

EXAMINING HAWAI‘I’S CHILD WELFARE SYSTEM AND THE OVERREPRESENTATION OF NATIVE HAWAIIAN CHILDREN AND FAMILIES



A Report of the Hawai‘i Advisory Committee
to the U.S. Commission on Civil Rights

April 2026

Advisory Committees to the U.S. Commission on Civil Rights

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Letter of Transmittal

U.S. Commission on Civil Rights

Dear Commissioners,

The Hawai‘i Advisory Committee to the U.S. Commission on Civil Rights submits this report related to its examination of Hawai‘i’s child welfare system and, specifically, the overrepresentation of Native Hawaiian children and families within the system, as part of its responsibility to study and report on civil-rights issues in Hawai‘i. The contents of this report are primarily based on testimony the Committee heard during public meetings held via videoconference on August 10, 2023, November 20, 2023, February 12, 2024, May 29, 2024, August 2, 2024, September 13, 2024, and November 6, 2024. The Committee also includes related testimony submitted in writing within the Committee’s project timeline.

This report begins with a brief background of the issues to be considered by the Committee. It then presents primary findings as they emerged from the testimony, as well as recommendations for addressing areas of civil-rights concerns. This report is intended to focus on civil-rights concerns related to Hawai‘i’s child welfare system and, more specifically, the overrepresentation of Native Hawaiian children and families within the system. While additional important topics may have surfaced throughout the Committee’s inquiry, those matters that are outside the scope of this specific civil rights mandate are left for another discussion.

Sincerely,

Hawai‘i Advisory Committee to the
U.S. Commission on Civil Rights

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Project Overview

On April 21, 2023, the Hawai‘i Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to undertake a study of Hawai‘i’s child welfare system—specifically, the overrepresentation of Native Hawaiian children and families within the system. The focus of the Committee’s inquiry was to examine whether racial disparities exist within Hawai‘i’s child welfare system, particularly Native Hawaiian children and families, and the extent to which discrimination or bias contributes to this issue.

As part of this inquiry the Committee heard testimony via videoconference held on August 10, 2023, November 20, 2023, February 12, 2024, May 29, 2024 (public forum), August 2, 2024, September 13, 2024, and November 6, 2024.¹ The following report results from a review of testimony provided at these meetings, combined with written testimony submitted during this timeframe. It begins with a brief background of the issues to be considered by the Committee. It then identifies primary findings as they emerged from this testimony. Finally, it makes recommendations for addressing civil rights concerns related to Hawai‘i’s child welfare system. While other important topics may have surfaced throughout the Committee’s inquiry, matters that are outside the scope of this specific civil rights mandate are left for another discussion. This report and the recommendations included within it were adopted by a majority of the committee members present at a meeting on July 8, 2025.

¹ Briefing records and transcripts are available: <https://usccr.box.com/s/mrtaygzta4i1zipj9hesxpg6bl494d>
 Briefing before the Hawaii Advisory Committee to the U.S. Commission on Civil Rights, August 10, 2023, (web-based), Transcript (hereinafter cited as “*Transcript I*”).
 Briefing before the Hawaii Advisory Committee to the U.S. Commission on Civil Rights, November 20, 2023, (web-based), Transcript (hereinafter cited as “*Transcript II*”).
 Briefing before the Hawaii Advisory Committee to the U.S. Commission on Civil Rights, November 20, 2023, (web-based), PowerPoint (hereinafter cited as “*PowerPoint II*”).
 Briefing before the Hawaii Advisory Committee to the U.S. Commission on Civil Rights, February 12, 2024, (web-based), Transcript (hereinafter cited as “*Transcript III*”).
 Briefing before the Hawaii Advisory Committee to the U.S. Commission on Civil Rights, August 2, 2024, (web-based), Transcript (hereinafter cited as “*Transcript IV*”).
 Briefing before the Hawaii Advisory Committee to the U.S. Commission on Civil Rights, September 13, 2024, (web-based), Transcript (hereinafter cited as “*Transcript V*”).
 Briefing before the Hawaii Advisory Committee to the U.S. Commission on Civil Rights, November 6, 2024, (web-based), Transcript (hereinafter cited as “*Transcript VI*”).

Background

A Brief History of the Child Welfare System in the United States

Prior to government oversight, early forms of child welfare or foster care were primarily left to voluntary “child saving” philanthropic groups or religious organizations.² Although possibly well intentioned, the practice of “placing out” children in foster families was not regulated and foster families were not properly screened nor monitored, sometimes leading to children in unsafe conditions such as indentured servitude.³ By the early 1900’s, there was a concerted effort by the government to address child abuse and neglect in America.⁴ In 1935, the Social Security Act authorized the first federal grants for child welfare services, which became the foundation for states to establish child welfare agencies.⁵ In 1974, Congress enacted the first comprehensive federal legislation, Child Abuse Prevention and Treatment Act (CAPTA), to address child abuse and neglect.⁶ Under CAPTA, states received federal funding if the state established certain child abuse reporting procedures and investigation systems.⁷ The creation and expansion of state-run child welfare systems, as well as the implementation of mandatory reporting and investigation procedures, quickly led to the rapid increase of the number of children removed and placed in foster care.⁸ In response to the number of children in foster care, Congress passed the 1980 Adoption Assistance and Child Welfare Act, which provided federal funding to states to help reunite children with their biological parents or place them with adoptive families under the Federal Adoption Assistance Program.⁹ Since then, child welfare policy has focused on bolstering two parent families in promoting child development.¹⁰

Concerns About America’s Child Welfare System

Some believe that, while there may be people with good intentions working in the child welfare system, the system of child welfare in America may have unintentionally been set up against families of color.¹¹ Racial disparities in child welfare has been a concern in this country for over

² Mark Courtney, “Child Welfare: History and Policy,” *Encyclopedia of Social Work*, March 23, 2022, <https://oxfordre.com/socialwork/view/10.1093/acrefore/9780199975839.001.0001/acrefore-9780199975839-e-530>.

³ National Foster Parent Association, “History of Foster Care in the United States,” <https://nfpaonline.org/foster-care/history-of-foster-care/> (last accessed Dec. 5, 2025).

⁴ For example, President Wilson declared 1919 as the “Children Year,” and convened the second White House conference on children, helping to set the minimum standards for child and maternal health, labor and needy children. Andrew Yarrow, “History of U.S. Children’s Policy, 1900-Present,” April 2009, <https://firstfocus.org/wp-content/uploads/2014/06/Childrens-Policy-History.pdf> (hereinafter cited as Yarrow, “History of U.S. Children’s Policy”). As a result of these conferences, the first federal children’s bureau was established, and the U.S. Department of Labor issued the Minimum Standards for Child Welfare. U.S. Dep’t of Labor, Child’s Bureau, *Minimum Standards for Child Welfare*, by Julia C. Lathrop, (Washington, DC: Government Printing Office, 1919), <https://ia801205.us.archive.org/10/items/minimumstandards00chil/minimumstandards00chil.pdf>.

⁵ Social Security Act of 1935, Pub. L. No. 74-271, tit. V, §§ 501-509, 49 Stat. 620, 627-29 (1935); see Yarrow, “History of U.S. Children’s Policy.”

⁶ Child Abuse Prevention and Treatment Act (CAPTA) of 1974, Pub. L. No. 93-247, 88 Stat. 4 (1974); see Yarrow, “History of U.S. Children’s Policy.”

⁷ 42 U.S.C. § 5106a(a). CAPTA authorized federal funding to states to investigate, prevent, assess, treat, and prosecute child abuse. *Id.*

⁸ Yarrow, “History of U.S. Children’s Policy.”

⁹ Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272, § 101(a), 94 Stat. 500, 501-02 (1980); see also Yarrow, “History of U.S. Children’s Policy.”

¹⁰ Yarrow, “History of U.S. Children’s Policy.”

¹¹ Bridget Cho, Julia Fleckman, and Judith Scott, “Anti-Black Racism Within Child Welfare Services: Past, Present, and Future,” *APSAC Advisor*, vol. 35, (2023), p. 106-126, <https://www.apsacliibrary.org/publications/2023%20Number%201/10727.pdf>; Alan

50 years.¹² Despite federal efforts over the last two decades to reduce racial disparities, minority children and families continue to be overrepresented in child welfare systems across the nation.¹³ In Hawai‘i, Native Hawaiian children and families are reportedly overrepresented in Hawai‘i’s child welfare system and have poorer child welfare outcomes (i.e., more likely to reenter the system, longer stays, higher rates of emancipation, less reunification).¹⁴

As a result of the concerns surrounding racial disparities across the nation, a range of questions have been raised about the nation’s child welfare systems and prompted research and investigations by both state entities and third parties. In several states across the nation, child welfare systems have come under scrutiny and have identified issues related to: the failure to track abuse and neglect cases;¹⁵ allegations regarding systemic racism aimed at the improper separation of Black and Brown families due to broad and discriminatorily applied definitions of neglect and harm;¹⁶ the improper use of state-run child abuse registries that have collateral consequences for parents of color;¹⁷ the mismanagement of child welfare agencies and rapid shuffling of children in various foster care placements;¹⁸ and the failure to keep children from harm and/or death even

J. Detlaff and Victoria Copeland, “The Oppressive History of ‘Child Welfare’ Systems and the Need for Abolition,” in *Social Works Histories of Complicity and Resistance: A Tale of Two Professions*, ed. Vasilios Ioakimidis and Aaron Wyllie (Bristol: Bristol University Press, 2023), p. 54-72; Dorothy Roberts, “Race and Class in the Child Welfare System,” PBS, <https://www.pbs.org/wgbh/pages/frontline/shows/fostercare/caseworker/roberts.html> (last accessed Dec. 16, 2025).

¹² Chapin Hall Center for Children, “Understanding Racial and Ethnic Disparity in Child Welfare and Juvenile Justice,” in *Racial and Ethnic Disparity and Disproportionality in Child Welfare and Juvenile Justice: A Compendium* (Chicago: Chapin Hall Center for Children at the University of Chicago, March 14, 2008), <https://ocfs.ny.gov/main/recc/documents/CJJR-Disparity-in-CW-JJ.pdf>; see Julien-Chinn Testimony, *Transcript I*, p. 9.

¹³ *Ibid.*

¹⁴ Meripa Godinet, Pam Arnseberger, and Jessica Garlock, “Native Hawaiian Families Systemic Disparities in Hawaii’s Child Welfare System,” *Asia Pacific Journal of Social Work and Development*, vol. 21(2) (April 2012), pp. 34–45, <https://doi.org/10.1080/21650993.2011.9756105> (hereinafter cited as Godinet, “Native Hawaiian Families Systemic Disparities in Hawaii’s Child Welfare System.”); Anita Hofschneider, “Racial Disparities Vex Hawaii’s Child Welfare System. Can They Be Fixed?,” *Honolulu Civil Beat*, Dec. 12, 2022, <https://www.civilbeat.org/2022/12/racial-disparities-vex-hawaiis-child-welfare-system-can-they-be-fixed/>; Seanna Pieper-Jordan, “Hidden data: the untold story of Native Hawaiian children in foster care,” *Hawai‘i Appleseed Center for Law & Economic Justice*, April 7, 2021, <https://hiappleseed.org/blog/hidden-data-the-untold-story-of-native-hawaiian-children-in-foster-care>; see Julien-Chinn Testimony, *Transcript I*, p. 16.

¹⁵ Dan Petrella & Clare Spaulding, “Audit of DCFS finds failure to provide proper medical care, track abuse and neglect cases,” *Chicago Tribune*, May 12, 2022, <https://www.chicagotribune.com/politics/ct-dcfs-auditor-illinois-pritzker-20220512-2yatgclhhzet3fgsddntgdop6e-story.html>.

¹⁶ New York State Bar Association, “Report and Recommendations of the Committee on Families and the Law Racial Justice and Child Welfare,” April 2022, <https://nysba.org/new-york-state-bar-association-finds-child-welfare-system-replete-with-systemic-racism-pushes-for-reforms/>; Diane Redleaf, “The Challenge of Changing America’s Amorphous, Limitless Neglect Laws,” *Imprint News*, May 16, 2022, <https://imprintnews.org/opinion/challenge-changing-americas-amorphous-limitless-neglect-laws/65055>.

Some research suggests that policies and practices may have historically increased the power and control of child welfare systems over vulnerable populations such as impoverished communities and communities of color (including the NHPI populations), resulting in their surveillance, control and continued systemic racism against them. Joyce Y. Lee and others, “Native Hawaiian and Pacific Islander Children in Foster Care: A Descriptive Study of an Overlooked Child Welfare Population,” *Children and Youth Services Review*, vol. 141 (Oct. 2022), <https://www.sciencedirect.com/science/article/pii/S0190740922002547#b0040> (hereafter cited as Lee and others, “Native Hawaiian and Pacific Islander Children in Foster Care: A Descriptive Study”); see Cindy Sangalang, Cindy Vang, “Intergenerational Trauma in Refugee Families: A Systematic Review,” *J Immigrant Minority Health*, vol. 19 (2017), pp. 745–754, <https://doi.org/10.1007/s10903-016-0499-7>; Marilyn Brown and Barbara E. Bloom, “Colonialism and Carceral Motherhood: Native Hawaiian Families Under Corrections and Child Welfare Control,” *Feminist Criminology*, vol. 4(2) (Dec. 2008), pp. 151–169, <https://doi.org/10.1177/1557085108325232>.

