). Private entities involved in the child welfare system may also be independently covered by Title III of the ADA, 42 U.S.C. §§ 12181-12189.

[14](#) 29 U.S.C. § 794(a).

[15](#) See, e.g., 28 C.F.R. § 42.105; 45 C.F.R. § 84.5.

[16](#) See *Grove City College v. Bell*, 465 U.S. 555, 564 (1984).

[17](#) 29 U.S.C. § 794(b).

[18](#) See, e.g., 45 C.F.R. § 84.5.

[19](#) See 28 C.F.R. § 35.130(b)(3); 45 C.F.R. § 84.4(b)(4);); see also 28 C.F.R. § 42.503(b)(3).

[20](#) See, e.g., 28 C.F.R. § 35.130(b); see also 28 C.F.R. pt. 35, App. B (explaining in the 1991 Section-by-Section guidance to the Title II regulation that, “[t]aken together, the[] provisions [in 28 C.F.R. § 35.130(b)] are intended to prohibit exclusion . . . of individuals with disabilities and the denial of equal opportunities enjoyed by others, based on, among other things, presumptions, patronizing attitudes, fears, and stereotypes about individuals with disabilities. Consistent with these standards, public entities are required to ensure that their actions are based on facts applicable to individuals and not presumptions as to what a class of individuals with disabilities can or cannot do.”); *School Bd. of Nassau County v. Arline*, 480 U.S. 273, 285 (1987).

[21](#) See, e.g., *id.*

[22](#) See 28 C.F.R. §§ 35.130(b)(1)(ii)-(iv), (vii), (b)(7); 45 C.F.R. § 84.4(b)(1)(ii)-(iii); see also 28 C.F.R. § 42.503(b)(1)(ii), (iii).

[23](#) See, e.g., 28 C.F.R. § 35.130(b)(1)(ii)-(iv).

[24](#) *Id.*; see also *Alexander v. Choate*, 469 U.S. 287 (1985).

[25](#) 28 C.F.R. §§ 35.149-151, 160-164; 45 C.F.R. §§ 84.21-23, 84.52(d); see also 28 C.F.R. §§ 42.503(e), (f), 42.520-522.

[26](#) See 45 C.F.R. §§ 84.12(a), 84.22(a) and (f), and 84.52(d); and 28 C.F.R. § 35.130(b)(7).

[27](#) 28 C.F.R. § 35.139(a)-(b); *Arline*, 273 U.S. at 287.

[28](#) 28 C.F.R. § 35.139(b); *Arline*, 273 U.S. at 288.

29 28 C.F.R. § 35.139(b); *Arline*, 273 U.S. at 288.

30 See 28 C.F.R. § 35.130(h).

31 42 U.S.C. § 12132.

32 29 U.S.C. § 794(a).

33 42 U.S.C. § 12132; 29 U.S.C. § 794(a); 28 C.F.R. § 35.130(a); 45 C.F.R. § 84.4(a).

34 *Choate*, 469 U.S. 287.

35 28 C.F.R. § 35.150(a); 45 C.F.R. § 84.22(a).

36 28 C.F.R. § 35.130(b)(1)(ii); 45 C.F.R. § 84.4(b)(1)(ii);

37 28 C.F.R. § 35.130(b)(3); 45 C.F.R. § 84.4(b)(4).

38 28 C.F.R. § 35.130(b)(7); *Choate*, 469 U.S. at 301.

39 28 C.F.R. § 35.160(a)(1); see also 45 C.F.R. § 84.52(d) (requiring health and social services entities to provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question).

40 42 U.S.C. § 12132; 29 U.S.C. § 794(a).

41 42 U.S.C. § 12102(1), (2)(A); 29 U.S.C. § 705(9)(B).

42 42 U.S.C. § 12102(2)(B).

43 42 U.S.C. § 12102(4)(A); 29 U.S.C. § 705(9)(B).

44 42 U.S.C. § 12102(4)(E)(i); 29 U.S.C. § 705(9)(B); see also Equal Employment Opportunity Commission, Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008, at www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm.

45 42 U.S.C. § 12102(2)(1)(B)-(C); 29 U.S.C. § 705(9)(B). The ADA Amendments Act of 2008 amended the definition of disability for Titles I, II, and III of the ADA as well as Section 504. Pub. L. No. 110 - 325, 122 Stat. 3553 (2008). For a discussion of the United States Department of Justice's (DOJ's) interpretation of the changes to the definition, see

DOJ's Notice of Proposed Rulemaking to Implement ADA Amendments

Act of 2008, 79 Fed. Reg. 4839 (January 30, 2014). See also Equal Employment Opportunity Commission, Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008, at www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm.

