

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony in SUPPORT of SB3237
RELATING TO CHILD WELFARE SERVICES

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HUMAN SERVICES

Hearing Date: February 3, 2022

Room Number: 225

1 **Department Position:** The Department of Health **SUPPORTS** this bill which can increase crisis
2 supports for youth.

3 **Department Testimony:** In 2021 there were over 500 outreach responses by Crisis Mobile
4 Outreach in the state of Hawaii. This does not account for the many outreach responses that were
5 diverted due to a lack of staff for the Crisis Mobile Outreach team. Additionally, these numbers
6 are significantly less (over 200 cases less) than pre-pandemic, suggesting that these numbers are
7 likely to increase again as the pandemic wanes. Youth and families accessing the Crisis Mobile
8 Outreach team require additional supports to successfully navigate mental health crises and
9 reduce Hawaii's use of out-of-home placement. A 2020 paper from the National Association of
10 State Mental Health Program Directors (NASMHPD) suggests that it is best practice for
11 behavioral health crisis care to include helping families establish long-term community and
12 mental health supports after crisis care
13 (<https://www.nasmhpd.org/sites/default/files/2020paper6.pdf>). Many states, including
14 Connecticut, Maryland, Massachusetts, New Jersey, Washington, and Wisconsin, among others,
15 have implemented these supports in part, or all, of the state. Results from New Jersey show a

1 reduced rate of out-of-home placements with increased used of the crisis response team
2 (https://www.nj.gov/dcf/childdata/continuous/Commissioners.Monthly.Report_1.22.pdf). Results
3 from a study of King County, Washington showed a savings of \$1 million for the county through
4 diversion of 81% of children hospitalized at local emergency departments
5 ([https://www.chdi.org/publications/reports/other/evaluation-connecticuts-mobile-crisis-
6 intervention-services/](https://www.chdi.org/publications/reports/other/evaluation-connecticuts-mobile-crisis-intervention-services/)). The passing of this bill would allow for the development of improved
7 crisis response supports for youth in the community, including helping families establish long-
8 term community and mental health supports after crisis care. This may help to reduce the need
9 for out-of-home placements such as foster care, and residential treatment. Crisis support would
10 also be available to support youth entering the foster care system, foster parents managing the
11 needs of traumatized youth, and adoptive parents managing long-terms effects of trauma. The
12 afore mention research also suggest that this bill could help to save money for the state by
13 reducing the use of emergency departments and first responders, who are currently needed to
14 manage the COVID-19 pandemic, among other medical emergencies, and are not specialized in
15 addressing mental health needs. These needs could better be addressed by a Crisis Mobile
16 Outreach team specifically trained in mental health crisis and support. Additionally, the used of
17 high-cost, restrictive placements, such as residential treatment, may be reduce as youth and
18 families are better connected to more preventative, less restrictive, in-home and outpatient
19 supports.

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21 **Offered Amendments:** None

1 **Fiscal Implications:** The Department of Health’s (Child and Adolescent Mental Health
2 Division) supports this measure if it does not impact the priorities identified in the Governor’s
3 Executive Budget Request for appropriations and personnel priorities. CAMHD needs additional
4 funding to provide the services described in this bill:

5 *The crisis mobile outreach team pilot program shall provide the following services:*

6 *(1) Crisis prevention with community collaboration and community program*
7 *development;*

8 *(2) Face-to—face intervention within one hour of a request for intervention;*

9 *(3) Crisis de-escalation and assessment; and (4) Stabilization of up to eight weeks*
10 *including:*

11 *(A) Connecting youths to community supports and services;*

12 *(B) In—home clinical support for youths and families;*

13 *(C) Connection with higher level support if determined necessary; and*

14 *(D) Collaboration with community partners and other state agencies.*

15 Thank you for the opportunity to provide testimony.

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

ON THE FOLLOWING MEASURE:

S.B. NO. 3237, RELATING TO CHILD WELFARE SERVICES.

BEFORE THE:

SENATE COMMITTEE ON HUMAN SERVICES

DATE: Thursday, February 3, 2022 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 225, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
James W. Walther, Deputy Attorney General, or
Lynne M. Youmans, Deputy Attorney General

Chair San Buenaventura and Members of the Committee:

The Department of the Attorney General supports the intent of this bill and provides the following comments:

This bill would (1) create a mandate that a family adopting a child or becoming a child's legal guardian would be subject to review or investigation "at any time and in any manner, place, and form" as a condition of receiving financial assistance payments to support the permanent placement of the child in that home (permanency assistance); (2) require the Department of Human Services (DHS) to report on the impact of expanding home visits to families receiving financial assistance following adoption or guardianship; (3) create a crisis mobile outreach team pilot program in the Department of Health (DOH); and (4) appropriate funds for positions and support for the DOH crisis mobile outreach team, and for DHS to provide home-visits to families receiving permanency assistance, and to recruit and retain social workers.

Sections 2 and 3 of the bill, page 5, line 14, to page 6, line 15, conditions receipt of permanency assistance on a recipient family being subject to review or investigation "at any time and in a manner, place, and form as prescribed by [DHS] or its authorized agents." See page 6, lines 12-15. This appears to grant additional authority for DHS to conduct investigations and may conflict with parents' constitutional rights to raise their children as acknowledged by the United States Supreme Court in cases recognizing parents' fundamental right to raise their children under the United States Constitution.

The protections of the United States Constitution, specifically the Fourth and Fourteenth Amendments, have been held to apply to child abuse and neglect investigations. See Wallis v. Spencer, 202 F.3d 1126 (9th Cir. 2000); Brokaw v. Mercer Cty., 235 F.3d 1000 (7th Cir. 2000); Gates v. Texas Dep't of Protective & Regulatory Services, 537 F.3d 404 (5th Cir. 2008); Kovacic v. Cuyahoga Cty. Dep't of Child. & Fam. Services, 724 F.3d 687 (6th Cir. 2013); Schulkers v. Kammer, 955 F.3d 520 (6th Cir. 2020). The protections include families who have adopted children. See Gates as referenced above. The protections limit investigators' ability to interview children without the consent of their parents and to enter a family home without consent. For that reason, the expansion of the investigatory powers of DHS to investigate families receiving permanency assistance, without cause, may be subject to constitutional challenge.