¹⁷ Scott Pham, “‘It’s Like a Leech On Me’: Child Abuse Registries Punish Suspecting Parents of Color,” *BuzzFeed News*, Apr. 27, 2022, <https://www.buzzfeednews.com/article/scottpham/child-abuse-and-neglect-registries-punish-parents-of-color>.

¹⁸ Michelle Theriault Boots, “Class-action lawsuit calls for major reform in Alaska’s ‘failing, dangerous’ foster care system,” *Anchorage Daily News*, May 19, 2022, <https://www.adn.com/alaska-news/2022/05/19/class-action-lawsuit-calls-for-major-reform-in-alaskas-failing-dangerous-foster-care-system/>.

after multiple home visits.¹⁹ These high-profile types of cases involving the death of children who are in Hawai‘i’s DHS custody have been particularly troubling and many now scrutinize DHS child welfare involvement.²⁰

Native Hawaiian and Other Pacific Islander Children and Families within the Child Welfare System

Research shows that Native Hawaiian and Pacific Islanders (NHPI)²¹ are overrepresented in the child welfare system, as well as almost every other system.²² Historical injustices, including settler colonialism and systemic racism that led to the loss of language, land and religion, have resulted in higher rates of poverty, alcohol and substance use, unemployment and involvement in the criminal justice system, as well as lower levels of education for NHPI populations.²³ According to data from 2018, NHPI children made up about 55-percent of Hawai‘i’s foster care population (Native Hawaiian children made up about 46-percent and Pacific Islander children made up about 9-percent of Hawai‘i’s foster care population).²⁴ NHPI children, however, only make up about 10.5-percent of Hawai‘i’s total child population.²⁵ Disaggregated state-level data further shows that Native Hawaiians are particularly overrepresented in Hawai‘i’s child welfare system.²⁶

Overview of Hawai‘i’s Child Welfare System

According to their website, “Child Welfare Services” (CWS) are services provided by the Department of Human Services (DHS), Social Services Division (SSD), Child Welfare Services Branch (the “CWS Branch”) to children and their families when the children are reported to have been abused and/or neglected, or been reported to be at a risk for abuse and/or neglect.²⁷ Operating under the Hawai‘i Revised Statutes Chapter 587, Hawai‘i’s Child Protective Act, the CWS Branch is the state agency responsible for the protection, care, and permanency of Hawai‘i’s abused and

¹⁹ Tina Moore, Rich Calder, Kevin Sheehan, and Natalie Musumeci, “ACS visited parents of tragic 5-year old boy multiple times,” *New York Post*, Jan. 23, 2017, <https://nypost.com/2017/01/23/acs-visited-parents-of-tragic-5-year-old-boy-multiple-times/amp/>; Beth Hundsdorfer, “After five deaths, GOP seeks performance audit for state child-protection agency,” *The News-Gazette*, Apr. 6, 2022, https://www.news-gazette.com/news/local/politics/after-five-deaths-gop-seeks-performance-audit-for-state-s-child-protection-agency/article_79eb7e04-b6aa-5e41-87fd-50c01e3a8d6a.html.

²⁰ Gina Mangieri, “Blindspots in Network of Child Protections Probed in Wake of Isabella Kalua Murder,” *KHON2*, Feb. 8, 2022, <https://www.khon2.com/always-investigating/blindspots-in-network-of-child-protections-probed-in-wake-of-isabella-kalua-murder/>; Kevin Dayton, “Isabella Kalua Tragedy Turns a Spotlight on the Licensing of Foster Families,” *Honolulu Civil Beat*, Nov. 30, 2021, <https://www.civilbeat.org/2021/11/isabella-kalua-tragedy-turns-a-spotlight-on-the-licensing-of-foster-families/>.

²¹ The Committee notes that this report references both “Native Hawaiian” and “Native Hawaiian and Pacific Islander (NHPI),” but these terms are not meant to be used interchangeably. A lot of existing research relies on census data, which does not disaggregate data (i.e., Native Hawaiian and other Pacific Island races and ethnicities are grouped together). However, there is a growing trend and effort in Hawaii to disaggregate data in order to create tailored policies for certain groups.

²² Lee and others, “Native Hawaiian and Pacific Islander Children in Foster Care: A Descriptive Study.” Native Hawaiians are also overrepresented in almost every system in Hawai‘i, including higher incarceration rates, longer prison and probation sentences, special education, poor health outcomes and disparities, etc. Julien-Chinn Testimony, *Transcript I*, pp. 9, 12; Rosete-Medeiros Testimony, *Transcript II*, p. 27.

²³ Ibid.

²⁴ Julien-Chinn Testimony, *Transcript I*, p. 10.

²⁵ Ibid.

²⁶ Ibid.

²⁷ “Child Welfare Services,” *State of Hawaii Department of Human Services*, <https://humanservices.hawaii.gov/ssd/home/child-welfare-services/>, (last accessed on Jan. 12, 2026).

neglected children.²⁸ The goal of the CWS Branch is to prevent or remedy neglect, abuse, or exploitation of children unable to protect their own interests, as well as preserve, rehabilitate or reunite families.²⁹ The services provided include foster care, family support, adoption, legal guardianship, independent living, adoption assistance, licensing of resource caregivers, group homes, and child placing organizations.³⁰ The mission of the CWS Branch is:

...to ensure the safety, permanency, and wellbeing of children in their own homes first or, when necessary, in out-of-home placements. When a child cannot be safely returned to the family within a reasonable time frame, CWS will proceed with establishing a permanent placement for the child through adoption, legal guardianship, or another long-term substitute care.³¹

The responsibility over Hawai‘i’s abused and neglected children, however, does not fall only to the CWS Branch.³² While the CWS Branch is the primary agency responsible for Hawai‘i’s abused and neglected children, the child welfare system includes the CWS Branch, family courts, law enforcement officers, and nonprofit service providers.³³ The child welfare system intersects with the education system, criminal justice system, healthcare systems, crisis response systems, and many others.³⁴ In the last three to four years, the CWS Branch collaborated with other Hawai‘i agencies such as the Department of Education, Department of Health, and other branches within the Department of Human Services.³⁵ This cross agency collaboration, called “High Sync,” involves department heads meeting to address various issues that each department is facing, including identifying and tracking lists of children that each department has come into contact with.³⁶

According to the CWS Branch Administrator, Elladine Olevao, CWS has 398 available positions across all of the Hawaiian Islands—except for Kaho‘olawe and Ni‘ihau.³⁷ As of August 2023, CWS had a 33 percent vacancy rate, which reportedly worsened as a result of the COVID-19 pandemic and high-profile media cases in Hawai‘i.³⁸ CWS faces workforce challenges around recruiting and retaining staff, and is actively trying to address the staff vacancies.³⁹ For example, CWS has met with the Governor and Lieutenant Governor of Hawai‘i regarding these vacancies

²⁸ HAW. REV. STAT. §587A; State of Hawaii, Department of Human Services, Child Welfare Services Branch, *A Guide to Child Welfare Services*, 2020, p. 4, <https://humanservices.hawaii.gov/wp-content/uploads/2020/10/September-2020.-REVISED-A-GUIDE-TO-CHILD-WELFARE-SERVICES.pdf>

²⁹ Hawai‘i Administrative Rules § 17-912-2(3) (eff. 1982).

³⁰ “Child Welfare Services,” *State of Hawaii Department of Human Services*.

³¹ *Ibid.*

³² Davis Testimony, *Transcript III*, p. 4. Prior to the creation of government child protective agencies, child welfare and childcare systems had origins in philanthropy, or anti-poverty, aimed at helping poor families—specifically, white women. These childcare systems were not government-run but evolved from social work case management. Reelitz Testimony, *Transcript III*, p. 10.

³³ Hawaii State Office of Wellness and Resilience, “Report to the Legislature of the State of Hawai‘i: Findings and Recommendations of the Mālama ‘Ohana Working Group,” p. 22, https://owr.hawaii.gov/wp-content/uploads/2025/01/OWR-MOWG_2024Report_Combined.pdf.

³⁴ *Ibid.* at 10.

³⁵ Olevao Testimony, *Transcript I*, p. 17. CWS also collaborates with the Benefit Employment Support Services (BESS) Division to assist families with obtaining SNAP benefits. *Ibid.* at 22.

³⁶ Olevao Testimony, *Transcript I*, 17.

³⁷ *Ibid.* at 4.

³⁸ *Ibid.*

³⁹ Olevao Testimony, *Transcript I*, 24; Speer Testimony, *Transcript V*, p. 17.

and discussed strategic ways to recruit and retain CWS staff.⁴⁰ CWS recently piloted a program, “Wikiwiki,” to expedite hiring of CWS applicants.⁴¹ Normally, applicants must wait four to six months from the date of application to being hired and walking through CWS doors.⁴² Under the Wikiwiki program, applicants can be hired and working within weeks.⁴³

The CWS operates under a three-tiered “Differential Response System,” with child welfare involvement only occurring under the highest tier.⁴⁴ Under the “highest tier,” CWS has determined that there is high risk or safety factors present in the home and child welfare is required to intervene.⁴⁵ Under the “middle tier,” CWS has determined that there is moderate risk or safety factors present in the home and CWS offers voluntary case management services to the family.⁴⁶ Under the “lowest tier,” CWS has determined there is low risk or safety factors present in the home and CWS offers family strengthening services.⁴⁷ CWS has 104 contracted services that provide various family support services, ranging from prevention services to specialized support (such as services to address substance abuse, domestic violence, mental health, developmental delays, etc.), youth services (such as therapy/counseling, life skills training, and housing and educational assistance), and shelter services (such as safe housing for domestic violence survivors).⁴⁸

Under the middle and lowest tier, families are offered voluntary family services, which they may refuse.⁴⁹ Some of these voluntary services/programs include CWS’s intensive home-based training and parenting classes.⁵⁰ Previously, CWS funds were primarily used for supporting foster care placements (foster court payments, child services, etc.).⁵¹ There has been a shift in how CWS funds are used under the federal government’s Family First initiative and funds are now directed towards preventative services to keep families intact.⁵² CWS reports seeing positive trends in their data related to the overall reduction of foster care children in Hawai‘i.⁵³

Although CWS family support services are voluntary under the middle and lowest tier, removal is required and families are mandated to appear in court and complete various CWS services if a family falls under the highest tier where high risk of harm to the child is present.⁵⁴ Many of these CWS services and programs were created and tailored to address the overrepresentation of Native Hawaiian children and families in the child welfare system. For example, Nā Kama a Hāloa was established over five years ago to address the overrepresentation of Native Hawaiian children in foster care by bringing together over 30 agencies and community-based organizations to

⁴⁰ Olevao Testimony, *Transcript I*, 24.

⁴¹ *Ibid.* at 25.

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.* at 19.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ Hartsfield Testimony, *Transcript V*, p. 11.

⁴⁹ *Ibid.* at 9-10.

⁵⁰ *Ibid.* at 11.

⁵¹ Olevao Testimony, *Transcript I*, p. 5.

⁵² *Ibid.*

⁵³ *Ibid.* According to the CWS Branch Administrator Olevao, in 2020, there were about 1,500 children in foster care in Hawaii; in 2022, there were about 1,200 children in foster care in Hawaii; and, in 2023, there were under 1,000 children in foster care in Hawaii. *Ibid.*

⁵⁴ Hartsfield Testimony, *Transcript V*, p. 9-10.

reenvision Hawai‘i’s child welfare system.⁵⁵ The group focuses on integrating Native Hawaiian practices and perspectives to develop culturally appropriate solutions.⁵⁶ These are a couple of the key implementations that resulted from Nā Kama a Hāloa are the Mālama ‘Ohana Working Group, Hui Kauhale, and Hui Makua.⁵⁷

In particular, the Mālama ‘Ohana Working Group, a legislative working group within the Office of Wellness and Resilience, was established by the 2023 Hawai‘i State Legislature to develop policy recommendations to develop a child welfare system that is trauma-informed, sustains a community-based partnership, and responds to the needs of children and families in the system and community.⁵⁸ The Working Group held various meetings and forums to gather community input from various stakeholders and impacted individuals, such as former foster youth, birth parents who were involved in CWS, and licensed and kinship caregivers, to inform policy recommendations.⁵⁹ The Working Group submitted their report to the legislature on December 30, 2024.⁶⁰ Summarily, the report recommends the following: acknowledge and address historical trauma and persistent disproportionality, build family resilience, provide comprehensive specialized support services, develop a trauma-informed system, and ensure accountability within the child welfare system.⁶¹

Hawai‘i’s CWS Branch and Family Court Procedures

Initial Report— Most children and families first become involved with the child welfare system because a report has been submitted to CWS of alleged or risk of child abuse and/or neglect. In each state, the definition of abuse and neglect vary⁶² as well as regulations regarding which

⁵⁵ Olevao Testimony, *Transcript I*, p. 6; Rosete-Medeiros Testimony, *Transcript II*, p. 27-28; Davis Testimony, *Transcript III*, p. 5.

⁵⁶ *Ibid.*

⁵⁷ The Mālama ‘Ohana Working Group aims to transform Hawaii’s child welfare system to be trauma-informed, community-centered, and culturally responsive through holding public forums to gather community input to inform policy recommendations. Rosete-Medeiros Testimony, *Transcript II*, p. 30-31. Through Hui Kauhale, CWS developed cultural training for social workers and caregivers of Native Hawaiian children in order for these children to maintain cultural identity and connection. *Ibid.* at 29. Through Hui Makua, birth parents are provided a platform to share their experiences within the child welfare system and make suggestions regarding reforms to improve child welfare policies. *Ibid.*

⁵⁸ *Ibid.* at 30-31.