46 42 U.S.C. § 12210(a); 29 U.S.C. § 794(d).

47 42 U.S.C. § 12210(b)(1)-(2); 29 U.S.C. § 794(d).

48 42 U.S.C. § 12131(1); 28 C.F.R. § 35.104; see also 45 C.F.R. § 84.3(l)(4) (defining "qualified handicapped person" under HHS' Section 504 regulation).

49 For a discussion of a "qualified individual with a disability," see discussion *supra* at Q&A 2.

50 28 C.F.R. § 35.130(g); 28 C.F.R. pt. 35, App. B.

51 28 C.F.R. § 35.160(a)(2).

52 28 C.F.R. § 35.160(a)(1); 28 C.F.R. pt. 35, App. A., Subpt. E (2010).

53 42 U.S.C. § 12203; 28 C.F.R. § 35.134; 45 C.F.R. § 84.61; 45 C.F.R. § 80.7(e).

54 See *Pa. Dep't. of Corrs. v. Yeskey*, 524 U.S. 206, 209-12 (1998) (discussing the breadth of Title II's coverage).

55 See 29 U.S.C. § 794(b)(1)(A), (B).

56 See 28 C.F.R. §§ 35.130(b)(1), (3), 42.503(b)(1), (3); 45 C.F.R. § 84.4(b)(1), (4).

57 See *Yeskey*, 524 U.S. at 209-12 (discussing the breadth of Title II's coverage); cf. *Shelley v. Kraemer*, 334 U.S. 1 (1948) (finding judicial enforcement of racially discriminatory restrictive covenants state action in violation of the Fourteenth Amendment). See also 28 C.F.R. § 35.190(b)(6) (designating to the DOJ responsibility for investigation of complaints and compliance reviews of "[a]ll programs, services, and regulatory activities relating to . . . the administration of justice, including courts.").

58 29 U.S.C. § 794; see *U.S. Dep't of Transp. v. Paralyzed Veterans of America*, 477 U.S. 597, 600 n.4 (1986). We also remind judges and court personnel of their obligations under the [American Bar Association, Model Code of Judicial Conduct, Rule 2.3 \(b\)](#) that states: "A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, . . . and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so."

59 See 28 C.F.R. § 35.130; 45 C.F.R. § 84.4; see also 28 C.F.R. § 42.503.

60 28 C.F.R. § 35.160-.164; 45 C.F.R. § 84.52(d); see also 28 C.F.R. § 42.503(f).

61 28 C.F.R. § 35.130(b)(7); see also *Choate*, 469 U.S. at 304-06.

62 In addition, advocacy organizations, such as those within the Protection and Advocacy system, may provide assistance to individuals with disabilities when they become involved with the child welfare system.

63 See 28 C.F.R. § 35.130(b)(7), 35.160-.164; see also *Choate*, 469 U.S. at 300-309.

64 See 28 C.F.R. § 35.130(b)(1), (3).

65 29 U.S.C. § 794(a); 45 C.F.R. §§ 84.3(h); 84.4(b)(1), (4).

66 Private entities involved in child welfare activities may also be public accommodations with their own nondiscrimination obligations under Title III of the ADA. See 42 U.S.C. §§ 12181-12189 (Title III of the ADA).

67 See 28 C.F.R. § 35.130(b)(7); 45 C.F.R. § 84.22(a). A fundamental alteration can be a change that is so significant that it alters the essential nature of the public entity's service, program, or activity. *Id.*; cf. U.S. Dep't of Justice, ADA Title III Technical Assistance Manual Covering Public Accommodations and Commercial Facilities § III-4.3600 (discussing a fundamental alteration as a modification that is so

significant it alters the essential nature of services, privileges, and accommodations). A fundamental alteration is necessarily highly fact-specific. Child welfare entities have the burden of establishing that a proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens. A public entity still must take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the public entity.

[68](#) 28 C.F.R. § 35.160; 45 C.F.R. § 84.52(d).

[69](#) 42 U.S.C. § 12103(1); 28 C.F.R. § 35.104.