The constitutional issues may not be alleviated by conditioning of the power to investigate families on their receipt of permanency assistance. Sections 2 and 3 of the bill appear to link DHS's additional investigative authority to the receipt of permanency assistance, including the authority to commence an investigation without cause. There is a line of cases that have held that requiring recipients of cash public assistance like Temporary Assistance to Needy Families (TANF) to submit to suspicionless Fourth Amendment searches, specifically drug tests, without reasonable cause, was a violation of the United States Constitution. See Marchwinski v. Howard, 113 F. Supp. 2d 1134 (E.D. Mich. 2000), aff'd Marchwinski v. Howard, 319 F.3d 258 (6th Cir. 2003), Marchwinski v. Howard, 60 Fed. App. 601 (6th Cir. 2003); Lebron v. Wilkins, 820 F. Supp. 2d 1273, at 1279 (M.D. Fla. 2011). Applying that reasoning, the bill as currently drafted may be challenged as unconstitutional if the DHS were to conduct an investigation of a family without reasonable cause to suspect that a child has been harmed or is subject to threatened harm.

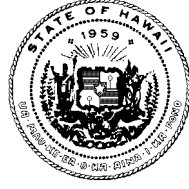
DHS currently has investigative authority over families and the children in their care, including families receiving permanency assistance, pursuant to chapters 350 and 587A, Hawaii Revised Statutes (HRS). DHS, upon the receipt of a report of suspected child abuse or neglect, can already conduct an investigation pursuant to their authority

under both of these chapters, regardless of the legal relationship between the child and the child's caretaker. DHS is also obligated to share reports of child abuse and neglect with the appropriate police department so a criminal investigation can be commenced if warranted. See section 350-2, HRS. Sections 2 and 3 can be modified to specifically reference DHS's authority pursuant to existing law and to clarify that the existing law covers families receiving permanency assistance. We recommend that the wording describing the review or investigation contemplated by this bill be modified and the following be inserted in both sections as appropriate (new material underscored):

" . . . at any time and in a manner, place, and form as may be prescribed by the department or its authorized agents in accordance with chapters 350 and 587A."

Thank you for the opportunity to provide comments.

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 2, 2022

TO: The Honorable Joy A. San Buenaventura, Chair
Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: SB 3237 – RELATING TO CHILD WELFARE SERVICES.

HEARING: Thursday, February 3, 2022, 3:00 pm
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the bill, respectfully opposes parts of the bill, and provides comments. DHS defers to the Department of Health in relevant part.

PURPOSE: The purpose of the bill expands the investigative authority of the department of human services to include foster children with a pending adoption decree, foster children where an adoption decree has been issued, but adoption has not yet taken place, children who are placed into legal guardianship and who receive permanency assistance payments and adopted children who receive adoption assistance payments. Establishes a crisis mobile outreach team pilot program to expand existing crisis response services. Requires the Department of Human Services to analyze and report on the impact of expanding home visits to families receiving adoption assistance or legal guardianship assistance and make a report to the legislature five years after the start of the program. Appropriates funds for the pilot program, including for the hiring and training of staff. Appropriates funds for additional case worker and support staff positions. Appropriates funds for increased compensation for existing child welfare services case worker positions.

The bill aims to ensure safety for children who had previously been in foster care and are now adopted or under legal guardianship. However, as drafted, the proposed mechanisms in the bill will not likely achieve this goal; instead, the resulting law would infringe upon the privacy rights of adoptive parents and legal guardians. Additional interventions may also be a disincentive for interested families in becoming resource caregivers.

Realistically, an annual visit to the family home is unlikely to provide an accurate picture of the family home, risks, safety, and well-being of the child. When a child exits foster care and reunites with their biological parents, the Family Court closes the child protection case, and the jurisdiction of the Court terminates. Similarly, when a child exits foster care to adoption or legal guardianship, CWS ceases its monitoring and only becomes involved with the family again if new concerns are reported.

As stated on page 3, line 10 of the proposed bill, legal guardians and adoptive parents go through an extensive vetting process to initially become resource caregivers. This process includes criminal background checks, child abuse, and neglect history checks, a multi-phased home study, monthly visits from a CWS caseworker, training certification, and Family Court approval as permanent caregivers. CWS determines that these families can provide a safe and nurturing home for the child with all the available information.

Currently, CWS does monthly visits in the child's home until the Family Court grants the adoption or legal guardianship. After a child is legally adopted, the adoptive parents have all legal rights and responsibilities for that child and become the natural permanent parents of the child. Legal guardianship grants similar rights and responsibilities for the care and custody of the child. After adoption or legal guardianship become final, DHS no longer has the legal authority to monitor placement.

If DHS receives a report of suspected child abuse or neglect involving any child, section 350-1, Hawaii Revised Statutes (HRS), and section 587A-11, HRS, mandate the department to investigate. To clarify, page 3, line 11 of the bill details the termination of parental rights for legal guardianship cases. However, it should be noted that the termination of parental rights is not necessary for legal guardianship cases.

Currently, there are three times as many children receiving adoption assistance or legal guardianship payments from the department as there are children in foster care in the State. Federal law (Title 42 United States Code 673b) authorizes adoption assistance and guardianship payments to Title IV-E eligible children without requirements for further CWS monitoring or visits. These subsidies are incentive-based to increase the number of permanent homes for children in foster care and to provide support for families so children can live in a safe and nurturing home.