⁵⁹ *Ibid.* The tasks and desired outcomes of the Mālama ‘Ohana Working Group are the following:

- Conduct informational meetings throughout the State with affected constituencies;
- Convene meetings to develop recommendations to better coordinate and improve the protection and well-being of children and families in the State’s child welfare system;
- Identify training, best practices, assessment criteria, and methods to sustain an effective workforce within the child welfare services branch and within the larger circle of community agencies serving the child welfare system;
- Identify best practices, including Native Hawaiian cultural practices, to assist children and youth who are involved in the child welfare system and their families;
- Identify other cultural practices that build wellness and resilience in communities and collaboration between communities and the child welfare services branch; and
- Collaborate with the trauma-informed care task force, and, where appropriate, conduct joint informational meetings. *PowerPoint II*, slide 46.

⁶⁰ Hawaii State Office of Wellness and Resilience, “Report to the Legislature of the State of Hawai‘i: Findings and Recommendations of the Mālama ‘Ohana Working Group.”

⁶¹ *Ibid.* at 12-14.

⁶² HAW. REV. STAT. §587A-1 et seq. The CWS summarizes:

The law requires parents to provide their children with a safe family home, free from child abuse and neglect. Child abuse and neglect is often referred to as harm, and risk for child abuse and neglect is often referred to as threatened harm. Child abuse or neglect includes physical abuse or neglect; medical neglect; psychological abuse or

individuals are legally required to report suspected maltreatment.⁶³ Failure to report as a mandated reporter potentially subjects them to a petty misdemeanor prosecution.⁶⁴ Members of the public may also report suspected child abuse anonymously via an intake hotline. The matter is then assigned for intervention or not and will either be assigned to CWS for investigation or the Differential Response System (which includes Family Strengthening Services or Voluntary Case Management). Good faith reporting by members of the public is shielded from liability.⁶⁵

DHS Investigation and Removal of the Child— Upon receiving any report of potential child abuse and/or neglect, DHS is required to open an investigation and take immediate action.⁶⁶ DHS may involve state and federal law enforcement to remove the child from the home and assume temporary foster custody of the child without a court order if they determine the child is subject to imminent harm at their home.⁶⁷ Pursuant to Section 587A-11 of the Hawai‘i Revised Statutes, DHS “shall cause such investigation to be made as it deems to be appropriate.”⁶⁸ Thus, DHS may also request to work with law enforcement on a joint investigation but can also conduct their own independent investigation.⁶⁹ The investigation may include the following: a criminal history record check of all alleged perpetrators and all adults living in the family home; interview the suspected child victim without the presence or prior approval of the child’s family; and, meet with the alleged perpetrator and family, including siblings if any, at home; meet with teachers, neighbors, medical providers, and other individuals who may know the child and/or family.⁷⁰

If a child is removed and placed in temporary foster custody without a court order, DHS has three business days to either: 1) return the child and resolve the matter, 2) secure a signed Voluntary Foster Custody Agreement, or 3) file a petition with the court.⁷¹

If the assessment finds that the family home is safe, then DHS will return the child to their family home within three business days.⁷² DHS may also close the matter if it finds that the child is residing with a caregiver who is willing and able to meet the child’s needs and is able to provide a safe and appropriate home for the child.⁷³

neglect; inadequate care and supervision; sex abuse; a parent/guardian/caregiver giving illegal drugs to a child; or trafficking children for sex and/or labor.

Further, according to HRS §587A-4, examples of “harm” may include bruising, internal bleeding, burns, malnutrition, failure to thrive, soft tissue swelling, extreme pain, extreme mental distress, gross degradation, poisoning, fracture of any bone, subdural hematoma, death with no justifiable explanation. HRS §587A-4.

⁶³ HAW. REV. STAT. § 350-1.1.

⁶⁴ HAW. REV. STAT. § 350-1.2.

⁶⁵ HAW. REV. STAT. § 350-3.

⁶⁶ HAW. REV. STAT. § 587A-11.

⁶⁷ *Id.* A child can be removed from an unsafe home under three circumstances: 1) law enforcement, 2) a court order signed by a Family Court Judge, or 3) under a signed Voluntary Foster Custody Agreement, signed by the child’s guardian. State of Hawaii, Department of Human Services, Child Welfare Services Branch, *A Guide to Child Welfare Services*.

⁶⁸ HAW. REV. STAT. § 587A-11.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ HAW. REV. STAT. § 587A-9(a)(5).

⁷² State of Hawaii, Department of Human Services, Child Welfare Services Branch, *A Guide to Child Welfare Services*.

⁷³ HAW. REV. STAT. § 587A-11(5).

If the assessment finds that the family home is unsafe, DHS may ask the parents of a removed child if they are willing to sign a Voluntary Foster Custody Agreement.⁷⁴ The Voluntary Foster Custody Agreement is an agreement made between DHS and the child's parents written consent by a person with legal and physical custody of a child (usually the child's parents), to place the child in foster custody of DHS for a period of 90-days.⁷⁵

If the assessment finds that the family home is unsafe and the family refuses to sign the Voluntary Foster Custody Agreement (or verbally cancels or terminates the Voluntary Foster Custody Agreement)⁷⁶, DHS will immediately file a petition for temporary foster custody with the family court.⁷⁷ If a court hearing is not duly initiated, the confirmed perpetrator may submit a written request for an administrative hearing to contest DHS's assessment within 90 days of the date of the notice confirming them as a confirmed perpetrator.⁷⁸

Initial Temporary Foster Custody Hearing— An initial hearing must be held within two working days after DHS files a petition for temporary foster custody following child removal.⁷⁹ At this Initial Temporary Foster Custody Hearing (Initial Hearing), a family court judge will appoint a Guardian Ad Litem (GAL) to represent the child's best interests and may appoint legal counsel for the parents.⁸⁰ In addition, the family court must determine whether DHS has made "reasonable efforts" to prevent the child's removal.⁸¹ Lastly, the family court must also determine whether the child should remain in temporary foster care under DHS based on a finding that there is "reasonable cause" to believe the continued placement is necessary to protect that child from imminent harm.⁸²

Return Hearing— The court will then hold a private⁸³ return hearing within fifteen days of the filing of the petition to make preliminary orders as to whether the child's physical or psychological health or welfare has been harmed or is subject to threatened harm by the acts or omissions of the child's family.⁸⁴ The court may dismiss the petition if it determines that the child's physical or psychological health or welfare has not been harmed or is subject to threatened harm by the acts or omissions of the child's family.⁸⁵ On the other hand, if the child has been harmed or is subject to threatened harm, the court must consider the 14 factors set forth under HRS § 587A-7 to

⁷⁴ State of Hawaii, Department of Human Services, Child Welfare Services Branch, *A Guide to Child Welfare Services*.

⁷⁵ HAW. REV. STAT. §§ 587A-9(a)(5)(C) and 11(6).

⁷⁶ According to DHS, if parents sign a Voluntary Foster Custody agreement, they have the right to verbally cancel or terminate the agreement at any time and ask for their child to be returned to their home. DHS, however, can only return the child home after the home is assessed to be safe. State of Hawaii, Department of Human Services, Child Welfare Services Branch, *A Guide to Child Welfare Services*.

⁷⁷ HAW. REV. STAT. §§ 587A-9(a)(5)(C) and 11(7).

⁷⁸ State of Hawaii, Department of Human Services, Child Welfare Services Branch, *A Guide to Child Welfare Services*.

⁷⁹ HAW. REV. STAT. §§ 587A-12(c) and 26.

⁸⁰ HAW. REV. STAT. §§ 587A-16 and A-17; Park Testimony, *Transcript II*, p. 10. HAW. REV. STAT. § 587A-17 provides that the family court must appoint legal counsel to parents under certain financial circumstances. While the statute limits the court appointments to those who meet the indigency requirement, many family court judges will often offer parents counsel despite not meeting the indigency requirement because the Return Hearing is particularly important. Park Testimony, *Transcript II*, p. 10; see *In the Interest of TM*, 131 Hawai'i 419, 319 P.3d 338 (Haw. 2014).

⁸¹ Park Testimony, *Transcript II*, p. 11.

⁸² *Ibid.* 10.

⁸³ See HAW. REV. STAT. §587A-25.

⁸⁴ HAW. REV. STAT. § 587A-28. DHS must prove to the court, by a "preponderance of evidence," that the child's physical or psychological health or welfare has been harmed or is subject to threatened harm by the acts or omissions of the child's family. Park Testimony, *Transcript II*, p. 11.

⁸⁵ Park Testimony, *Transcript II*, p. 11.

determine whether the child should remain in foster custody or under family supervision, and what services should be provided to the child's parents.⁸⁶ Per HRS §587A-7, the 14 factors that a judge must consider includes:

- (1) The child's current situation relating to the child's attachment, bonding ability, growth, development, health status, educational status, and impact on the child's wellbeing if removed;
- (2) All reports of harm and/or threatened harm to the child;
- (3) Details, dates and reasons for the child's out-of-home placement;
- (4) Details about the alleged perpetrators of harm to the child, including birthplace/family of origin, marital/relationship history, prior involvement in CWS, and manner in which the alleged perpetrator was parented;
- (5) Results of psychiatric, psychological or developmental evaluations of the child and other family members;
- (6) History of abusive or assaultive conduct by the child's family or others who have access to the home;
- (7) History of substance abuse by the child's family or others who have access to the home;
- (8) Whether an alleged perpetrator completed services in relation to the past abusive/assaultive conduct or substance abuse;
- (9) Whether a non-perpetrator has demonstrated an ability to protect the child from further harm;
- (10) Support system available to the child's family, including adoptive and hanai relatives, friends, and faith-based or other community networks;
- (11) Attempts to locate and involve extended family and friends;
- (12) The family's understanding of and involvement in services that have been recommended by CWS or court to provide a safe home;
- (13) Resolution of the identified safety issues in the family home within a reasonable time; and,
- (14) DHS's assessment and recommendations.⁸⁷

Part of the family court's orders for the return hearing also includes a "service plan" for parents.⁸⁸ This service plan lays out the necessary programs and services that the parents are directed to complete, which demonstrates that they are willing and able to provide their children with a safe family home.⁸⁹ In addition, the family court will set a periodic review hearing no later than six months after the child is placed in foster care, as well as a permanency hearing no later than 12 months after the child is placed in foster care.⁹⁰

⁸⁶ HAW. REV. STAT. § 587A-7.

⁸⁷ HAW. REV. STAT. § 587A-7.

⁸⁸ HAW. REV. STAT. § 587A-27; Park Testimony, *Transcript II*, p. 11. According to DHS, service plans include the following: the goals to be accomplished, the services the parents and family requires, how and by whom the services are to be provided, the responsibilities for the parents, DHS, and others (e.g., resource caregivers), and the consequences if the services are not completed and goal is not attained. State of Hawaii, Department of Human Services, Child Welfare Services Branch, *A Guide to Child Welfare Services*.

⁸⁹ Park Testimony, *Transcript II*, p. 11. Completing all of the services in the service plan is not always required for reunification. *Ibid*.

⁹⁰ HAW. REV. STAT. § 587A-28(e)(9).

Periodic Review Hearings— Periodic review hearings are held at least every six months to evaluate whether the child is receiving proper care, whether the parents are completing the appropriate services or if adjustments to services must be made, and whether DHS’s activities are directed towards a permanent placement for the child.⁹¹ While these hearings must be held every six months, family court judges often hold periodic review hearings much more frequently because frequent contact with the parents and family increases the possibility of successful outcomes.⁹² The family court focuses on assessing whether DHS efforts or programs align with the family’s needs, whether there are alternative services (possibly more culturally based programs) would be more appropriate.⁹³

Permanency Hearing— As mentioned above, the family court must hold a permanency hearing no later than 12 months after the child is placed in foster care.⁹⁴ Part of the family court’s findings includes whether DHS has made “reasonable efforts” to finalize the permanency goal.⁹⁵ The family court must either order: the child’s reunification with a parent or parents; the child’s continued placement in foster care, where the reunification is expected to occur within a time frame that is consistent with the developmental needs of the child and the safety and health of the child can be adequately safeguarded; or, a permanent plan with a goal of either terminating parental rights and placing the child for adoption, placing the child for legal guardianship if termination of parental rights and adoption is not in the best interests of the child, or awarding permanent custody to DHS if adoption and legal guardianship is not in the best interests of the child.⁹⁶

Termination of Parental Rights Hearing— DHS may file a motion to terminate parental rights if reunification is not foreseeable.⁹⁷ Typically, the state is required to file a motion to terminate parental rights if a child has been in foster care for 15 out of 22 months.⁹⁸ At a termination of parental rights hearing, the family court must determine, by clear and convincing evidence, whether the parent whose rights are subject to termination is not presently willing and able to provide their child with a safe family home, even with the assistance of a service plan, or it is not reasonably foreseeable that the parent will become willing and able to provide their child with a safe family home within a reasonable period of time, which shall not exceed two years from the child’s date of entry into foster care.⁹⁹ If the court finds that the parent(s) is not willing and able to provide a safe family home or it is not reasonably foreseeable that the parent(s) can within the two-year limit, then the court must order the termination of parental rights, termination of the service plan, award permanent custody to an appropriate authorized agency, and an appropriate permanent plan.¹⁰⁰ If the family court does not make said finding, the court must order the preparation of a plan to achieve permanency for the child and additional permanency hearings to

⁹¹ HAW. REV. STAT. § 587A-30; Park Testimony, *Transcript II*, p. 11-12.

⁹² Park Testimony, *Transcript II*, p. 12.