[70](#) 28 C.F.R. § 35.160(b)(2). For further information on ensuring effective communication, see U.S. Dep't of Justice, ADA Requirements: Effective Communication (Jan. 31, 2014), at www.ada.gov/effective-comm.htm; see also U.S. Dep't of Justice and U.S. Dep't of Educ., Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools (2015), at www.ada.gov/doe_doj_eff_comm/doe_doj_eff_comm_faqs.pdf.

[71](#) 28 C.F.R. § 35.160(b)(2).

[72](#) 28 C.F.R. §§ 35.160(b)(2); 35.164.

[73](#) See *supra* footnote 70.

[74](#) 28 C.F.R. § 35.160(b)(2).

[75](#) 28 C.F.R. § 35.160(c)(1).

[76](#) 28 C.F.R. § 35.160(c)(2)(i), (3).

[77](#) 28 C.F.R. § 35.160(c)(2)(ii).

[78](#) See 28 C.F.R. § 35.130(f).

[79](#) 28 C.F.R. § 35.130(b)(1)(ii); 45 C.F.R. §§ 84.4(b)(1)(ii), 84.52(a)(2).

[80](#) "Family preservation services" are services for children and families to protect children from harm and to help families at risk or in crisis. 42

U.S.C. § 629a(a)(1); 45 C.F.R. § 1357.10(c). "Family support services" are community-based services to promote the safety and well-being of children and families, to increase the strength and stability of families in various ways, and to enhance child development. 42 U.S.C. § 629a (a)(2); 45 C.F.R. § 1357.10(c).

[81](#) 42 U.S.C. § 675(5)(E); 45 C.F.R. § 1356.21(i).

[82](#) 42 U.S.C. § 675(5)(E)(i)-(iii); 45 C.F.R. § 1356.21(i)(2)(i)-(iii).

[83](#) 42 U.S.C. § 12132; 29 U.S.C. § 794(a); 28 C.F.R. pt. 35 (Title II); 28 C.F.R. pt. 42, subpt. G (DOJ Section 504 regulation); 45 C.F.R. pt. 84 (HHS Section 504 regulation).

[84](#) See 28 C.F.R. pt. 35, App. B; cf. *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 690 (2001) (explaining that an individualized inquiry is among the ADA's most "basic requirement[s]").

[85](#) See 28 C.F.R. § 35.130(b)(1)(i)-(iv), (b)(7).

[86](#) See 28 C.F.R. § 35.130(f).

[87](#) 28 C.F.R. § 35.139.

[88](#) See *Arline*, 480 U.S. 273.

[89](#) 28 C.F.R. § 35.139(b).

[90](#) *Id.*

[91](#) See 28 C.F.R. § 35.139.

[92](#) See 28 C.F.R. §§ 35.170-172; 45 C.F.R. § 84.61; see also 28 C.F.R. § 42.530. In addition, child welfare agencies and courts that employ 50 or more persons are required to have grievance procedures for prompt and equitable resolution of complaints alleging actions prohibited by Title II and Section 504. 28 C.F.R. § 35.107; 45 C.F.R. § 84.6; see also 28 C.F.R. § 42.505.

[93](#) 28 C.F.R. §§ 35.172(c), 35.173; 45 C.F.R. § 84.61; see also 28 C.F.R. § 42.530.

[94](#) 28 C.F.R. § 35.174; 45 C.F.R. § 84.61.

[95](#) 42 U.S.C. § 12205; 29 U.S.C. § 794a(b); 28 C.F.R. § 35.175.

[96](#) See 42 U.S.C. § 2000d-1.

The Americans with Disabilities Act authorizes the Department of Justice (the Department) to provide technical assistance to individuals and entities that have rights or responsibilities under the Act. This document provides informal guidance to assist you in understanding the ADA and the Department's regulations.

This guidance document is not intended to be a final agency action, has no legally binding effect, and may be rescinded or modified in the Department's complete discretion, in accordance with applicable laws. The Department's guidance documents, including this guidance, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.



The Judiciary, State of Hawai'i

**Testimony to the Thirty-First Legislature
2022 Regular Session**

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Friday, February 18, 2022, 9:30 a.m.
State Capitol, Via Videoconference

by
Jasmine Mau-Mukai
Statewide Director, Children's Justice Centers of Hawai'i

Bill No. and Title: Senate Bill No. 2114, Relating to Children's Justice Program.

Purpose: Updates the purpose of the Children's Justice Program.

Judiciary's Position:

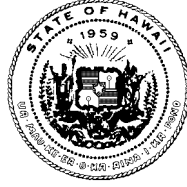
The Hawai'i State Judiciary is in strong support of Senate Bill No. 2114, Relating to the Children's Justice Program.