The bill proposes that CWS staff be authorized to visit children under legal guardianship or adoption twice a year in the first year following finalization and then once a year thereafter. With current staff vacancies, CWS is struggling to meet the demands of the current child welfare caseloads. CWS projects it will need 80 new FTE to manage the additional visits the bill proposes. The new program will require administrative and operational resources to support 80 new positions. CWS anticipates that experienced CWS staff may move to fill the new positions if new FTE positions become available. These monitoring cases may be less crisis-riddled and will not involve Family Court. Losing experienced staff from child protection case management will leave the most vulnerable families with staff who have the least experience. Additionally, CWS will need time to develop protocols and rules regarding visits, including accommodating families that move out of state. Additionally, the State of Hawaii may not have the authority to send its CWS workers to inspect a home in another state unless by agreement with that State.

CWS has been addressing the concerns raised in the bill with the following efforts:

- CWS is fortifying its recruitment, assessment, and training of resource caregivers. CWS began new contracts on July 1, 2021, for resource caregiver recruitment, home study assessments, licensing recommendations, and all initial and ongoing support services to assess a resource family's ability to nurture children.
- CWS Permanency Strengthening Services (PSS) are available statewide. Services are offered to families moving toward adoption or legal guardianship before finalization and after the award of legal guardianship or adoption. The goal of PSS is to provide support services so that the child's placement with their family remains safe, nurturing, stable, and permanent through in-home crisis intervention services,

counseling, and parenting education. Any family that has adopted or become a legal guardian of a former foster child is eligible for this voluntary strengthening service.

As proposed, DHS is unable to support this part of the bill because annual or bi-annual oversight of families is unlikely to prevent tragedies of children who are harmed by someone intent on lying and misleading authorities about what is happening in the family home. Importantly, the authority for CWS to investigate an adoptive or legal guardian family when reports of alleged child abuse or neglect are received already exists. Therefore, it does not appear this part of the bill is necessary.

CWS is open to discussions on other ways to address this concern and continues to rely on and encourage the community members to support families and make reports of alleged abuse or neglect of children.

As to the proposed mobile crisis outreach team pilot program, DHS defers to the Department of Health (DOH) and agrees that additional funding and expansion of mental health services for adoptive and legal guardianship children and their families are necessary. The expansion of the mobile crisis outreach would enhance the array of mental health services available to children who have been adopted or entered legal guardianship from foster care. All children in foster care have experienced trauma and deserve adequate and accessible mental health services.

The department has several successes and challenges regarding recruitment, retention, and compensation issues.

- 1) Since introducing the Wikiwiki Hire program in June 2018, HR on-boarded nearly 200 new hires in CWS (120 professionals + 80 SSAs); however, the vacancy rate remains high at 60 – 70 positions at any given time. Overall, we've been better at retaining SSAs than professionals.
- 2) There are several compensation tools available for our consideration and use (e.g., shortage category, flexible hiring, recruitment/hire above the minimum, etc.); however, information from exit interviews of CWS staff, rarely, if ever, is compensation the reason for the decision to leave.
- 3) Temporary hazard pay is not appropriate because the challenging working conditions are not temporary and the work does not meet the collective bargaining definition of either most severe: "exposure likely to result in serious incapacitation, long period of lost time, or possible loss of life," or severe: "frequent injuries likely but serious accidents rare (eye injuries, loss of fingers, or serious burns)."

- 4) Negotiated collective bargaining step movements are the state's version of retention bonuses – employees move a step (4+% increase) every 2 – 3 years. Step movements are in addition to the negotiated across-the-board increases.
- 5) Child/Adult Protective Services (CAPS) Specialists and Supervisors are classified at one salary range higher than their social worker or human services professional counterparts in recognition of the increased complexity and urgency of the work they perform.

We may explore additional available human resource policies and update the Legislature as the session progresses.

Lastly, DHS is working with the Department of Education (DOE), the Department of Health, and community providers to develop and coordinate DOE's school-based family resource centers with the community-based family resource centers that DHS funds. DHS administration measure SB3111/HB2143 proposes a 5-year pilot to coordinate and standardize the family resource center model. In communities with well-coordinated and supported family resource centers, families access services in familiar places, and studies have shown reports to child welfare have decreased.

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

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON HUMAN SERVICES
ON
SENATE BILL NO. 3237

February 3, 2022
3:00 p.m.
Room 225 and Videoconference

RELATING TO CHILD WELFARE SERVICES

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 3237: 1) amends Chapter 346, HRS, to authorize the Department of Human Services (DHS) to review or investigate families that have adopted, have received legal guardianship of, or are in the process of adopting a child and are receiving benefits for foster care maintenance, adoption assistance, or permanency assistance through the State; 2) sets reporting requirements for DHS on the impact of the new authority; 3) establishes the Crisis Mobile Outreach Pilot Program (CMOPP) within the Child and Adolescent Mental Health Division (CAMHD) for a period of two years; 4) sets CMOPP services and reporting requirements for CAMHD; 5) appropriates \$1,780,000 for the Department of Health in FY 23 to establish CMOPP and hire and train mental health professionals; 6) appropriates an unspecified amount of general funds for DHS in FY 23 to hire an unspecified number of case workers and unspecified number of support staff positions to support the new investigative authority;

and 7) appropriates an unspecified amount of general funds for DHS in FY 23 to increase compensation for child welfare services case worker positions.

B&F defers to the Department of Human Resources Development on the possibility of providing compensation increases specifically for vacant and filled child welfare services case worker positions.

B&F notes that the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



LATE

RESOLUTION 02-22 State of Hawaii - Department of Health- Child Welfare Services: Regarding Additional Support for HomeSchool Withdrawal and other potentially at-risk children under the care and custody of State of Hawaii

WHEREAS, the Waimānalo Neighborhood Board No. 32, recognizes and defines at-risk populations to include all children, inclusive of those who are PreK-12, and especially special needs children, children from families who show need for public assistance, children and adults who are placed/adopted and are currently wards of the judiciary system, adults with special needs up to age 22, and elderly who have no caregiver and also show need for public assistance.