⁹³ *Ibid.* at 11-12. According to Judge Park, parents and their attorneys may request substitutions for more culturally based programs or services if the original services that were ordered are less accessible or not culturally sensitive. *Ibid.*

⁹⁴ HAW. REV. STAT. § 587A-31.

⁹⁵ HAW. REV. STAT. § 587A-31; Park Testimony, *Transcript II*, p. 12. The court assesses whether DHS has actively pursued reunification by providing the family necessary support and services. Park Testimony, *Transcript II*, 12.

⁹⁶ HAW. REV. STAT. § 587A-31(d).

⁹⁷ Park Testimony, *Transcript II*, p 13.

⁹⁸ HAW. REV. STAT. § 587A-31(g).

⁹⁹ HAW. REV. STAT. § 587A- 33(a); Park Testimony, *Transcript II*, p. 13.

¹⁰⁰ HAW. REV. STAT. § 587A-33.

achieve that goal.¹⁰¹ Most courts, however, require that parents must demonstrate they can provide a safe family home within two years from the child’s entry into foster care.¹⁰²

Apart from the services and programs provided through DHS, the Hawai‘i judiciary is also working on offering several initiatives to address the overrepresentation of Native Hawaiian children and families within the child welfare system. For example, in collaboration with DHS’s Child and Adolescent Mental Health Division, the Pulama ‘Ia Na Liko Youth and Family Resource Center diverts youth involved with DHS from formal system/criminal justice involvement.¹⁰³ The judiciary is also working with several partners to create a cultural court focused on cultural connections and breaking systemic cycles.¹⁰⁴ Lastly, the judiciary also collaborates with Imua Kākou to serve young adults who turned 18 years old in voluntary foster care and emancipated or who “aged out” of the system (or they were subject to a legal guardianship or adoption after 16 years old).¹⁰⁵ Imua Kākou aims to reduce further system involvement by providing participants case management, independent living assistance, and financial stipends to cover rent, education, and medical/dental coverage.¹⁰⁶ Participants of Imua Kākou are required to meet monthly with case managers, attend court hearings and either complete high school/GED, enroll in post-secondary education, participate in an employment program, or work part-time.¹⁰⁷ The judiciary appoints a judge in each circuit court to preside over the court hearings for participants.¹⁰⁸

The following section briefly outlines relevant legislation and legal authority related to the proposed topic.

Federal Legislation and Court Rulings That Influence Local Child Welfare Systems

The Child Abuse Prevention and Treatment Act (CAPTA) provides federal funding to states for the prevention, assessment, investigation, prosecution, and treatment of child neglect and abuse.¹⁰⁹ CAPTA sets the minimum standards for child abuse and neglect and requires states to implement mandated “reporter laws,” which entail provisions or procedures for requiring certain individuals to report known or suspected instances of child abuse and neglect.¹¹⁰

In 1978, the Indian Child Welfare Act (ICWA) was enacted to combat previous efforts by the federal government, states and private agencies that separated Indian children from their families and tribal community under the guise of “civilizing” them and providing “better lives.”¹¹¹ Two policy aims of the ICWA were: (1) “to protect the best interests of Indian children,” and (2) “to promote the stability and security of Indian tribes and families,”¹¹² based on the belief that

¹⁰¹ HAW. REV. STAT. § 587A-33.

¹⁰² Mannisto Testimony, *Transcript III*, p. 12.

¹⁰³ Park Testimony, *Transcript II*, p. 15.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

¹⁰⁷ “Program Information,” Imua Kākou, <https://www.imua21.org/program-info.html> (last accessed January 15, 2026).

¹⁰⁸ Park Testimony, *Transcript II*, p. 15.

¹⁰⁹ Child Abuse Prevention and Treatment Act of 1974, Pub. L. 93-247, 88 Stat. 4 (1974).

¹¹⁰ *Id.*

¹¹¹ Indian Child Welfare Act (ICWA) of 1978, 25 U.S.C. §§ 1901-63 (2026); Jane M. Smith, “The Indian Child Welfare Act (ICWA): A Leage Overview” (report for the U.S. Congress), *Congressional Research Service*, January 28, 2013, https://www2.law.umaryland.edu/marshall/crsreports/crsdocuments/R42047_01282013.pdf.

¹¹² 25 U.S.C. § 1902.

“protection of the child’s relationship with the tribe is in the child’s best interest.”¹¹³ The Bureau of Indian Affairs stated, in its “Guidelines for State Courts; Indian Child Custody Proceeding,” that Congress through the ICWA “expressed its clear preference for keeping Indian children with their families, deferring to tribal judgment on matters concerning the custody of tribal children, and placing Indian children who must be removed from their homes within their own families or Indian tribes.”¹¹⁴ The ICWA accomplishes this by establishing “minimum federal [legal] standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture” and providing procedural protections for parents and tribes in state court proceedings.¹¹⁵

The Adoption and Safe Families Act (ASFA), enacted in 1997, prioritizes child safety and adoption.¹¹⁶ It requires states to file for termination of parental rights for children who have been in foster care for 15 months in a 22 month time period (the “15/22 rule”), and in cases of serious abuse authorizes states to forego all family reunification efforts.¹¹⁷ ASFA also requires states to engage in concurrent planning (e.g. planning for adoption alongside reunification to promote quicker permanency for children).¹¹⁸

The 2018 Family First Prevention Services Act (FFPSA) is the most recently enacted federal child welfare legislation.¹¹⁹ The goals of the FFPSA are to help prevent the removal of children from their families and avoid the traumatic experience of entering foster care.¹²⁰ The Act emphasizes the importance of children growing up in families rather than group facilities and seeks to ensure children are placed in the least restrictive, most family-like setting appropriate to their needs when foster care is needed.¹²¹ One of the major changes that the FFPSA accomplished is how Title IV-E funds can be spent by states, including services that focus on preventing children from entering the foster care system.¹²² Prior to FFPSA, Title IV-E funds were primarily used to reimburse families for foster care maintenance payments.¹²³ The law also created the Title IV-E Prevention Services Clearinghouse, which consists of a continuously updated comprehensive list of evaluated and tested prevention services and programs that states can use Title IV-E funds toward to prevent disruption within families.¹²⁴

A handful of U.S. Supreme Court and federal court rulings recognize parents’ constitutional rights to the care, custody, and control of their children. Five court cases are particularly relevant. In *Meyer v. Nebraska* (1923), the court held that a statute forbidding the teaching of the German

¹¹³ *Chester County Dep’t of Social Services v. Coleman*, 372 S.E.2d 912, 914 (S.C.Ct. App. 1988).

¹¹⁴ Bureau of Indian Affairs Guidelines for State Courts; Indian Child Custody Proceedings, 44 Fed. Reg. 67584, 67585-56 (1979). <https://www.icwlc.org/wpsite/wp-content/uploads/2014/05/3.-BIA-Guidelines-for-State-Courts-Indian-Child-Custody-Proceedings.pdf>

¹¹⁵ Smith, “The Indian Child Welfare Act (ICWA): A Leage Overview.”

¹¹⁶ Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115 (1997).

¹¹⁷ 42 U.S.C. § 675(5)(E).

¹¹⁸ 42 U.S.C. § 671(a)(15)(F).

¹¹⁹ Family First Prevention Services Act, Pub. L. No. 115-123, 132 Stat. 64, 232-268 (2018).

¹²⁰ Congressional Research Service, Family First Prevention Services Act (FFPSA), prepared by Emilie Stoltzfus, 2019, p. 1, https://www.congress.gov/crs_external_products/IN/PDF/IN10858/IN10858.4.pdf.

¹²¹ *Id.*

¹²² *Id.*

¹²³ “Family First Prevention Services Act: Questions and Answers,” *Healthy Families America*, 2021, <https://www.healthyfamiliesamerica.org/wp-content/uploads/2021/08/FFPSA-QA.pdf> (last accessed January 15, 2026).

¹²⁴ 42 U.S.C. § 671(e).

language impermissibly encroached on the liberty parents possess.¹²⁵ The Court explained that the Due Process Clause of the Fourteenth Amendment protects this liberty, incorporating “the right to marry, establish a home, and bring up children.”¹²⁶ In *Duchesne v. Sugarman*, the Second Circuit held “[T]he right of the family to remain together without the coercive interference of the awesome power of the state . . . encompasses the reciprocal rights of both parent and child.”¹²⁷ The court explained that children have the constitutional right to avoid dislocat[ion] from the emotional attachments that derive from the intimacy of daily association with the parent.”¹²⁸ In *Lassiter v. Dep’t of Soc. Servs.*, the Court ruled that parents have a due process right to a fundamentally fair procedure that may require the appointment of counsel.¹²⁹ However, the U.S. Constitution does not require the appointment of counsel in all proceedings involving the potential for termination of parental rights.¹³⁰ In *Santosky v. Kramer*, the Court declared unconstitutional a New York statute that authorized termination of parental rights based on a preponderance of the evidence.¹³¹ The Court in *Santosky* found that the due process clause of the fourteenth amendment to the U.S. Constitution requires the State to “support its allegations by at least clear and convincing evidence” before it may involuntarily divest a parent of his or her parental rights.¹³² Finally, in *Troxel v. Granville*, the Washington state Supreme Court held that the state visitation statute was unconstitutional and infringes on parents’ fundamental right to rear their children.¹³³

State Legislation and Court Rulings That Influences Local Child Welfare Systems

While federal laws lay out the framework, state laws define child abuse and neglect, govern the child welfare system, provide the conduct, acts, and omissions that must be reported, and mandate policies and procedures for responding to child maltreatment. The legislation that governs the child welfare system in Hawai‘i is primarily found in the Child Protective Act, Chapter 587A of the Hawai‘i Revised Statutes.¹³⁴

In the wake of the tragic deaths of several children involved in Hawai‘i’s child welfare system, many people sought to improve Hawai‘i’s child welfare system.¹³⁵ On June 14, 2023, the legislative working group called the Mālama ‘Ohana Working Group was created.¹³⁶ The Working Group was directed to hold listening sessions throughout the state and bring together community partners to improve and transform the child welfare system in Hawai‘i.¹³⁷ Senate Concurrent Resolution No. 88, “Requesting the Office of Wellness and Resilience Establish the Mālama ‘Ohana Working Group to Identify, Design and Recommend Transformative Changes to the

¹²⁵ *Meyer v. Nebraska*, 262 U.S. 390 (1923).

¹²⁶ *Id.*

¹²⁷ *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977).

¹²⁸ *Id.*

¹²⁹ *Lassiter v. Dep’t of Soc. Servs.*, 452 U.S. 18 (1981).

¹³⁰ *Id.*

¹³¹ *Santosky v. Kramer*, 455 U.S. 745, 747–48, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982).

¹³² *Id.*

¹³³ *Troxel v. Granville*, 530 U.S. 57 (2000).

¹³⁴ HAW. REV. STAT. § 587-1 et seq.

¹³⁵ Jolanie Martinez, “In the Wake of 6-Year-Old’s Horrific Death, Lawmakers Approve Bill Aimed at Bolstering Child Welfare System,” *Hawaii News Now*, Apr. 1, 2022, <https://www.hawaiinewsnow.com/2022/05/01/state-lawmakers-approve-bill-improve-child-welfare-system/>.

¹³⁶ Act of June 14, 2023, No. 86, 2023 Haw. Sess. Laws 198 (establishing the Mālama ‘Ohana Working Group within the Office of Wellness and Resilience).

¹³⁷ “Mālama ‘Ohana Working Group,” Mālama ‘Ohana Working Group, <https://www.malamaohana.net/malama-ohana-working-group> (last accessed January 15, 2026).

State’s Child Welfare System” (hereinafter “S.C.R No. 88”), identified the Office of Wellness and Resilience is uniquely equipped to host the Mālama ‘Ohana Working Group.¹³⁸ The resolution specifically acknowledges that Native Hawaiian children and families are overrepresented in the State’s child welfare system and identifies various members of the Working Group, including DHS CWS Branch representatives, institutions serving Native Hawaiians, contracted service providers, community-based organizations, birth parents, and youth with lived experience in the State’s child welfare system.¹³⁹

In addition to the creation of the Mālama ‘Ohana Working Group, the state legislature also passed several laws that amended several Child Protective Act laws. Act 144, effective July 1, 2025, amends the child abuse statute’s criteria for removing a child from a home.¹⁴⁰ Previously, DHS, in conjunction with the police, removed and assumed temporary foster custody of a child if, without intervention within ninety days, there was reasonable cause to believe that harm to the child would occur.¹⁴¹ Per Act 144, DHS and the police can remove and assume temporary foster custody if “exigent circumstances” are present.¹⁴² “Exigent circumstances” means that “based on specific and articulable evidence, there is reasonable cause to believe that immediately assuming protective custody and temporary foster custody of a child is necessary to protect the child from serious harm that is likely to occur before a court order can be obtained.”¹⁴³ Act 147 clarifies when individuals can have their names removed from the state’s central registry for confirmed child abuse.¹⁴⁴ Previously, names were only removed if the state failed to meet its burden of proof in court or if an error was found before legal action.¹⁴⁵ Now, individuals who meet specific criteria can petition the court for removal from the registry.¹⁴⁶ Act 148 establishes a clear process for extended family members to challenge child placements.¹⁴⁷ Previously, families used administrative appeals, which was an improper process.¹⁴⁸ Now, family members must file a motion in court, ensuring decisions are made in the appropriate legal venue.¹⁴⁹

Hawai‘i’s Supreme Court and Intermediate Court of Appeals have also issued decisions relating to Hawai‘i’s Child Welfare Services. In *Woodruff v. Keale*, the Hawai‘i Supreme Court analyzes whether Hawai‘i’s Child Protective Act (CPA) is consistent with due process principles.¹⁵⁰ The Court in *Woodruff* determined that Hawai‘i’s CPA gives proper regard to the rights of parents before allowing termination, which is consistent with due process principles.¹⁵¹ Specifically, Hawai‘i’s statutory scheme facilitating the termination of parental rights initially considers parents’ rights and interests before turning to the child’s best interests.¹⁵² In the case of involuntary

¹³⁸ S. Con. Res. 88, 32nd Leg., Reg. Sess. (Haw. 2023). The resolution also mentions that, in 2018, Na Kama a Haloa sought ways to address overrepresentation of Native Hawaiians in the State’s child welfare system and first suggested a working group. *Id.*

¹³⁹ *Id.*

¹⁴⁰ Child Protective Act, No. 144, §§ 587A-4, 8-9, 11, 21 and 588-2, 2024 Haw. Sess. Laws 348.