The Children's Justice Program was established within the Hawai'i State Judiciary to ensure a fair and neutral process for the handling of reports of alleged child sexual abuse that protects the rights of both victims and alleged perpetrators. The Program operates children's justice centers, ("The Children's Justice Center," "CJC," or "Center"), statewide, where specially-trained professionals conduct forensic interviews of child victims and witnesses in a safe and neutral setting.

Since its establishment, CJC's operations have expanded to include cases involving child abuse or neglect, generally, and child witnesses. Its current priorities are for cases involving: (1) sexual abuse of a child; (2) serious physical child abuse; (3) child sex trafficking/commercial sexual exploitation of children; (4) other child maltreatment; and (5) children who are witnesses to crime or violence. This bill proposes amendments to reflect these updated priorities.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 15, 2022

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Cathy Betts, Director

SUBJECT: SB 2114 – RELATING TO THE CHILDREN'S JUSTICE PROGRAM.

HEARING: Friday, February 18, 2022, 9:30am
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this bill.

PURPOSE: The purpose of this bill is to update the purpose of the Children's Justice Program to include investigation and management of cases involving suspected or confirmed child sex trafficking, commercial sexual exploitation of children, other child maltreatment, and child witnesses to crime or violence.

The continued collaboration with the Judiciary's Children's Justice Centers (CJC) is crucial for DHS Child Welfare Services (CWS) Branch to ensure children's well-being and safety. CWS has a working agreement with the Children's Justice Program to conduct joint interviews, whenever possible at the Children's Justice Center (CJC), in cases of intrafamilial child sex abuse, sexual exploitation of a child, and serious physical child abuse. The purposes of this coordinated investigative interview are to ensure that the child is seen and assessed in a timely manner, in a child-friendly environment, by a trained team member who will gather the necessary information and minimize the number of interviews the child undergoes to reduce any re-traumatization of the child while involved in the child welfare and or criminal justice systems.

CWS protocols are currently in place to ensure that child victims of sex trafficking, commercial sex exploitation, and child abuse or neglect are immediately identified, assessed, and provided with appropriate services and protections, regardless of parental abuse or neglect. In addition, DHS has a contracted provider that provides statewide victim-centered, trauma-informed, comprehensive services that are individualized and responsive to the needs, values, culture, and gender identity of child victims of all forms of human trafficking.

The CJs, located statewide, also coordinate multidisciplinary team meetings; DHS and its contracted provider participate in these team meetings. The primary purposes of these meetings are to discuss case planning and implementation of coordinated services for the child victims of sex trafficking and serious physical child abuse cases.

The updated priorities of the Children's Justice Program to include all types of child abuse and neglect will ensure that the CJs are authorized to provide the same services to all child victims who are subject to harm or threatened harm with priority given to sexual abuse or sexual exploitation of a child, serious physical child abuse, child trafficking, and cases involving child witnesses.

Thank you for the opportunity to provide testimony in support of this bill.

Rebecca Like
Acting Prosecuting Attorney

Jennifer S. Winn
Acting First Deputy

Leon J. C. Davenport, III
Acting Second Deputy



Diana Gausepohl-White
Victim/Witness Program Director

Theresa Koki
Life's Choices Kaua'i Program
Prevention Services Coordinator

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Līhu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

February 14, 2022

RE: SB 2114; RELATING TO THE CHILDREN'S JUSTICE PROGRAM

Chair Rhoads, Vice-Chair Keohokalole and members of the Senate Committee on the Judiciary, the Office of the Prosecuting Attorney of the County of Kauai ("OPA") submits the following testimony in support of S.B. 2114.

This Bill amends the Children's Justice Program's statute, HRS 588:

1) Definitions to include sexual exploitation, serious physical abuse, child witnesses to crime and child trafficking;

As a partner agency of the Children's Justice Centers, we work in collaboration to meet the special needs of children who are alleged victims of child abuse or witnesses to crime. This change to the Children's Justice Program statute will allow our office to better serve child victims and witnesses.

In closing, we are in strong support of SB 2114 and ask for your assistance in its passing during this legislative session.

For these reasons, the Office of the Prosecuting Attorney of the County of Kauai supports the passage of S.B. 2114. Thank you for the opportunity to testify on this matter.