WHEREAS, The United Nations Sustainability Goals are intended and endorsed for implementation by all member Nations, their member States and their related communities to ensure equal access to basic human rights for all its people including but not limited to at-risk youth, at-risk adults with special needs, and at-risk elderly.

WHEREAS the State of Hawai'i has committed billions to the Rail that only serves a portion of the island of O'ahu while sucking up valuable resources in land and funding; while the rest of the State is taxed for this purpose and funds are being diverted to this cause indiscriminately. Meanwhile, our youth, the largest most important resource of the State of Hawai'i are undervalued, underserved, and under provided for in both the Education and Social Welfare sectors almost ensuring that the people of Hawai'i continue to be Gentrified, remain oppressed, and de-valued.

WHEREAS the Covid Pandemic and it's handling within the State of Hawai'i has indirectly created a discriminating environment where at-risk populations (at-risk youth in the judicial system, at-risk young adults and adults with special needs, at-risk elderly) are easily disconnected and become lost in a system intended to ensure access to services within the community level which was should intend to provide a network of support but yet creates extended periods of lack of visibility or accountability.

WHEREAS the life of a native Hawaiian child Isabella Kalua aka Ariel Sellers hereinafter referred to as Ariel was so severely impacted, threatened and prematurely ended while under the jurisdiction of a flawed network of systems whose intent and deliverables should be to protect and ensure safety and security for all native Hawaiian children and other at-risk children of Color.

WHEREAS the entire Native Hawaiian community including but not limited to Waimānalo, unique as it is one of 3 remaining communities on O'ahu with a majority self-identified Native Hawaiian population and home to the Waimānalo Homestead have been so severely impacted, threatened, to bear the trauma of an system that creates an unsafe disconnected environment; it's residents and constituents have historical multi-generational experience with several layers of generational trauma including but not limited to severe poverty, homelessness, violence, drug addiction, suicide, crime, and lack of strong connection to their cultural identity and practices; within a flawed network of systems whose intent and deliverables should be to protect and ensure the safety, security, and proliferation for all Native Hawaiian children and families.

WHEREAS the Waimānalo Neighborhood Board No. 32 Education Committee members and the elected members of the regular Waimānalo Neighborhood Board No. 32 members recognizes the Department of Education as a primary level of mandatory reporting where at-risk children can find respite from toxic/abusive situations in the home for 7 hours of their school day from Monday through Friday each week, not including holidays and breaks.

WHEREAS the relaxed withdrawal process from Department of Education Face to Face learning to Home School learning easily approved Ariel's withdraw from the Department of Education in May 2021 thus creating a situation of a detrimental denial of services in the public school system as follows:

- 1) The lack of free or reduce balance and regular nutrition sustenance.



- 2) The lack of early childhood and adolescent development in these areas: social, communication, academic, and physical development among their peers.
- 3) Denial of free or reduce transportation services.
- 4) School visibility through assemblies, events, sports, and off campus excursions.
- 5) If applicable free eye exams, and giveaways such as free dictionaries, school supplies by community organizations.
- 6) If applicable the denial of FAPE and any Special Education services (ADA) such as assigned paraprofessional assistant, Speech Therapy, Occupational Therapy, Physical Therapy, and Visual Therapy, Behavioral Specialist and so forth.

WHEREAS, the following events resulted in the aforementioned lack of services and oversight that is afforded all children by the Department of Education

- 1) since the withdraw from DOE in May 2021 until the last seen date in August 2021, Ariel had no visibility and accountability measures that would be afforded a normal happy, healthy, and supported Native Hawaiian child through community programming that is usually available at various survive
- 2) On August 18, 2021, Ariel was last seen alive on home surveillance system.
- 2) On Sunday, September 12 at 9p.m. Ariel was reported missing 6-year-old Isabella Kalua aka Ariel Sellers from her Puha Street home in Waimānalo.
- 3) Adoptive parents, Isaac K. Kalua III, and wife Lehua were approved to adopt despite former charges as Felon. Both adoptive parents were arrested on Wednesday November 10, 2021 - for Murder in the 2nd degree.
- 4) Biological mother Melanie Joseph and Father Adams Sellers. Isabella Kalua aka Ariel Sellers and 4 siblings removed from the custody of their parents due to parent's drug use.
- 5) In October 2019 Isaac K. Kalua III and wife Lehua adopted Isabella, and according to Homeschooling's Invisible Children, Oct. 10, 2021, article; *Isaac Kalua criminal record for several felony convictions for assault and terroristic threatening.*
- 6) In June 2021 the Kaluas filed paperwork through a simplified process with the DOE via Waimānalo Elementary School to withdraw Isabella from kindergarten to homeschool her.
- 7) In November 2021, Isaac K. Kalua III and wife, Lehua was taken into Federal custody and charged with Murder 2, hindering prosecution, abuse of a household member, persistent nonsupport, and endangering the welfare of a minor. The remains of Ariel have yet to be found as of this date.