¹⁴¹ HAW. REV. STAT. § 587A-4 (2024).

¹⁴² Child Protective Act, No. 144, § 587A-8, 2024 Haw. Sess. Laws 348, 349.

¹⁴³ Child Protective Act, No. 144, § 587A-4, 2024 Haw. Sess. Laws 348, 348.

¹⁴⁴ Act of July 1, 2024, No. 147, 2024 Haw. Sess. Laws 356; see Hartsfield Testimony, *Transcript V*, p. 5.

¹⁴⁵ Hartsfield Testimony, *Transcript V*, p. 5.

¹⁴⁶ *Ibid.*

¹⁴⁷ Act of July 1, 2024, No. 148, 2024 Haw. Sess. Laws 358; see Hartsfield Testimony, *Transcript V*, p. 6.

¹⁴⁸ Hartsfield Testimony, *Transcript V*, p. 6.

¹⁴⁹ *Ibid.*

¹⁵⁰ *Woodruff v. Keale*, 637 P.2d 760 (1981).

¹⁵¹ *Id.* at 769.

¹⁵² *Id.*

termination, the family court will first examine whether parents have demonstrated some form of “unfitness” and, if a parent is deemed unfit, the state will then intervene as *parens patriae* and consider the best interests of the child.¹⁵³

The Hawai‘i Supreme Court, in *In re Doe*, analyzes several issues related to the CPA.¹⁵⁴ Specifically, the Court concluded that the CPA does not authorize the divestiture of parental rights absent clear and convincing evidence that the parent is “unfit” (i.e., the parent is unwilling or unable to provide their child with a safe family home at the time that a permanent plan hearing is conducted and the parent will not become willing or able to provide their child with a safe family home within a reasonable period of time).¹⁵⁵ The Court determined that the plain language of the CPA, in fact, precludes the divestiture of parental rights based, without more, on a determination either that the child’s “family” is unable to provide the child with a safe family home or that divestiture is in the child’s best interests.¹⁵⁶ The Court further stated that a permanent plan hearing focuses on whether a child’s “mother” or “father” can provide a safe family home; if not, the focus shifts to whether it is reasonably foreseeable that the child’s “mother” or “father” will become willing and able to provide a safe family home within a reasonable period of time.¹⁵⁷

The Hawai‘i Intermediate Court of Appeals, in *Polm v. Department of Human Services*, addressed the issue of whether DHS had a duty to protect a child from suspected abuse by a third party.¹⁵⁸ The Court in *Polm* affirmed that the CPA creates “a duty flowing to children specifically identified to DHS as being the subject of suspected abuse.”¹⁵⁹ Thus, the Court found that DHS’s duty to the protected class of children extends to third-party criminal acts, if such acts are reasonably foreseeable.¹⁶⁰

¹⁵³ *Id.*

¹⁵⁴ *In the Interest of Jane Doe*, 95 Haw. 183 (2001).

¹⁵⁵ *Id.* at 191-92.

¹⁵⁶ *Id.* at 194; see HAW. REV. STAT. § 587-73(a).

¹⁵⁷ *Id.*

¹⁵⁸ *Polm v. Dept. of Human Serv.*, 2014 WL 7390879, at *26 (Hawai‘i App., 2014).

¹⁵⁹ *Id.* at 27 (citing *Kaho‘ohanohano v. Dep’t of Human Servs, State of Hawaii*, 117 Hawai‘i 262, 290, 178 P.3d 538, 566 (2008)).

¹⁶⁰ *Id.* at 28.

Methodology

As a matter of historical precedent, and in order to achieve transparency, Committee studies involve a collection of public, testimonial evidence and written comments from individuals directly impacted by the civil rights topic at hand; researchers and experts who have rigorously studied and reported on the topic; community organizations and advocates representing a broad range of backgrounds and perspectives related to the topic; and government officials tasked with related policy decisions and the administration of those policies.

Committee studies require Committee members to use their expertise in selecting a sample of panelists that is the most useful to the purposes of the study and will result in a broad and diverse understanding of the issue. This method of (non-probability) judgment sampling requires Committee members to draw from their own experiences, knowledge, opinions, and views to gain an understanding of the issue and possible policy solutions. Committees are composed of volunteer professionals who are familiar with civil rights issues in their state or territory. Members represent a variety of political viewpoints, occupations, racial and ethnic backgrounds, ages, and gender/gender identities, as well as a variety of background, skills, and experiences. The intentional diversity of each Committee promotes vigorous debate and full exploration of the issues. It also serves to assist in offsetting biases that can result in oversight of nuances in the testimony.

In fulfillment of the Committees' responsibility to advise the Commission of civil rights matters in their locales, Committees conduct an in-depth review and thematic analysis of the testimony received and other data gathered throughout the course of their inquiry. Committee members use this publicly collected information, often from those directly impacted by the civil rights topic of study, or others with direct expert knowledge of such matters, to identify findings and recommendations to report to the Commission. Drafts of the Committee's report are publicly available and shared with panelists and other contributors to ensure that their testimony was accurately captured. Reports are also shared with affected agencies to request clarification regarding allegations noted in testimony.

For the purposes of this study, **Findings** are defined as what the testimony and other data *suggested, revealed, or indicated* based upon the data collected by the Committee. Findings refer to a synthesis of observations confirmed by majority vote of members, rather than conclusions drawn by any one member. **Recommendations** are specific actions or proposed policy interventions intended to address or alleviate the civil rights concerns raised in the related finding(s). Where findings indicate a lack of sufficient knowledge or available data to fully understand the civil rights issues at hand, recommendations may also target specific directed areas in need of further, more rigorous study. Recommendations are directed to the Commission; they request that the Commission itself take specific action, or that the Commission forward recommendations to other federal or state agencies, policy makers, or stakeholders.

Findings

In keeping with their duty to inform the Commission of (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,¹⁶¹ the Hawai‘i Advisory Committee submits the following findings to the Commission regarding the overrepresentation of Native Hawaiian children and families in Hawai‘i. This report seeks to highlight the most salient civil-rights themes as they emerged from the Committee’s inquiry. The complete meeting transcripts and written testimony received are accessible by a weblink in citation and at the end of the report for further reference.¹⁶²

Finding #1: Native Hawaiian children and families¹⁶³ are overrepresented within Hawai‘i’s child welfare system. Despite challenges with collecting accurate data on the Native Hawaiian population, available data, academic research and stakeholders’ observations all point to an overrepresentation of Native Hawaiian children and families within Hawai‘i’s child welfare system and disparities in child welfare outcomes for Native Hawaiian children within the system.

- A. Researchers testified that there is a lack of published research and data related to Native Hawaiian and Pacific Islander (NHPI) populations in the foster care system, and even less for Native Hawaiians in particular.¹⁶⁴ Most existing research relies on aggregated data, rather than breaking down the data between subgroups within the NHPI population.¹⁶⁵ For example, researchers reported the following findings:
1. In Hawai‘i, there is a total of 1,474 NHPI children in foster care, which makes up about 55-percent of Hawai‘i’s total foster care population.¹⁶⁶ Of the 1,474 NHPI children in Hawai‘i’s foster care, 1,233 identify as Native Hawaiian or part-Native Hawaiian children (or 46-percent of Hawai‘i’s total foster care population) and 241 identify as Pacific Islander children in foster care (or 9-percent of Hawai‘i’s total foster care population).¹⁶⁷
 2. While NHPI children account for about 55-percent of Hawai‘i’s total foster care population, NHPI children represent only 10.5-percent of Hawai‘i’s total child population.¹⁶⁸

¹⁶¹ 45 C.F.R. § 703.2 (2018).

¹⁶² Link to relevant briefing materials: <https://usccr.box.com/s/mrtaygztf4i1ziphj9hesxpg6bl494d>.

¹⁶³ This Committee uses the terminology “children and families” to encapsulate all those involved in the child welfare system. While biological or legal parents or guardians may be involved in the child welfare system, the Committee acknowledges that the children are the individuals who enter the foster care or child welfare system.

¹⁶⁴ Julien-Chinn Testimony, *Transcript I*, p. 10.

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid.* at 9-10.

¹⁶⁸ *Ibid.* at 10.

- B. Despite the shortage of disaggregated data, some research suggests Native Hawaiian children and families are overrepresented within Hawai‘i’s child welfare system and that Native Hawaiian children have poorer child welfare outcomes.¹⁶⁹
1. The following figures suggest the overrepresentation of Native Hawaiian children within Hawai‘i’s foster care:
 - a. As stated above, about 46-percent of children in Hawai‘i’s foster care identify as Native Hawaiian or part-Native Hawaiian.¹⁷⁰ Native Hawaiian or part-Native Hawaiian children, however, only account for about 27-percent of Hawai‘i’s zero to 18-year-old population.¹⁷¹
 - b. Between 2017 and 2021, Native Hawaiian or part-Native Hawaiian children comprised 42-percent of all children entering Hawai‘i’s foster care and 45-percent of all children in Hawai‘i’s foster care.¹⁷²
 2. The following data highlights specific concerns related to removal and substantiation rates for Native Hawaiian and NHPI children.
 - a. Native Hawaiian children have significantly higher number of removals compared to other races and ethnicities.¹⁷³
 - b. According to 2022 AFCAR data related to NHPI populations, school age children, or children about 7.5 years old, are removed most frequently due to neglect.¹⁷⁴
 - c. In 2022, 41-percent of confirmed reports of abuse or neglect were children ages 0-5 years old—making 0-5 year-old children at most risk.¹⁷⁵ Further, Native Hawaiian children make up 43-percent of all children within that age grouping (i.e., 0-5 years old).¹⁷⁶
 - d. NHPI children had 12-percent to 23-percent higher substantiation rates compared to white non-Hispanic children.¹⁷⁷
 3. The following data not only points to an overrepresentation of Native Hawaiian children within Hawai‘i’s foster care, but also, highlights possible disparities in child welfare outcomes for Native Hawaiian children.
 - a. 45-percent of Native Hawaiian youth in foster care “age out” of the system through emancipation, which, according to the CWS Branch Administrator, is not the best outcome for children in foster care.¹⁷⁸

¹⁶⁹ See *infra* footnotes 170-90 and corresponding text for further discussion.

¹⁷⁰ Olevao Testimony, *Transcript I*, p. 5; Julien-Chinn Testimony, *Transcript I*, p. 9; Lloyd Testimony, *Transcript III*, p. 6.

¹⁷¹ Lloyd Testimony, *Transcript III*, p. 6.

¹⁷² *Ibid.* at 7. According to Melinda Lloyd’s testimony, each year for the last five years, over 1100 Native Hawaiian children in Hawaii were living in foster care. *Ibid.* at 6.

¹⁷³ Julien-Chinn Testimony, *Transcript I*, p. 11 (citing Godinet, “Native Hawaiian Families Systemic Disparities in Hawaii’s Child Welfare System”).

¹⁷⁴ Julien-Chinn Testimony, *Transcript I*, p. 11 (citing Lee and others, “Native Hawaiian and Pacific Islander Children in Foster Care: A Descriptive Study”).

¹⁷⁵ Reelitz Testimony, *Transcript III*, p. 11.

¹⁷⁶ *Ibid.*

¹⁷⁷ Julien-Chinn Testimony, *Transcript I*, p. 11.

¹⁷⁸ Olevao Testimony, *Transcript I*, p. 5.

- b. Reunification is the priority outcome for foster children, when possible, and only about 31-percent of Native Hawaiian children achieve reunification with their families.¹⁷⁹
 - c. Native Hawaiian children have significantly longer stays in foster care.¹⁸⁰ On average, Native Hawaiian children spend 19.7 months in Hawai‘i’s foster care, while children of other ethnicities spend 15.3 months.¹⁸¹
4. The following published academic research on Native Hawaiian and NHPI children in the child welfare system also highlights several concerns related to possible disparities.
- a. Research by Lee et al. (2022) used AFCAR data to analyze demographic characteristics for NHPI children in foster care to look at how this population might be different than other populations.¹⁸² The research found that most NHPI children were removed when they were school-aged (average 7.5 years old) and were removed most frequently due to neglect.¹⁸³ The research also revealed that 42-percent of NHPI children were placed in kinship care, 39-percent were placed in non-relative care, and 9-percent were placed in congregate care.¹⁸⁴ Lastly, the research indicated that NHPI children diagnosed with a disability were more likely to be placed in non-relative foster care.¹⁸⁵
 - i. Prior research by Fong et al. (2021), however, found higher rates of physical abuse among Native Hawaiian and Pacific Islander children but lower rates of neglect compared to other populations.¹⁸⁶ This is the only research contradicting the above finding that NHPI children are most frequently removed for neglect.¹⁸⁷
 - b. Research by Godinet et al. (2012) disaggregated Hawai‘i state administrative data to examine child welfare concerns related to Native Hawaiian children and families.¹⁸⁸ The research found significant overrepresentation of Native Hawaiian children in foster care.¹⁸⁹ The data also highlighted several concerns such as Native Hawaiians had

¹⁷⁹ Ibid.