SB-2114

Submitted on: 2/14/2022 2:01:58 PM

Testimony for JDC on 2/18/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Diana Gausepohl-White	Testifying for County of Kauai Victim/Witness Program	Support	No

Comments:

I strongly support SB2114 which expands the types of victimization of children who will receive assistance at the Children's Justice Center. Our two agencies have a well established relationship and collaborate effectively in serving child victims and witnesses.

I respectfully ask that your Committee PASS the Bill. Thank you for your time in this matter.

SB-2114

Submitted on: 2/15/2022 2:20:14 PM

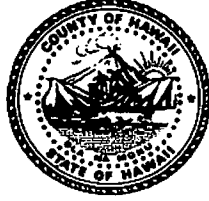
Testimony for JDC on 2/18/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Vince Legaspi	Testifying for Honolulu Police Department	Support	No

Comments:

This is Lieutenant Vince Legaspi with HPD, Sex Crimes Detail. The Childrens Justice Center has always provided the facilities and support to juvenile victims of sex assault and physical abuse. The Children's Justice Center is the ideal location/atmosphere in interviewing juvenile victim/witnesses being the interview room are decorated like a normal room in a huge house. The Children's Justice Center is even located above a preschool. It's a place where SATC counselors, CPS social workers, CJC staff meet prior to the schedule interviews who gives support to the victim/s as well as the family members. Children's are little adults with different needs that the center specializes in. The Children's Justice Center is not just victim centered but Children Centered. Sex trafficking, child maltreatment and child witnesses to crime of violence should be handled with much care and sensitivity which the center provides.

Harry Kim
Mayor



Paul K. Ferreira
Police Chief

Kenneth Bugado Jr.
Deputy Police Chief

County of Hawai'i

POLICE DEPARTMENT
349 Kapi'olani Street • Hilo, Hawai'i 96720-3998
(808) 935-3311 • Fax (808) 961-2389

LATE

February 16, 2022

Senator Karl Rhoads
Committee on Judiciary
415 South Beretania Street, Room 204
Honolulu, Hawai'i 96813

RE: HOUSE BILL 1537, RELATING TO THE CHILDREN'S JUSTICE PROGRAM

Dear Senator Rhoads:

The Hawai'i Police Department **supports House Bill 1537**, with its purpose to amend the Children's Justice Program's statute, HRS 588 by including definitions of sexual exploitation, serious physical abuse, child witnesses to crime and child trafficking.

As a partner agency of the Children's Justice Centers, we work in collaboration to meet the special needs of children who are alleged victims of child abuse or witnesses to crime.

In closing, we are in strong support of HB 1537 and ask for your assistance in its passing during this legislative session.

Thank you for allowing the Hawai'i Police Department to provide comments relating to House Bill 1537.

Sincerely,

Kenneth Bugado, Jr.

for

PAUL K. FERREIRA
POLICE CHIEF



Written Testimony to the Legislature

HOUSE OF REPRESENTATIVES
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2022

February 14, 2022

To: SENATE JUDICIARY COMMITTEE
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Subject: SB 2114, Relating to the Children's Justice Program (also known as the Children's Justice Centers of Hawaii).

Hearing Date, Time & Location: Friday, February 18, 2022, 9:30am via video conference

My name is Jenna Tomas from Friends of the Children's Justice Center of Oahu.
We are in favor of SB 2114.

This Bill amends the Children's Justice Program's statute, HRS 588:

1) Definitions to include sexual exploitation, serious physical abuse, child witnesses to crime and child trafficking;

As a partner agency of the Children's Justice Centers, we work in collaboration to meet the special needs of children who are alleged victims of child abuse or witnesses to crime.

In closing, we are in strong support of SB 2114 and ask for your assistance in its passing during this legislative session.

Jenna Tomas, Executive Director
Friends of the Children's Justice Center of Oahu
(808) 445-1873
3019 Pali Hwy. Honolulu, HI 96817



February 14, 2022

To: The Senate Committee on Judiciary

Subject: SB #2114, Relating to the Children's Justice Program

Hearing Date, Time & Location: Friday, February 18, 2022, 9:30 a.m., VIA VIDEOCONFERENCE

My name is Guy Nishihira, Board Treasurer of the Friends of the Children's Justice Center of Oahu.

We are in favor of SB #2114.

This Bill amends the Children's Justice Program's statute, HRS 588:

1) Updates the purpose of the Children's Justice Program to include investigation and management of cases involving suspected or confirmed child trafficking, commercial sexual exploitation or children, other child maltreatment, and child witnesses to crime or violence.