Now, therefore,

BE IT RESOLVED, in 2022 the State of Hawaii Legislators introduce legislation to be named *Ariel's Bill for the Native Hawaiian and other Communities of Color* on behalf of Isabella Kalua aka Ariel Sellers and thousands of children like her who are under the protection and legal jurisdiction of the State of Hawaii – Department of Health – Child Welfare Services and the State of Hawaii – Department of Education in collaboration with other child protective agencies and law enforcements to ***do the following before any withdrawal from the public, charter, and private schools:***

- 1) The Department of Health and Child Welfare services are a primary level of intervention and mandatory reporting for at-risk children, participate in a school level advisory committee to vet each student/family applicant for withdrawal; where the child and parents are visibly present in a face to face manner prior to approval; of which members include the principal and/or vice-principal, 1 general education teacher and 1 special



education teacher if applicable, the counselor, the attendance clerk, the Student Services Coordinator if applicable, the paraprofessional assistant if applicable, social worker from the Dept. of Health – Child Welfare Services is applicable, special services therapist (behavioral, OT, PT, Vision) if applicable;

- 1a) Prior to approval that the child shows regular attendance and academic progress or if that cannot be evident, an active in place IEP shall be updated and maintained to support the child's future progress with a requirement to check-in to the host school regularly for delivery of their FAPE services.
- 1b) IF the school advisory committee approve the withdrawal of the student, and IF the student is under the guardianship and jurisdiction of the DOH-Child Welfare Service the social worker is to schedule a court hearing with Family Court.
- 1c) The date of the hearing the follow appearance shall be the attorneys for the state, city and child, child parents/guardian, social worker and DOH-CWS supervisor, principal and/or vice-principal of the school, and teacher, and any parties relating to the interest of the minor.
- 1d) The Judge ruling will determine if the child is to be release or NOT from the public school system and/or other educational institutions.
- 1e) The DOE and the CWS/CPS worker will maintain and update their own record of active well-ness checks on all at-risk who go through this procedure via Face to Face or Zoom meeting with a counselor so there is weekly verification of each child's success.
- 1f) Children who are in the judiciary system and then adopted, be monitored for at least 12 school months post-withdrawal from their home school.

2) the Legislature create a bill to increase and maintain funding each year from now until perpetuity for the use in the Department of Health and Child Welfare Services for teaching training, maintenance, and retention incentives for current staff and programming and new, upcoming staff and program workers. This funding is intended to lighten the load of the DOE, CWS social worker to client so our youth can have quality and regular contact with this level of support. The funding is aimed at locally trained staff and workers preferably with a focus on Hawaiian Culture Based Education either in Hawaiian Studies or Hawaiian language at all schools not just Hawaiian immersion and Hawaiian Culture Charter schools to create, strengthen and maintain focus on Hawaiian cultural education of our keiki and their families in areas including but not limited to Hawaiian history, mele (song), culture, language, and value systems that will result in independent, 21st century youth who are both culturally educated and western educated. Our Waimānalo Neighborhood Board No. 32 Education Committee members and the elected members of the regular Waimānalo Neighborhood Board No. 32 members strongly believe it will address many of the concerns contained herein.

3) Introduce legislation by the State Senators Committees Chairs and Vice-Chairs of the Education, Human Services, Judiciary, and Health in the 2022 session; Strengthen by reviewing and retraining on current State Statutes (Rev. Stat. § 350-1.1) of [mandated reporters](#)

4) Department of Health and Child Welfare services Admin, and staff / workers are retrained and supported with resources to provide stronger oversight and more frequent management & interaction with their caseload clients who come from at-risk populations: biological and/or potentially adoptive parental and family history of poverty, drug abuse verified by drug testing, felony, and mental health issues.

5) Department of Health and Child Welfare services Admin, and staff / workers are retrained and supported with resources to provide stronger oversight and regular check-ins and site checks on at-risk youth who are moving into the adoption phase for at least a year past adoption,



6) if biological or potential adoptive families are found with needs for social support the Department of Health and Child Welfare services admin, and staff / workers provide and require training of families in parenting, financial stability, wealth building and mental health supports.

and

BE IT RESOLVED, the Waimānalo Neighborhood Board No. 32 Education Committee members and the elected members of the regular Waimānalo Neighborhood Board No. 32 members are the community “voices” on behalf of Isabella Kalua aka Ariel Sellers and children in similar living situation like hers strenuously urge the State of Hawaii Legislators, the governor, and the following State of Hawaii departments: Department of Education, Department of Human Services, the Department of the Judiciary, the Department of Health, the Department of Attorney General – Missing Child Center, and any and all legal counsels and law enforcement protect all school age children of the State of Hawai‘i and this Resolution;

BE IT RESOLVED that the Waimānalo Neighborhood Board No. 32 requests that copies of this resolution be distributed to all Neighborhood Board chairs, State Senator Chris Lee, SD 25, State Senators Committees Chairs and Vice-Chair of Education, Human Services, Judiciary, and Health, State Representative Lisa Marten, the Department of the Attorney General – Missing Child Center and Councilmember Esther Kia‘āina, District 3.

This resolution was adopted unanimously by the Education Committee of the Waimānalo Neighborhood Board No. 32 at its December 6, 2021 Special Meeting.

This resolution was adopted by the Waimānalo Neighborhood Board at its Monday January 10, 2022 Regular Meeting by a vote of 9-0-0.

Kimeona Kane
Chair, Waimānalo Neighborhood Board
Kimeonakane@gmail.com
808 398 8989

Hōkū Akana
Chair, Education Committee
hokuakana2@gmail.com

CC:
Education Committee: Senators Kidani and Kim @ senkidani@capitol.hawaii.gov; senkim@capitol.hawaii.gov;
Human Services Committee: Senators San Buenaventura and Ihara, jr. @ sensanbuenaventura@capitol.hawaii.gov; senihara@capitol.hawaii.gov;
Judiciary Committee: Senators Rhoads and Keohokalole @ senrhoads@capitol.hawaii.gov; senkeohokalole@capitol.hawaii.gov;
Health Committee: Senators Keohokalole and Baker @ senkeohokalole@capitol.hawaii.gov; senbaker@capitol.hawaii.gov;
General-Missing Children Center-Hawaii @ HawaiiMissingKids@hawaii.gov;
Senator Chris Lee, SD 25 @ senlee@capitol.hawaii.gov;
State Representative Lisa Marten, HD 51 @ repmarten@capitol.hawaii.gov;
Councilmember Esther Kia‘āina, District 3 @ ekiaaina@honolulu.gov