¹⁸⁰ Olevao Testimony, *Transcript I*, p. 5; Olevao Testimony, *Transcript I*, p. 5; Lloyd Testimony, *Transcript III*, p. 6.

¹⁸¹ Olevao Testimony, *Transcript I*, p. 5.

¹⁸² Julien-Chinn Testimony, *Transcript I*, p. 11 (citing Lee and others, “Native Hawaiian and Pacific Islander Children in Foster Care: A Descriptive Study”).

¹⁸³ Lee and others, “Native Hawaiian and Pacific Islander Children in Foster Care: A Descriptive Study.”

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Rowena Fong, and Georgina Petronella, “Underrepresented Populations in the Child Welfare System: Asian American and Native Hawaiian/Pacific Islander populations,” in *Racial Disproportionality and Disparities in the Child Welfare System*, ed. Alan J. Detlaff (Switzerland: Springer Cham, 2020), pp. 125-38 (hereinafter cited as Fong & Petronella, “Underrepresented Populations in the Child Welfare System”).

¹⁸⁷ Ibid.

¹⁸⁸ Godinet, “Native Hawaiian Families Systemic Disparities in Hawaii’s Child Welfare System.”

¹⁸⁹ Ibid.

significantly higher removal rates, longer stays in foster care, and higher number of social worker changes.¹⁹⁰

- C. Some expressed concerns around the analysis of the current data on Native Hawaiian children and families, including that data might be inaccurately overinflating the number of Native Hawaiian children and families within the child welfare system because data collection doesn't account for mixed races or the data input protocols were not updated until 2024.¹⁹¹
- D. Speakers observed that disparities for Native Hawaiian families and children were not as prevalent in the earlier stages within the child welfare system, such as the hotline stage (i.e., the number of reports made about alleged abuse or neglect of Native Hawaiian children did not appear to be significantly more than reports of children of other ethnicities), but increased as Native Hawaiian children and families get deeper into the system.¹⁹²

Finding #2: Cultural, historical, and intergenerational trauma rooted in the history of colonization of Hawai'i led to increased poverty and negatively impacted socioeconomic status, which likely contributes towards the overrepresentation of Native Hawaiians within Hawai'i's child welfare system.

- A. Hawai'i's history of colonization, including the disruption of traditional Native Hawaiian practices like the 'ohana system, land dispossession, forced assimilation and cultural suppression, resulted in cultural, historical, intergenerational trauma for Native Hawaiians.¹⁹³ The colonization of Hawai'i, specifically land dispossession and oppression of Native Hawaiian language and culture, led to higher rates of poverty and socioeconomic inequality for Native Hawaiians and the overrepresentation of Native Hawaiians across social services and systems.¹⁹⁴

¹⁹⁰ Ibid.

¹⁹¹ Conklin Public Comment, *Transcript I*, p. 7; Hartsfield Testimony, *Transcript V*, pp. 7-8.

¹⁹² Tochiki Testimony, *Transcript II*, p. 23. When discussing the disparities for Native Hawaiian families and children within the child welfare system, there's many data points to assess throughout the system such as whether there is a disparity in number of calls to the CWS hotline, in the investigations/assessments, in the assignment of legal representation, in the permanency plans ordered, in the accessibility of services, etc. Ibid.

¹⁹³ Julien-Chinn Testimony, *Transcript I*, pp. 10, 12; Tochiki Testimony, *Transcript II*, p. 23; Rosete-Medeiros Testimony, *Transcript II*, p. 28; Davis Testimony, *Transcript III*, p. 4; Lloyd Testimony, *Transcript III*, p. 7. The 'ohana system defined and reinforced values and roles related to 'ohana, privilege and responsibility within the family and community. Lloyd Testimony, *Transcript III*, p. 7.

¹⁹⁴ Davis Testimony, *Transcript III*, p. 4; see Office of Hawaiian Affairs, Research Division, "Income Inequality and Native Hawaiian Communities in the Wake of the Great Recession: 2005 to 2013," *Ho'okahua Waiwai (Economic Self-Sufficiency) Fact Sheet*, 2014, no. 2, p. <https://www.oha.org/wp-content/uploads/2014/05/Income-Inequality-and-Native-Hawaiian-Communities-in-the-Wake-of-the-Great-Recession-2005-2013.pdf>; Lorinda Riley and others, "Ke ala i ka Mauiola: Native Hawaiian Youth Experiences with Historical Trauma," *International Journal of Environmental Research and Public Health*, 2022, vol. 19(19), p. 12564. <https://doi.org/10.3390/ijerph191912564>; Sheri-Ann P. Daniels and others, "Conceptualizing a New System of Care in Hawai'i for Native Hawaiians and Substance Use," *Hawai'i Journal of Health & Social Welfare*, 2022, vol. 81(12 Suppl 3), p. 43-51, <https://pmc.ncbi.nlm.nih.gov/articles/PMC9783813/#:~:text=From%20the%20first%20European%20arrival%20in%201778%2C.and%20to%20acknowledge%20Indigenous%20ways%20of%20knowledge>.

1. Systemic oppression against native Hawaiians exists and continues today—Hawai‘i’s history of colonization continues to impact today’s disparities within the Native Hawaiian population.¹⁹⁵ Native Hawaiians experience higher rates of poverty, alcohol and substance abuse, mental health disorders, unemployment, involvement in the criminal justice system, and lower levels of education.¹⁹⁶ As a result, many heads of household may be incarcerated, working multiple jobs and not as present in the home or may have lower paying jobs.¹⁹⁷ There also seems to be a correlation between involvement in the criminal justice system (i.e., adult criminal court or juvenile offender court) and involvement in the foster care system.¹⁹⁸
 2. When Hawai‘i was colonized, Native Hawaiians lost their language, culture and identity because they were forced to assimilate.¹⁹⁹ The idea of abuse of a child was introduced to the Native Hawaiian culture when the missionaries arrived because the missionaries would hit the indigenous children in school, which then carried over into home life because Native Hawaiians were assimilating to these western practices.²⁰⁰
- B. Socioeconomic inequality and higher rates of poverty is a substantial factor to the over-representation of Native Hawaiians within Hawai‘i’s child welfare system and poorer child welfare outcomes.²⁰¹ Research indicates that family poverty is the strongest predictor of child welfare services involvement.²⁰²
1. Native Hawaiian households make up about 75% of the total number of households that cannot afford basic necessities (i.e., housing, food, transportation, healthcare, etc.).²⁰³ 23% of these Native Hawaiian households live at or below the federal poverty level.²⁰⁴
 2. Increased stressors and challenges related to higher rates of poverty and limited access to resources in Native Hawaiian communities can make it difficult for families to meet the demands of the child welfare system.²⁰⁵

¹⁹⁵ Davis Testimony, *Transcript III*, p. 4; Lloyd Testimony, *Transcript III*, p. 7

¹⁹⁶ Julien-Chinn Testimony, *Transcript I*, pp. 9, 12; Rosete-Medeiros Testimony, *Transcript II*, p. 27; Davis Testimony, *Transcript III*, p. 4.

¹⁹⁷ Tochiki Testimony, *Transcript II*, pp. 25, 32; Rosete-Medeiros Testimony, *Transcript II*, p. 27.

¹⁹⁸ Park Testimony, *Transcript II*, p. 22. Incarcerated parents may indefinitely lose their parental rights. Office of Hawaiian Affairs, *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*, 2010, p. 12, https://www.oha.org/wp-content/uploads/2014/11/es_final_web_0.pdf (hereafter cited as OHA, *Disparate Treatment of Native Hawaiians in the Criminal Justice System*). According to the Office of Hawaiian Affairs, the parental rights of many women in Hawai‘i’s prisons are terminated in family court. OHA, *Disparate Treatment of Native Hawaiians in the Criminal Justice System*.

¹⁹⁹ Rosete-Medeiros Testimony, *Transcript II*, p. 36.

²⁰⁰ Rosete-Medeiros Testimony, *Transcript II*, p. 36; Tochiki Testimony, *Transcript II*, p. 25.

²⁰¹ Tochiki Testimony, *Transcript II*, p. 35; Davis Testimony, *Transcript III*, p. 3; Mannisto Testimony, *Transcript III*, p. 16; Au Belatti Testimony, *Transcript VII*, p. 14.

²⁰² Davis Testimony, *Transcript III*, p. 3 (citing Christian M. Connell and others, “Re-referral to Child Protective Services: The Influence of Child, Family, and Case Characteristics on Risk Status,” *Child Abuse and Neglect*, 2007, vol. 31, issue 5, p. 573-88, <https://www.sciencedirect.com/science/article/pii/S0145213407000816>).

²⁰³ Davis Testimony, *Transcript III*, p. 3 (citing Aloha United Way, “Hawaii Research Brief,” *ALICE in Focus: Children*, 2019).

²⁰⁴ *Ibid.*

²⁰⁵ Lloyd Testimony, *Transcript III*, p. 7.

3. Lack of affordable housing is a challenge for many families in Hawai‘i.²⁰⁶ Many families are separated simply due to the parents’ inability to secure stable housing rather than actual or threatened abuse or harm.²⁰⁷
 4. Native Hawaiian families that may be impoverished may not be able to hire a good attorney, which may affect the outcome of their child welfare case.²⁰⁸
- C. Many Native Hawaiians distrust the government, including the social services the government provides and the child welfare system, because of their cultural, historical, and intergenerational trauma, and may be averse to seek out assistance from the government or productively participate in child welfare services.²⁰⁹
1. Some research has shown that historical trauma and colonization may lead to an overall distrust in the systems, which may be a contributing factor for Native Hawaiians’ distrust in accessing social service benefits.²¹⁰
 2. There also seems to be a misconception in some communities that asking for assistance via social services will lead to child welfare involvement; for example, some mistakenly believe that utilizing welfare services like SNAP or reduced lunch will trigger a CWS Branch investigation.²¹¹
 3. The lack of culturally responsive services available within the CWS Branch might alienate Native Hawaiian families and further reduce Native Hawaiians’ trust in the child welfare system, which may be a barrier to effective assistance for Native Hawaiian children and families.²¹²
 - a. One of the goals of the Mālama ‘Ohana Working Group is to increase trust by uplifting the voices and perspectives of Native Hawaiians who have been through the child welfare system or work in the child welfare system.²¹³ For example, impacted Native Hawaiian families were able to share their personal stories with the Working Group through community forums.²¹⁴
 4. Several speakers are aware of parents who share stories of their personal experiences with the CWS Branch, calling the experience “horrible,” which can lead to further distrust for families that may interact with the CWS Branch in the future.²¹⁵ Some speakers highlighted that there have been a few instances of possible misconduct and/or mistakes made by CWS social workers and service providers, which may increase families’ distrust in the child welfare process.²¹⁶

²⁰⁶ Tochiki Testimony, *Transcript II*, p. 25; Davis Testimony, *Transcript III*, p. 3; Reelitz Testimony, *Transcript III*, pp. 12, 18, 35; Mannisto Testimony, *Transcript III*, p. 16.

²⁰⁷ *Ibid.*

²⁰⁸ Rosete-Medeiros Testimony, *Transcript II*, p. 35.

²⁰⁹ See *infra* footnotes 210-19 and corresponding text for further discussion.

²¹⁰ Julien-Chinn Testimony, *Transcript I*, p. 19.

²¹¹ Olevao Testimony, *Transcript I*, pp. 18-19.

²¹² Lloyd Testimony, *Transcript III*, p. 7.

²¹³ Tochiki Testimony, *Transcript II*, p. 22; Rosete-Medeiros Testimony, *Transcript II*, pp. 30-31; Reelitz Testimony, *Transcript III*, p. 12.

²¹⁴ See Hartsfield Testimony, *Transcript V*, p. 6; Reelitz Testimony, *Transcript III*, p. 12.

²¹⁵ Rosete-Medeiros Testimony, *Transcript II*, p. 33; see Kukila Testimony, *Transcript VII*, p. 3-4.

²¹⁶ See Kukila Testimony, *Transcript VII*, p. 3-4.

These include withholding exculpatory evidence from parents, exhibiting gender bias against fathers, unethical behavior in child welfare cases (e.g., social worker publicly sharing details of a case on social media, violating HIPAA and parental rights), and retaliation against advocates who attempt to call out these problems.²¹⁷

5. Speakers believe that, if the CWS Branch is more transparent, the public can begin to trust the government and the services it provides.²¹⁸
6. Part of the CWS Branch being more transparent, is updating the data system that the CWS Branch uses to also become more efficient and have accurate data readily available to the public.²¹⁹

Finding #3: Government-run child welfare systems, including Hawai‘i’s Child Welfare Services Branch, may have been rooted in bias against racial minorities.²²⁰ While this bias may no longer be explicitly present, implicit or unconscious bias may have been built into child welfare systems leading to the overrepresentation of minority groups, such as Native Hawaiians.²²¹

- A. Testimony indicates that Native Hawaiians are no more likely to neglect or abuse their children than any other ethnic group.²²² However, the child welfare system perpetuates biases against racial minority groups and is a broken system.²²³ Specifically, implicit bias is built into these systems by targeting certain types of behaviors that may be more prevalent in certain groups.²²⁴
- B. Historical racism and unconscious bias can negatively impact decisions affecting native Hawaiian families, such as negative assumptions, misinterpretation and stigmatization of Hawaiian cultural norms.²²⁵ For example, a speaker witnessed a social worker stating that “being Hawaiian is a risk factor,” reinforcing racial bias.²²⁶

Finding #4: Parents may not be properly informed of their rights throughout the child welfare process or may be reluctant to exercise their rights.