As a partner agency of the Children's Justice Centers, we work in collaboration to meet the special needs of children who are alleged victims of child abuse or witnesses to crime.

In closing, we are in strong support of SB #2114 and ask for your assistance in its passing during this legislative session.

Sincerely,

Guy Nishihira
Board Treasurer
Friends of the Children's Justice Center of Oahu

745 Fort Street, Suite 2100
Honolulu, HI 96813
Phone: 808-695-3611

February 15, 2022

To: Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Members of the Committee on Judiciary

Subject: SB #2114 Relating to the Children's Justice Program (also known as the Children's Justice Centers of Hawai'i)

Hearing Date: February 18, 2022

Hearing Time: 9:30 am

My name is Stefani Iwami from YWCA of Kaua'i. This agency provides a multitude of services to advocate for, support and treat families who are affected by interpersonal violence; this includes acts of sexual exploitation, serious physical abuse, child witnesses to crime and child trafficking. We are in favor of SB #2114.

This Bill amends the Children's Justice Program's statute, HRS 588:

- 1) Definitions to include sexual exploitation, serious physical abuse, child witnesses to crime and child trafficking.

The YWCA of Kaua'i is a partner agency of the Children's Justice Center. We take a multidisciplinary approach to support alleged victims of various types of child abuse. The clarification of 'child abuse' to include the sexual exploitation, trafficking, serious physical abuse and exposure to a crime as an abusive act of a child is imperative. The inclusion of these acts in the definition of child abuse will help our ability to meet the needs of children who experience these heinous acts in our coordinated response. Most importantly, clarifying the definition of child abuse will allow professionals and our general public alike to have the same understanding of what child abuse encompasses and will contribute to stop child abuse from occurring.

In closing, the YWCA of Kaua'i is strongly in favor of SB #2114 and asks for your assistance in passing this bill during this legislative session.



Stefani Iwami
Clinical Director
YWCA of Kaua'i
3094 Elua Street
Lihu'e, HI 96766
(808) 245-5959, ext. 243



HALE KIPA

February 14, 2022

TO: Committee on Judiciary, Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

FROM: Jaque Kelley-Uyeoka, Deputy CEO - Hale Kipa

Subject: SB2114: RELATING TO THE CHILDREN'S JUSTICE PROGRAM

IN SUPPORT

Aloha,

Thank you for allowing Hale Kipa to testify regarding the updates to the use of the Children's Justice Program. Hale Kipa often works with youth who have alleged or confirmed abuse, ranging from physical, to familial or commercial sexual exploitation in many of its programs as we provide shelter, case management, and outreach to these young people. Many of these children and youth have needed and used the services of the Children's Justice Centers/Programs on each island. Hale Kipa is in full support of updating the purposes of the Justice Center to ensure that they can fully respond to youth who have experienced child sex trafficking, exploitation or any other maltreatment including exposure to violence or crimes. The Center's services have helped to seamlessly coordinate and provide trauma-informed approaches to these youth in hopes of lessening the amount of times the youth will need to share their experiences and any continued trauma that is associated with the process. Hale Kipa has always held their services in high regard and believes it meets a critical need.

Please pass this bill so that these youth will be served with dignity and care.

Aloha,

Jaque Kelley-Uyeoka, M.S.W.
Deputy CEO
Hale Kipa, Inc.

91-2128 Old Fort Weaver Road • 'Ewa Beach, HI 96706 • T 808.589.1829 • F 808.589.2610 • info@halekipa.org • www.halekipa.org

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Jaque Kelley-Uyeoka, Deputy CEO
Gwen Okamoto, CFO
Dori Tyau, Director of HR & Training

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Lanson Kupau

Zachary A. McNish
Jean Odo
Judy Pyle
Richard J. Sakoda
Zadoc W. Brown, Jr.
Neighbor Island Liaison



SB-2114

Submitted on: 2/16/2022 12:09:32 PM

Testimony for JDC on 2/18/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Heidi Teraoka	Testifying for Neighborhood Place of Kona	Support	No

Comments:

2/16/2022

To: Chair Nakashima, Vice Chair Matayoshi and Rep. Saiki

Members of the House Judiciary and Hawaiian Affairs Committee

Subject: SB # 2114, Relating to the Children’s Justice Program (also known as the Children’s Justice Centers of Hawaii).