Senator San Buenaventura (SB3237) and Representative Yamane (HB2424),

45 years after CAPTA incentivized child removals without adequate checks and balances, Hawaii DHS failed all 3 federal reviews of casework practices, 5 children reunified with dangerous parents were killed, multiple minor boys sexually assaulted by an improperly licensed fosterer, and 21 lawsuits were filed or settled against DHS in the last 9 years,

In response to Ariel Seller's tragic loss, the legislature wants to give the department a pay raise and extend mandatory home visits far beyond guardianship and adoption permanency rulings. Where is the investigation and determination of contributing causes for these child deaths where CWS had direct engagement with the family? 35 legislators support this bill in the House and Senate. How many of you have the full picture of the cause of Ariel's death or do you propose a remedy based solely upon the death that occurred after the child was adopted? Money does not improve the quality of social services. Training does.

Caseworker retention is not about money. It's about new hires who come into the department with the goal of helping families, then quickly discover that the policies of the department are more about one size fits all than quality social work. 3 whistleblowers attest to the fact that they left for a more positive work environment.

Failure to perform monthly home visits is not new to DHS. The federal reviews noted home visits as not meeting standards. The legislative report from the Hilo unit admits to court sanctions for failure to conduct home visits to foster children. In my role as an advocate for families, two parents had not seen a caseworker for 18 and 20 months, yet the caseworker was supposed to write reports to the court to support or discourage reunification. Were there monthly visits to the Kalua home where Ariel's youngest sister was still in foster care?

Steven Lane asserted that the licensing for foster care was inappropriate in Ariel's case. I agree that, when state removes a child, it is critical to use extraordinary cautions to keep that child safe. The criteria for licensing should be reviewed and amended.

It was apparent that the caseworker was indifferent to the grandmother's desire to care for Ariel. A look at why the department could not have made accommodations to assist with kinship placement would be appropriate when years of data confirm that the safest place for a child in the system is with a relative.

85% of all children in foster care in two previous years in Hawaii were removed by the police, as authorized by law with qualifying circumstances, without a court order. Over half were removed at the behest of CWS without meeting standards of a warrantless removal. Both CWS and the HPD admit to no training on "search and seizure" in the 4th amendment, even though a complete training package had been submitted to the department a year ago. Excessive and unnecessary removals is the cause of case overload that is used to justify errors and omissions in casework that we know can have deadly consequences.

On January 8, 2020, Representative John Mizuno was interviewed by HNN who said that an error by CWS underscores the need to reform Hawaii's child welfare system. He says CPS workers are understaffed, undertrained and overmatched when attorneys and parties try to game the system.

In another child death HNN said that part of the lawsuit read: "Fabian's death followed months of visible injuries on Fabian and his younger siblings and numerous notifications of suspected child abuse by Fabian's parents to defendant State of Hawaii's social workers." Were there reports of abuse by Ariel's caregivers that were not properly evaluated?

In 2018 the state jumped to a bill to screen home school parents after a home-schooled child was killed. Home school did not kill that child, but a CWS decision to reunify with the parent. Now, the state wants to react to Ariel's death by allocating huge amounts of funding to monitor adoptive and guardianship families. Where is the evaluation of CWS's role in these deaths? If this bill passes as is, the court who authorizes guardianship or adoption will have to keep the case open as "pending" until the home visits are suspended. Otherwise, the right to deny entry into a home per the 4th amendment will be at issue.

An independent oversight panel to scrutinize specific procedures for at least one year is a solution to curtail CWS abuse of power, starting with review of due process on child removals. The cost would be low and the results would be long-term savings in unnecessary foster placements and risk of needless child deaths.

SB-3237

Submitted on: 2/1/2022 1:37:02 PM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nonohe Botelho	Individual	Support	Yes

Comments:

Aloha Chair, Vice-Chair and Committee Members,

I am writing in strong SUPPORT of SB3237, relating to Child Welfare Services. I support the intent of the SB3237 which expands the investigative authority of the Department of Human Services to include foster children with pending adoption decree, foster children where an adoption decree has been issued but adoption has not yet taken place, children who are placed into legal guardianship and who receive permanency assistance payments and adopted children who receive assistance payments.

it is clear that if the above criteria were already put in place we would have not have had the devastating loss of Ariel Sellers (aka Isabella Kalua). The above criteria needs to be put in place to protect our most precious and defenseless population, our children. Expanding the investigative authority of the Department of Human Services would allow the department to better monitor children who are placed in foster care and/or adoption. Oversight of these children is absolutely essential to the welfare of our children.

Please SUPPORT SB3237 FOR THE WELFARE OF OUR CHILDREN.

Mahalo,

Nonohe Botelho

SB-3237

Submitted on: 2/1/2022 4:41:14 PM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jenna-lyn Oda	Individual	Support	Yes

Comments:

I support this bill.

SB-3237

Submitted on: 2/2/2022 8:35:11 AM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mialisa Otis	Individual	Support	Yes

Comments:

I support all measures to keep children safe, especially SB 3237. I would like to testify orally on February 3, 2022.

SB-3237

Submitted on: 2/2/2022 9:31:20 AM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kapua Medeiros	Individual	Support	Yes

Comments:

Aloha Chair San Buenaventura and Human Services Committee members,

I am in Support of SB3237 / HB2424 as it would allow for the appropriation of funding for increased Staff, Training and Support, as well as increased in-person site/home visits and added monitoring systems put in place for the Child Welfare System (CWS).

All of these are very necessary in the prevention of any more criminal acts of abuse towards a child such as Ariel Sellers. Her senseless tragedy could have been avoided.

I believe it is the State of Hawai'i's responsibility to insure that all policies, procedures, training, staffing, support services as well as funding are in place to support the CWS.