- A. Parents often unknowingly provide self-incriminating statements to social workers that are sometimes later used as evidence in court without being informed of the legal consequences.²²⁷ Similarly, social workers can interview children without parental consent and collect evidence without due process, which is later used against families in court.²²⁸

²¹⁷ Franklin Public Comment, *Transcript IV*, pp. 9-10.

²¹⁸ Julien-Chinn Testimony, *Transcript I*, p. 22; Lloyd Testimony, *Transcript III*, p. 8; see Kukila Testimony, *Transcript VII*, p. 9.

²¹⁹ Hartsfield Testimony, *Transcript V*, p. 5.

²²⁰ Reelitz Testimony, *Transcript III*, pp. 10-11.

²²¹ *Ibid.*

²²² Rosete-Medeiros Testimony, *Transcript II*, p. 35.

²²³ Reelitz Testimony, *Transcript III*, p. 12.

²²⁴ *Ibid.* at 10.

²²⁵ Lloyd Testimony, *Transcript III*, p. 7.

²²⁶ Kukila Testimony, *Transcript VII*, p. 5.

²²⁷ *Ibid.* at 7.

²²⁸ *Ibid.*

- B. Some parents face language and comprehension barriers throughout the judicial process and may not be fully informed about their rights.²²⁹ The court system also does little to assist parents in fully understanding their options and rights.²³⁰ Attorneys also often push parents into services or agreements with CWS without fully explaining the legal implications.²³¹
- C. Even if parents are informed of their rights, there may be some hesitation to exercise their rights or push back against a judge's ruling because of possible cultural tendencies to respect and not challenge authority.²³²

Finding #5: Hawai'i's Child Welfare System Branch's staffing concerns, which includes job vacancies and inadequate resources, may be impacting child welfare outcomes for Native Hawaiian children within Hawai'i's child welfare system.

- A. While most speakers do not believe CWS Branch staff are intentionally or overtly racist, they believe that the system, which is made up of good intentioned people, does not work for Native Hawaiian children and families.²³³ One speaker mentioned that improving cultural sensitivity with the CWS Branch staff would likely improve child welfare outcomes for Native Hawaiian children and empower Native Hawaiian families to achieve reunification.²³⁴ The overworked and overburdened CWS Branch Staff, however, likely have difficult applying cultural training/understanding in their day-to-day work.²³⁵
- B. A major challenge that the CWS Branch faces in meeting the demands of Hawai'i's population is the recruitment and retention of staff.²³⁶ Several speakers indicated that CWS Branch staff are overworked and overburdened with high caseloads and that the child welfare system is strained.²³⁷ This, and the vacancies in the CWS Branch, has led to poorer case management, such as missed court filing deadlines and delayed family services.²³⁸ The CWS Branch also lacks adequate resources to address staff well-being, which may lead to secondary/vicarious trauma and burnout and, ultimately, leaving the job.²³⁹

²²⁹ Franklin Public Comment, *Transcript IV*, p. 9.

²³⁰ Ibid.

²³¹ Ibid. at 8.

²³² Robinson Public Comment, *Transcript IV*, p. 13.

²³³ Tochiki Testimony, *Transcript II*, pp. 24, 37.

²³⁴ Davis Testimony, *Transcript III*, p. 4.

²³⁵ Tochiki Testimony, *Transcript II*, pp. 24, 37. Sometimes families are distrustful of social workers, which may be interpreted by social workers as uncooperative or combative. Ibid. at 24. This may lead to unnecessary tension when the social worker is also overworked and overburdened. Ibid.

²³⁶ Olevao Testimony, *Transcript I*, pp. 13-14, 24; Tochiki Testimony, *Transcript II*, p. 32.

²³⁷ Au Belatti Testimony, *Transcript VII*, p. 11; Tochiki Testimony, *Transcript II*, pp. 24, 32, 37.

²³⁸ Tochiki Testimony, *Transcript II*, pp. 24, 37; Park Testimony, *Transcript II*, p. 17. According to Judge Park, CWS social workers are required by law to submit their report 15 days before the court hearing. Park Testimony, *Transcript II*, p. 17.

However, sometimes their reports are not submitted on time because they have too many cases and sanctions are ordered against CWS. Ibid.

²³⁹ Speer Testimony, *Transcript V*, p. 17.

Finding #6: Child welfare laws and legal standard of proof applied in child welfare cases may contribute to the overrepresentation of Native Hawaiians within Hawai‘i’s child welfare system and poorer child welfare outcomes for Native Hawaiian children.

- A. While those involved in the judicial system (i.e., attorneys representing the state and judges in child welfare cases) are not necessarily applying the law discriminatorily, the legal standard of proof applied to child welfare cases may leave room for potential implicit bias towards certain groups.²⁴⁰
1. As mentioned above, when a child is initially removed, the family court must determine whether the child should remain in temporary foster care based on a finding that there is “reasonable cause” to believe the continued foster care placement is necessary to protect that child from imminent harm.²⁴¹ The legal standard of proof “reasonable cause” is low and provides family court judges wide discretion in making his or her determination.²⁴² One speaker states that the “reasonable cause” standard allows individuals to inject their own interpretations of what a strong or protective family looks like and may lead to implicit bias affecting case outcomes.²⁴³
- B. Speaker(s) suggest that child welfare laws may target poverty rather than actual abuse or neglect.²⁴⁴ As mentioned above, poverty is the strongest predictor of a child’s relationship with the child welfare system.²⁴⁵
1. Testimony further indicated that most family court judges are sensitive to people’s socioeconomic circumstances such as houselessness,²⁴⁶ but the inability to secure housing is still the primary barrier for reunification for a number of families.²⁴⁷
 2. Statistics show that more families are involved in the child welfare system because of neglect, threat of neglect, or threat of harm rather than actual physical harm or sexual harm.²⁴⁸ For example, according to DHS’s Annual Progress and Services Report, in FY 2023, 71.5% of confirmed maltreatment claims are claims of

²⁴⁰ Tochiki Testimony, *Transcript II*, p. 25; Reelitz Testimony, *Transcript III*, p. 11.

²⁴¹ Park Testimony, *Transcript II*, p. 10. “Reasonable Cause” is a lower standard of proof than by “preponderance of the evidence.” For comparison, “preponderance of the evidence” required that the claims are “more likely than not” true and is often described as a “greater than 50% chance.” “Burden of Proof vs. Standards of Evidence: How Legal Cases Get Decided,” *GovFacts*, May 22, 2025, <https://govfacts.org/rights-freedoms/criminal-justice-rights/trial-rights/burden-of-proof-vs-standard-of-evidence-how-legal-cases-get-decided/> (hereafter cited as “Burden of Proof,” *GovFacts*).

²⁴² “Burden of Proof,” *GovFacts*.

²⁴³ Reelitz Testimony, *Transcript III*, p. 11.

²⁴⁴ Tochiki Testimony, *Transcript II*, p. 25. Ms. Tochiki stated that the child welfare laws equate poverty with abuse and neglect of children. *Ibid.*

²⁴⁵ Davis Testimony, *Transcript III*, p.3

²⁴⁶ Park Testimony, *Transcript II*, p. 19. Particularly, Judge Park states that this could be because Hawaii is a small community. *Ibid.* Judge Park also alluded to the fact that Judges may be particularly sensitive to people’s housing conditions because there are so many families experiencing houselessness in Hawaii. *Ibid.* He further explained that he informs parents that houselessness is and of itself is not a reason for removing the child, rather it is the specific factors under HAW. REV. STAT. § 587A-7. *Ibid.*

²⁴⁷ Tochiki Testimony, *Transcript II*, p. 25; Reelitz Testimony, *Transcript III*, p. 16. Lack of housing can further complicate parents’ ability to meet the demands of the child welfare system; for example, individuals who lack housing also lack storage and organization, which might mean difficulty securing housing due to an inability to show proof of income or missed court hearings or deadlines. *See* Reelitz Testimony, *Transcript III*, p. 35.

²⁴⁸ Tochiki Testimony, *Transcript II*, p. 24.

threatened harm.²⁴⁹ “Threatened Harm” is defined by DHS as, “any reasonably foreseeable substantial risk of harm to a child; behavior/environment poses a risk but no actual harm has happened.”²⁵⁰ As stated above, while family court judges (and judiciary staff) are required to complete training related to preventing implicit bias, judges may unintentionally insert their own biases when determining whether there is any reasonably foreseeable substantial risk of harm to a child.²⁵¹

3. The first few years of a child’s life can be the most stressful time for a family and the most expensive, which increases the possibility that someone may subjectively say there is threatened harm.²⁵²
- C. One speaker suggested that the Child Protective Act unnecessarily limits deadlines for parents in child welfare cases.²⁵³ By extending deadlines under certain circumstances, parents may have better chances for reunification.²⁵⁴
1. For example, some key deadlines in child welfare cases are:
 - a. 12-Month Deadline: If a child remains in foster care for 12 consecutive months without parental supervision, a permanency hearing must be held.²⁵⁵
 - b. 15 out of 22 Months Rule: If a child has been in foster care for 15 out of 22 months, the state must file a motion to terminate parental rights.²⁵⁶
 - c. Two-Year Limit: Parents must demonstrate they can provide a safe family home within two years from the child's entry into foster care.²⁵⁷

²⁴⁹ State of Hawaii, Dep’t of Human Servs, Social Servs Div., *Annual Progress and Services Report (APSR)*, 2025, vol. 6.18.24, p. 9, <https://humanservices.hawaii.gov/ssd/files/2024/12/Attachment-A-HAWAII-DATA-BOOKLET-APSR-FFY-2025.pdf>. The types of maltreatment recorded are: Medical Neglect, Physical Neglect, Physical Abuse, Psychological Abuse, Sex Trafficking, Sex Abuse, and Threatened Harm. Ibid.

²⁵⁰ Dep’t of Human Servs., Child Protective Services, *Child Safety Factors Guidelines*, https://shaka.dhshawaii.net/greenbook/publishing12/ch02/other/child_safety_factors_guidelines_3-11.pdf (last accessed January 15, 2026). Some examples include:

- A. Behavior of parent/caregiver is violent or threatening violence (e.g., family violence involving physical or verbal assault);
- B. Parent/caregiver has not, will not, or cannot provide sufficient supervision to protect the child from present or impending danger (e.g., making inadequate and/or inappropriate child care arrangements or leaving a child unsupervised or supervised by an unreliable person);
- C. One or more parent/caregivers’ behavior is dangerously impulsive or the will not/cannot control their behavior (e.g., having addictive patterns that leave children in threatening situations such as failing to supervise or provide other basic care or spending money impulsively resulting in a lack of basic necessities);
- D. Parent/caregiver’s impairment due to drug or alcohol abuse is seriously affecting his/her ability to supervise, protect, or care for the child;
- E. Parent/caregiver has not or is unable to meet the child’s immediate needs for food, clothing, shelter, or medical care where the absence of these necessities is creating present or impending danger to the child;
- F. Parent/caregiver has a severe or chronic mental or physical illness or disability and current protective factors are not in place to ensure child safety;
- G. Parent/caregiver describes or acts toward the child in predominantly negative terms or has extremely unrealistic expectations given the child’s age or level of development and this presents present or impending danger. Ibid.

²⁵¹ Park Testimony, *Transcript II*, p. 14; see Tochiki Testimony, *Transcript II*, p. 25; Reelitz Testimony, *Transcript III*, p. 11.

²⁵² Reelitz Testimony, *Transcript III*, p. 13.

²⁵³ Mannisto Testimony, *Transcript III*, pp. 14, 29, 30.

²⁵⁴ Id.

²⁵⁵ HAW. REV. STAT. § 587A-31(a).

²⁵⁶ HAW. REV. STAT. § 587A-31(g).

²⁵⁷ HAW. REV. STAT. § 587A-33(i).

2. The speaker argued that Native Hawaiian families might benefit from extended deadlines for several reasons.²⁵⁸ One being that many children are removed for threat of neglect rather than actual abuse, including houselessness, substance abuse or mental health, which often requires time to resolve.²⁵⁹ Second, there is likely less potential for harm to the children if they are in kinship placement.²⁶⁰

Finding #7: Several factors within the judicial process may impact the outcome of child welfare cases, such as the judge, legal representatives, and Guardian Ad Litem.

- A. Testimony indicates that, apart from the CWS Branch social workers, the assigned judge has the most influence on the outcome of child welfare cases.²⁶¹ While social workers interact with and refer services to families and manage cases, judges set the tone for child welfare cases by setting expectations for DHS, parents, and service providers, ensuring meaningful discussions and accountability, and managing the amount and frequency of review hearings.²⁶² While more frequent review hearings requires more reports by the Guardian Ad Litem (GALs), staying in contact with the parents/family more frequently increases the possibility for successful outcomes including less time spent in foster care.²⁶³ Judges also have the discretion to appoint counsel for parents at the initial temporary foster custody hearing even if the parents make above the income qualification.²⁶⁴
- B. Despite recent case law that requires family court to appoint counsel to parents, challenges related to the accessibility of adequate legal representation remain.²⁶⁵
 1. Specifically, appointment of legal counsel is based on availability but there is a shortage of attorneys who are willing to take on child welfare cases and/or be appointed child welfare cases.²⁶⁶ One reason for the shortage may be because court-appointed attorneys and GALs are not adequately compensated for child welfare cases.²⁶⁷ Another reason may be because child welfare cases are often very difficult, emotional cases.²⁶⁸

²⁵⁸ Mannisto Testimony, *Transcript III*, pp. 14-15, 29.