My name is Heidi Teraoka from Neighborhood Place of Kona. **We are in favor of SB # 2114.** This Bill amends the Children’s Justice Program’s statute, HRS 588:

1) Definitions to include sexual exploitation, serious physical abuse, child witnesses to crime and child trafficking;

Neighborhood Place of Kona's mission is to ensure the well-being of children and families by promoting environments of peace and safety. As a partner agency of the Children’s Justice Centers, we work in collaboration to meet the special needs of children who are alleged victims of child abuse or witnesses to crime. We are in strong support of SB # 2114 and ask for your assistance in its passing during this legislative session.

Mahalo,

Heidi Teraoka

Neighborhood Place of Kona

75-166 Kalani St., #104

Kailua-Kona, Hawai'i 96740

(808) 331-8777



CATHOLIC CHARITIES HAWAII

**TESTIMONY IN SUPPORT OF SB 2114: RELATING TO THE
CHILDREN'S JUSTICE PROGRAM**

TO: Senate Committee on Judiciary

FROM: Rob Van Tassell, President and CEO, Catholic Charities Hawaii

Hearing: Friday, 2/18/22; 9:30 am; via videoconference

Chair Rhoads, Vice Chair Keohokalole, and Members, Committee on Judiciary:

Thank you for the opportunity to provide testimony **in strong support** of **SB 2114**, which updates the purpose of the Children's Justice Program to include investigation and management of cases involving suspected or confirmed child sex trafficking, commercial sexual exploitation of children, other child maltreatment, and child witnesses to crime or violence. I am Rob Van Tassell, with Catholic Charities Hawaii.

Catholic Charities Hawaii (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawaii for over 75 years. CCH has programs serving elders, children, families, homeless, and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawaii. Catholic Charities Hawaii has a long history of working in the areas of affordable housing and homelessness.

Catholic Charities Hawaii strongly supports this bill to amend the Children's Justice Program's statute, HRS 588. We support including definitions to include sexual exploitation, serious physical abuse, child witnesses to crime and child trafficking.

Catholic Charities Hawaii supports the Children's Justice Center's role in the community as a trusted partner in providing social justice and healing to children who experienced maltreatment in any form. Their expertise and ability to lead the community to protect children would do the same for the children who were trafficked that they have been doing for years for children who experienced sexual abuse, physical abuse and other forms of maltreatment. As a partner agency with the Center, we have seen their effectiveness over the years. This bill would enhance their ability to collaborate and meet the special needs of children impacted by sex trafficking and other sexual exploitation.

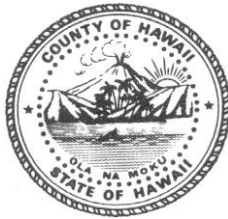
We urge your support for this bill and ask for your assistance in its passing during this legislative session.

Please contact our Legislative Liaison, Betty Lou Larson at (808) 373-0356 or alohabettylou@hotmail.com if you have any questions.



KELDEN B.A. WALTJEN
PROSECUTING ATTORNEY

STEPHEN L. FRYE
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FAX: (808) 887-3016

OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL 2114

A BILL FOR AN ACT RELATING TO THE CHILDREN'S JUSTICE CENTER PROGRAM

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Friday, February 18, 2022 at 9:30 a.m.
Via Videoconference

Honorable Chair Rhoads, Vice-Chair Keohokalole and Members of the Committee on Judiciary. The County of Hawai'i, Office of the Prosecuting Attorney submits the following testimony in support of Senate Bill 2114

This Bill amends the Children's Justice Program's statute, HRS 588 to include definitions of sexual exploitation, serious physical abuse, child witnesses to crime and child trafficking. These types of crimes have been investigated within our county for some time now, so it is more than appropriate to officially be included within this statute.

The Hawai'i County Office of the Prosecuting Attorney continues to work with multiple agencies including the Children's Justice Centers throughout the State in order to coordinate responses to crimes against children on a daily basis.

As a partner agency of the Children's Justice Centers, we work in collaboration to meet the special needs of children who are alleged victims of child abuse or witnesses to crime. Our Office remains committed to ensuring that services and assistance is provided to all children.

The County of Hawai'i, Office of the Prosecuting Attorney remains committed to the pursuit of justice with integrity and commitment. For the foregoing reasons, the, County of Hawai'i, Office of the Prosecuting Attorney Supports the passage of Senate Bill No. 2114. Thank you for the opportunity to testify on this matter.