I also believe it is the State's responsibility to monitor the practices, status of and outcomes of the Child Welfare System as well as the status of, progress, and welfare of each and every child within that system until such time that they are of legal age and able to provide for their own welfare.

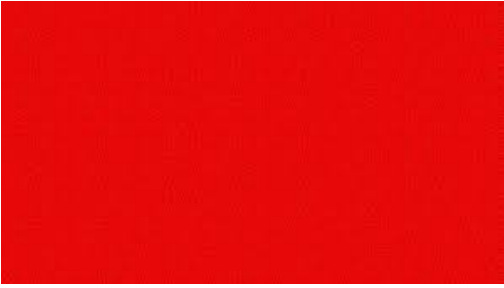
I would also recommend that this committee take into consideration that there be put in place an external entity to also monitor the welfare of each child within the CWS.

Lastly, although my testimony is to provide my own mana'o on these measures, I would like to add that as a member of the Waimānalo Neighborhood Board I am proud to know that our community takes this matter serious enough to spend countless hours to create an action plan as well as resolutions as to insure that the name of Ariel Sellers is never forgotten and to prevent this very sad and senseless tragedy from ever happening to another one of our precious Waimānalo keiki.

Mahalo for your time and efforts to Support and Pass SB3237 / HB2424.

Me ke aloha,

Kapua Medeiros



SB-3237

Submitted on: 2/1/2022 9:22:13 PM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kimeona Kane	Individual	Support	Yes

Comments:

Aloha nui kākou Chair, Committee Members, Public,

I am Kimeona Kane, of Waimānalo, hometown of Ariel Sellers and where the community will continue to be impacted by this tragedy. While there are various moving parts here, what I think we can all agree upon is that, we must do more to protect our keiki. This tragedy as you can imagine, in our community, with deep connections, has tremendously impacted us all on a deep level. It has highlighted various gaps in the processes that are and should be protecting these keiki. It is my hope that we continue to address these gaps, started here with CWS, and moving into other elements that were notably ignored in this case. I would like to also advocate that children be checked on until they are 18, simply turning them over and relinquishing them is not enough. Granted and without discrediting the wonderful foster parents out there, and maybe the percentage of negatively impacted keiki is low, but one death is too many. We must do more. I also recognize that there are added things that may need to follow this moving forward, and I look on eagerly to helping to protect our future.

Mahalo for your consideration and work.

Kimeona Kane

kimeonakane@gmail.com

808 398 8989

SB-3237

Submitted on: 1/31/2022 8:49:58 PM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kim Kaaua	Individual	Support	No

Comments:

My name is Kim Kaaua, a resident of Hilo. A mother of 3 and grandmother of 1. I am writing in support of this bill in hopes of helping the children who end up in foster care either in short term and long-term care.

Many times the government and affiliates create ads to protect our keiki, our wahine, the kuahiwi and our 'aina. This bill should then be the easiest bill to pass and if there is any indication of it's importance, look back at Hawai'i's children that were featured in the news and media. Missing, abused and neglected.

The children need to be protected and nurtured as they are tomorrow taking care and in turn will be responsible for preserving Hawai'i. Creating safety nets for these children and showing them that you care and holding those accountable may save our future. More resources create better outcomes and open up potential solutions for our keiki in need. Thank you.

SB-3237

Submitted on: 1/31/2022 9:37:57 PM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cindy Evans	Individual	Support	No

Comments:

Strong support with one concern.

Can those who receive payments and have legal guardianship leave the state. If so, how can you ensure appropriate and timely investigation.

SB-3237

Submitted on: 1/31/2022 10:37:10 PM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sandee Moniz Pa	Individual	Support	No

Comments:

I fully support this bill.

SB-3237

Submitted on: 2/1/2022 3:41:22 PM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Laurie Tochiki	Individual	Support	No

Comments:

All of our children and families in Hawai`i are precious and deserve to be our highest priority. The work of Child Welfare Services in protecting our children cannot be done alone, and cannot be accomplished without adequate staff and resources. Thank you for considering additional resources to CWS to support the wellbeing of children who have been placed in foster care.

I support S.B. 3237 because it does just that, it provides additional resources to CWS to support the wellbeing of children who have experienced foster care. I am the Executive Director of EPIC `Ohana, a non-profit organization that provides `Ohana Conferencing, Wraparound, Youth Circles, Family Finding and Family Connections help to families and children in the child welfare system. We are also the lead agency for the HI HOPES Initiative. Our young HI HOPES leaders advocate, educate and collaborate on behalf of young people who have experienced foster care.

When tragedy strikes a family and when a child suffers, we all grieve. The problems that cause families to need CWS intervention are complex and require full community collaboration and resources. These problems include domestic violence, substance use disorder, mental health concerns and extreme poverty. For the children and adolescents in care, trauma and Adverse Childhood Experiences (ACES) can cause the need for crisis intervention and follow-up – which is another important concern addressed in this bill.

Thank you for your support.

SB-3237

Submitted on: 2/2/2022 10:57:23 AM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Puanani Rogers	Individual	Support	No

Comments:

My name is Puanani Rogers, 83 year old kupuna, I was born and raised and still live in the ahupua`a o Kealia on Kaua`i. Mahalo for this opportunity to speak for myself and many others that kako`o what I'm going to say.

I testify in strong support of this measure with a sore heart, remembering Ariel's story and feeling sad and afraid. It made me feel worse to find out that it all could have been prevented if greater care for Ariel had been the case.

Therefore, if this bill is to make right what was terribly done wrong, for Ariel and many, many other foster children in Hawai`i, than please be sure this bill gets all your votes to support it.

Mahalo from me and my ohana and all our foster and orphaned children...our future leaders.

Puanani Rogers



LATE

SB-3237

Submitted on: 2/3/2022 6:57:53 AM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Deborah A Goodwin	Individual	Support	No

Comments:

Across our country, more than a million families each year are being torn apart due to a government system that benefits financially from removing children from their homes and placing them under the Department of Human Services (DHS) custody. Hawaii's DHS is no exception. Who in their right mind would ever think that removing children from loving families for profit is a good idea? The public is unaware of the misuse of money that is destroying families and this horrible secret is even kept away from legislators.

The Child Welfare System is based on a perverted financial scheme based on tax dollars fed by Title IV-E Foster Care money from tax-payer Social Security funds. The goal is to take children out of the home and into the CW system to guarantee these funds are sent into the State's coffers.

Challenging corruption within Family Court is difficult both legally and emotionally. The system from the casual observer is to support children in need and provide services to keep families intact. In truth, it is designed not to support children, but to make money by child trafficking. The families impacted by coercion, fraud and corruption are helpless with the system stacked against them, and very few outsiders want to know this damaging travesty that happens daily in our "civilized" country.

Nationally, a quarter of a million of children are taken into foster care every year, and roughly the same number are moved through a parallel independent set of businesses breaking apart families for profit. Children who die while in either system make headline news, families protest and plead, and the pain marches on.

Secondly, clients need to know the facts about their case and have assistance provided to prepare them before they walk into the courtroom, a place swamped with intellectual psychobabble that becomes an intentionally drawn-out strategy to disempower those being set up by DHS to lose their families without due process.

Family Advocates are needed in the CWS that are not dependent on Title IV-E funds. Guardian Ad Litem are allegedly appointed to represent the best interests of the children, and, many are biased to DHS as is the Family Court Judge. I have experienced GALs who ignore families and focus only on placement contrary to published guidelines with TEMPORARY resource care givers. They should be trained. They are aiding the wrong people to get free legal representation by those (DHS) unlicensed to practice law.

A child should not be taken from family UNLESS it is for the safety of the child, abuse, or a life-threatening drama, and numerous due process investigations need to be in place to prove such. At present only one call is made and a child is removed from their family, most often permanently.

I am aware of the fact that the national Family First Prevention and Services Act (FFPSA) was accepted by Hawaii in October 2021. This act would provide families with resources to successfully reunite and heal. It should be enforced IMMEDIATELY!

Not one more child should be taken from a loving family, again AND those children who were removed by lies and false accusations should be reunited with family IMMEDIATELY!

In January of this year a story broke about the release of \$31 billion in funds to support Canada's reform of its corruption within the Child Welfare System.

[Canada to pay First Nations Billions because of the harm caused by the foster care system.](#)

When parents, and family members of "taken" children, spend millions of dollars in family court, and lose their kin, then something needs to be changed. This is SHAMEFUL! This is INHUMANE! This is AGAINST THE LAW!

SB-3237

Submitted on: 1/29/2022 1:04:19 PM

Testimony for HMS on 2/3/2022 3:00:00 PM

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

Comments:

The "investigative authority" of Child Welfare Services needs to be supervised & RESTRICTED, not expanded!

Referring to the Isabella Kalua is precisely a case in point and I could give you more cases where the same dynamics are occurring if only for the Department's willful ignorance of domestic violence.

I have tried for YEARS to work with CWS to factor domestic violence *in* to those cases where it applies but 100% of the time, I and the history (or ongoing events) of domestic violence are completely ignored: I am maligned, my domestic violence survivors are blamed for the abuse being perpetrated against them & their children while the perpetrators, their actions and/or their histories are ignored, marginalized or minimized (and *that's* how you end up with a case like Isabella Kalua's).

CWS routinely misuses its influence & authority to involve HPD and 4th Amendment rights violations (which is presently being looked into) so I would strongly recommend this legislature's oversight & investigation into CWS and its day-to-day practices to prevent more cases like Isabella's from occurring instead of giving the Department the ability to distract from its crimes and sins with a "new pilot program".

SB-3237

Submitted on: 1/30/2022 4:35:11 PM

Testimony for HMS on 2/3/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Julie Tinsman	Individual	Oppose	No

Comments:

Senator San Buenaventura,

This is an anonymous whistleblower report. It should raise concerns of bias when CWS investigates abuse in foster care.

“I used to work at Kahi Mohala hospital on the children and adolescent units. I have seen first hand what state appointed and approved foster parents have been doing to these children (maybe not all, but a bunch! Because I’ve seen a bunch!). I had kids being discharged then readmitted.. over n over we call them frequent flyers and a lot were coming in from their foster homes with major issues and then come to find out! They were being physically, sexually and verbally abused! I had this one boy who came in at 7, he was a frequent flyer.. this boy got huge cigar burn scars all over his arms done by his foster father! And lord knows what else he didn't disclose. Anyways, we have a treatment team meeting, discuss issues, disposition and lo and behold! The state GAL, AND cws worker decides to send the boy back to the SAME abusers! That went on for awhile..thru out the 5 years I worked there. I was so taken back by it all..Icouldn't sleep at night sometimes thinking of what could be happening. and how often it was happening..with more than one kid, a bunch. So sad. We did our best trying to advocate for these children but somehow we were always the last opinions to be considered although we spent the most time with our clients. Anyways. I'm glad I'm not the only one that knows all these things..I feel terrible about it, like nothing will ever be fixed with that department.”

SB-3237

Submitted on: 2/3/2022 3:02:21 PM

Testimony for HMS on 2/3/2022 3:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Shana Wailana Kukila	Individual	Comments	No

Comments:

Aloha Senators,

My testimony is for comments only regarding SB3237. While I support the intent, there is still needed alignment with ADA standards for disabled children in foster care. To date, there is no provision to provide for these children either within the Department of Human Services, family court, or after adoption or legal guardianship.

Therefore, I would submit that an amendment be made to protect the rights and interests of disabled children and their parents who are at risk, and to make these laws ADA compliant.

Mahalo nui for your time, my apologies for the late response.

Aloha