TO: Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary

FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)

DATE/LOCATION: February 18, 2022; 9:30 a.m., Video Conference

RE: TESTIMONY IN SUPPORT OF SB 2114 RELATING TO THE CHILDREN'S JUSTICE PROGRAM

We support SB 2114 which updates the purpose of the children's justice program to include investigation and management of cases involving suspected or confirmed child sex trafficking, commercial sexual exploitation of children, other child maltreatment, and child witnesses to crime or violence, and makes conforming amendments.

Our agency has collaborated with the Children's Justice Centers on Maui and Oahu in supporting and providing integral services to children and families that have been impacted by child abuse, neglect, domestic violence, child sexual exploitation. The staff are excellent at bringing together community providers and facilitate impactful and focused multi-disciplinary meetings to support families and children with services that can assist them in healing from the trauma that they have experienced. This interagency coordination, information sharing, and gathering provides a needed safety net and identification of clear roles so each of us can best support the family without overwhelming them. The exchange of information assists families at every stage of recovery and throughout the often difficult and challenging process of navigating the criminal justice system.

We support the change in this bill that will add to the current purview of the children's justice program to include the investigation and management of cases involving suspected or confirmed child sex trafficking, commercial sexual exploitation of children, other child maltreatment, and child witnesses to crime or violence. As providers of services to victims and survivors of domestic violence, child abuse, and child sex trafficking, we work with the aftermath of the trauma that individuals who have experienced this type of violence live with every day. Survivors of abuse experience significant and life-long psychological, emotional, and physical

pain that impacts their ability to feel safe in their community, to lead lives without fear and anxiety, and to tell their story without shame.

The children's justice center has built a foundation of care – from investigation to case management – that supports a child fully as they tell their story of abuse, trauma, and pain. Survivors of trauma need a place where they feel safe, supported, and heard – a place where their story will not be lost, but honored and guided to justice. The CJC has been doing this work for years and will continue to be there for the children and families that walk through their doors to offer their support and hope and to give a voice to those that are often silenced.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to under-resourced families. Assisting more than 17,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 20 programs. Among its 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 strengthening programs.

Thank you for the opportunity to testify in **support of SB 2114**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

Testimony on behalf of the
Hawai'i Exploitation and Trafficking (HEAT) Unit

February 17, 2022

SUBJECT: SB2114 Relating to the Children's Justice Program

Dear Chair Rhoads and Committee Members:

We are submitting testimony in **SUPPORT** of SB2114. This bill appropriately expands the program's jurisdiction into suspected or confirmed cases of child sex trafficking, commercial sexual exploitation of children, other child maltreatment, and child witnesses to crime or violence.

The Hawai'i Exploitation and Trafficking (HEAT) Unit was started by Hawai'i County Councilmember Matt Kāneali'i-Kleinfelder and is attended by community organizations and government representatives concerned with sex trafficking.

The Children's Justice Center has been actively involved with our unit's work to more effectively deploy services to victims of exploitation and trafficking. If passed, this bill would reflect the wide variety of crimes against children that the Children's Justice Center multidisciplinary teams are already working on.

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

Mahalo,

Matt Kāneali'i-Kleinfelder

Councilmember
Hawai'i County District 5

Quiana Anastasio

Hawai'i Island Coalition Against
Human Trafficking

Evelyn "Kahea" Lee

Director
Special Projects & Community Collaborative
E Hiki Mai Ana (NEXT) LLC

Milleno Mavaega

Hawai'i Island Coalition Against
Human Trafficking

Rachelle Agrigado

Center Chief
East and West Hawai'i Family Guidance Centers,
State of Hawai'i Department of Health

Esau Fuaema

Hawai'i Island Coalition Against
Human Trafficking

Camille Maluo

Liaison
Hawai'i Exploitation and Trafficking Unit

Rosalina Mavaega

Hawai'i Island Coalition Against
Human Trafficking

Melody Stone

Hawai'i Island Coalition Against
Human Trafficking

St. Michael the Archangel Church

Kailua-Kona, Hawai'i

Rebecca Villegas

Councilmember
Hawai'i County District 7

SB-2114

Submitted on: 2/14/2022 11:50:50 AM

Testimony for JDC on 2/18/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dara Carlin, M.A.	Individual	Support	No

Comments:

Stand in Strong Support.

SB-2114

Submitted on: 2/15/2022 10:33:10 PM

Testimony for JDC on 2/18/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Johnnie-Mae L. Perry	Individual	Support	No

Comments:

STRONGLY SUPPORT SB 2114 Children's Justice Program

Johnnie-Mae L. Perry