²⁵⁹ *Ibid.*

²⁶⁰ *Ibid.* The deadlines are limited because permanency for the child's living situation is an important factor in a child thriving. See Davis Testimony, *Transcript III*, p. 30. Mr. Mannisto further mentioned that there likely would not be significant harm done to the children by extending the deadlines because, often, the resource caregiver throughout the case becomes the guardian after the case is terminated. Mannisto Testimony, *Transcript III*, p. 34. Thus, the concern for permanency for the child, which drives the short deadlines in child welfare cases, is somewhat of a non-issue. Mannisto Testimony, *Transcript III*, p. 34.

²⁶¹ Park Testimony, *Transcript II*, p. 12.

²⁶² *Ibid.*

²⁶³ *Ibid.*

²⁶⁴ *Ibid.* at 10. According to Judge Park, parents are appointed counsel if they are eligible (i.e., income is less than a certain amount). *Ibid.* Judge Park, however, will still appoint an attorney for parents who show up without an attorney because he believes that first hearing is so important and parents should have the benefit of legal advice. *Ibid.*

²⁶⁵ *In re L.I.*, 482 P.3d 1079 (Haw. 2021).

²⁶⁶ Herrera Testimony, *Transcript VI*, p. 7.

²⁶⁷ Mannisto Testimony, *Transcript III*, p. 17. Court appointed attorneys are paid \$60.00 per hour, which is low in comparison to other practicing attorneys in the state. *Ibid.*

²⁶⁸ Park Testimony, *Transcript II*, p. 16; Herrera Testimony, *Transcript VI*, p. 13.

2. Because there is a shortage of legal representatives and advocates, those that are willing to do the work are further burdened with heavy caseloads.²⁶⁹ Testimony indicates that some attorneys involved in child welfare cases feel burnt out, but speakers are unsure whether there are resources, training or counseling to address these concerns.²⁷⁰
3. Attorneys with heavy caseloads are less likely to adequately represent their clients because more cases mean less time spent on each case and less contact with parents.²⁷¹
4. Although less likely, the lack of financial incentive for attorneys to take on or be court-appointed for child welfare cases may also affect attorney motivation and potentially case outcomes.²⁷²
5. Testimony indicates that challenges related to legal representation for Native Hawaiian parents is not based on any discrimination or bias.²⁷³ Further, the shortage of court-appointed attorneys is for all parents, not just Native Hawaiians, and when Native Hawaiian parents are appointed counsel, they are represented equitably.²⁷⁴ Further, attorneys for the state try to ensure all parents are given a fair chance to do everything they can to reunify with their children.²⁷⁵

Finding #8: Culturally sensitive services/programs have been particularly successful in contributing to the overall reduction in foster children and the overrepresentation of Native Hawaiian children in foster care.²⁷⁶

- A. One successful program is the Nā Kama a Hāloa program, which is a collaborative network of over 30 different community-based organizations, as well as representatives from the Department of Human Services Child Welfare Branch, focuses on reimagining Hawai‘i’s child welfare through a Native Hawaiian cultural lens.²⁷⁷ The program was established

²⁶⁹ Ibid.

²⁷⁰ Herrera Testimony, *Transcript VI*, p. 13.

²⁷¹ Park Testimony, *Transcript II*, p. 16. Many attorneys informally serve a dual role as a sort of social worker assisting clients by connecting them to services or being available to answer their questions about the parent services/programs. Ibid.

²⁷² Mannisto Testimony, *Transcript III*, p. 17.

²⁷³ Herrera Testimony, *Transcript VI*, p. 18.

²⁷⁴ Park Testimony, *Transcript II*, p. 17.

²⁷⁵ Herrera Testimony, *Transcript VI*, p. 18.

²⁷⁶ Early research-backed initiatives to improve cultural competency within the child welfare system were created to help child welfare workers understand historical trauma, including the loss of language, land and religion, which has a significant negative impact (i.e., health disparities, higher rates of alcohol and substance abuse, and disproportionately higher rates of Native Hawaiian children in foster care) on the Native Hawaiian population. Julien-Chinn Testimony, *Transcript I*, p. 12 (citing Dupont and others, “‘Ike Hawai‘i—A Training Program for Working with Native Hawaiians.” *Journal of Indigenous Voices in Social Work*, 2010, vol. 1, issue 1, pp. 1-24, https://www.cwis.org/wp-content/uploads/2018/01/v1i1_02duponte.pdf and Fong & Petronella, “Underrepresented Populations in the Child Welfare System”). Also, according to testimony, Native Hawaiians are more engaged in culturally sensitive programs compared to traditional programs. Rosete-Medeiros Testimony, *Transcript II*, p. 38; see Olevao Testimony, *Transcript I*, pp. 6-8 for in-depth descriptions of the current CWS programs that focus on cultural competency or sensitivity.

²⁷⁷ Rosete-Medeiros Testimony, *Transcript II*, pp. 27-28. The network’s partners include EPIC ‘Ohana, DHS, Kamehameha Schools, Lili‘uokalani Trust, Office of Hawaiian Affairs, Family Court CASA Program, Hale Kipa, Catholic Charities, Annie E Casey Foundation, etc. See “Nā Kama a Hāloa,” Epic ‘Ohana, <https://www.epicohana.org/nakama> (last accessed January 15, 2026).

almost 7 years ago to address the overrepresentation of Native Hawaiian children in foster care.²⁷⁸

1. Some key achievements from this program include implementing a Native Hawaiian Cultural Training Module (or “Hui Kauhale”),²⁷⁹ and the creation of a legislative working group (“Mālama ‘Ohana Working Group”) that identified and recommended transformative changes to Hawai‘i’s child welfare system.²⁸⁰
- B. Research established that cultural competency or sensitivity training could be one way to combat some of the negative lasting impacts on the Native Hawaiian population because of the cultural, historical, and intergenerational trauma rooted in the colonization of Hawai‘i.²⁸¹ Cultural competency training is now commonly provided to DHS staff and caregivers, as well as the judiciary.²⁸²
1. The Native Hawaiian Cultural Training Module (or “Hui Kauhale”) is cultural competency or sensitivity training provided to multiple players within the child welfare system, including: (1) CWS Branch social workers so that they may better understand the cultural nuances of the Native Hawaiian population they are serving, (2) resource caregivers that foster or care for Native Hawaiian children so that they can help these children feel accepted and better understood; and (3) out-of-state partners providing technical assistance to the CWS Branch so they are also educated on some of the differences in assisting out-of-state families comparison to families here.²⁸³
 2. By ensuring that decision makers within the child welfare system (i.e., CWS Branch staff and judiciary members) are properly trained in cultural competency and sensitivity to the unique challenges of Native Hawaiians, possible unconscious or implicit bias against certain groups like Native Hawaiians might be reduced.²⁸⁴ Ensuring that the decision makers within the child welfare system, including CWS Branch staff and judiciary members, are culturally competent and sensitive is paramount.²⁸⁵ Without constant critical self-reflection, historical racism can contribute to unconscious bias in decision-making based on negative assumptions about native Hawaiian families, and misinterpretation and stigmatization of cultural norms.²⁸⁶

²⁷⁸ Olevao Testimony, *Transcript I*, p. 6; Rosete-Medeiros Testimony, *Transcript II*, p. 27.

²⁷⁹ Olevao Testimony, *Transcript I*, p. 6; Rosete-Medeiros Testimony, *Transcript II*, p. 29.

²⁸⁰ Rosete-Medeiros Testimony, *Transcript II*, p. 29; *see infra* footnotes 289-91 and corresponding text for further discussion on the Mālama ‘Ohana Working Group.

²⁸¹ Julien-Chinn Testimony, *Transcript I*, p. 12 (citing Duponte and others, “‘Ike Hawai‘i—A Training Program for Working with Native Hawaiians,” *Journal of Indigenous Voices in Social Work*, 2010, vol. 1, issue 1, pp. 1-24, https://www.cwis.org/wp-content/uploads/2018/01/v1i1_02duponte.pdf and Fong & Petronella, “Underrepresented Populations in the Child Welfare System”; *see supra* footnotes 193-219 and corresponding text for further discussion about the negative impacts on the Native Hawaiian population as a result of the cultural, historical, and intergenerational trauma rooted in the history of colonization of Hawai‘i.

²⁸² Olevao Testimony, *Transcript I*, p. 6; Rosete-Medeiros Testimony, *Transcript II*, p. 29; Park Testimony, *Transcript II*, p. 14.

²⁸³ Olevao Testimony, *Transcript I*, p. 6; Davis Testimony, *Transcript III*, p. 5; Lloyd Testimony, *Transcript III*, p. 7.

²⁸⁴ Lloyd Testimony, *Transcript III*, p. 7.

²⁸⁵ *Ibid.*

²⁸⁶ *Ibid.*

3. DHS representatives attest that the state agency implements a trauma-informed approach and culturally responsive models.²⁸⁷
- C. Another successful program is the Mālama ‘Ohana Working Group (as stated above, this working group was created as a result of Nā Kama a Hāloa), which was created to identify and recommend transformative changes to Hawai‘i’s child welfare system.²⁸⁸ The working group conducted several informational public meetings to gather feedback directly from the community, particularly Native Hawaiian community.²⁸⁹
1. Based on the information gathered, the working group developed recommendations to better coordinate and improve the protection and well-being of children and families in the child welfare system, including: identifying training, best practices, assessment criteria and methods to sustain an effective workforce within the CWS Branch; identifying best practices (including Native Hawaiian cultural practices) to assist children/youth and their families; and identifying other cultural practices to build wellness and resilience in communities and collaboration between communities and the CWS Branch.²⁹⁰ The working group’s final recommendations were submitted to the legislature for their consideration on December 30, 2024.²⁹¹
- D. Another successful initiative is Family First Hawai‘i: Keeping Families Together, whereby DHS is able to leverage federal Title IV-E funding for evidence-based and trauma-informed services targeted towards preventing the separation of families.²⁹² Although not explicitly “culturally sensitive,” Family First Hawai‘i is guided by a trauma-informed approach and philosophy that is consistent with DHS’s “Ohana Nui approach.”²⁹³ Prior to the implementation of Family First Hawai‘i, child welfare funding was primarily used for foster care placements, such as foster court payments and child services.²⁹⁴ Now, Family First Hawai‘i redirects resources toward preventive services to keep families intact.²⁹⁵
1. According to DHS representatives, the number of children in Hawai‘i’s foster care system have consistently declined since the implementation of Family First Hawai‘i

²⁸⁷ Olevao Testimony, *Transcript I*, p. 7. For example, DHS reports providing language access facilitators to assist families with limited English proficiency as part of its trauma-informed approach. Speer Testimony, *Transcript V*, p. 15.

²⁸⁸ Rosete-Medeiros Testimony, *Transcript II*, p. 30; see Hawaii State Office of Wellness and Resilience, “Report to the Legislature of the State of Hawai‘i: Findings and Recommendations of the Mālama ‘Ohana Working Group.”

²⁸⁹ Hawaii State Office of Wellness and Resilience, “Report to the Legislature of the State of Hawai‘i: Findings and Recommendations of the Mālama ‘Ohana Working Group.”

²⁹⁰ *Ibid.*

²⁹¹ *Ibid.*

²⁹² Olevao Testimony, *Transcript I*, p. 5; see State of Hawaii, Dep’t of Human Servs, *Title IV-E Prevention Plan, Family First Hawai‘i: Keeping Families Together*, 2021, p.1, https://humanservices.hawaii.gov/wp-content/uploads/2021/10/Family-First-Hawaii_FFPSA-Plan_Final-May21_PDF-2.pdf (hereafter cited as Dep’t of Human Servs, *Title IV-E Prevention Plan, Family First Hawai‘i: Keeping Families Together*).

²⁹³ Dep’t of Human Servs, *Title IV-E Prevention Plan, Family First Hawai‘i: Keeping Families Together*. Ohana Nui is an integrated and multi-generational approach to delivering human services to reduce the incidence of intergenerational poverty and dependence on public benefits. *Ibid.* It is a Hawaii adaptation of the research-based two-generation approach used nationally. *Ibid.* It is particularly applicable for the multi-generational family structure found in Hawai‘i, where meeting the family’s needs as a whole is more effective than separately addressing each individuals’ needs. *Ibid.*

²⁹⁴ Olevao Testimony, *Transcript I*, p. 5.

²⁹⁵ *Ibid.* The evidence-based services include services related to parenting skills and support, mental health, and substance abuse treatment. State of Hawaii, Dep’t of Human Servs, *Family First Prevention Services Act (FFPSA) Fact Sheet*, 2021, <https://humanservices.hawaii.gov/ssd/files/2021/06/FFPSA-062121.pdf>.

in or around 2021.²⁹⁶ For example, in 2020 and prior to the implementation of Family First Hawai‘i, there were about 1,500 children in Hawai‘i’s foster care system.²⁹⁷ In 2022 and after the implementation of Family First Hawai‘i, about 1,200 children were in Hawai‘i’s foster care system.²⁹⁸ In 2023, under 1,000 children were in Hawai‘i’s foster care system.²⁹⁹

Finding #9: Speakers indicated that there are several protective factors for Native Hawaiian children in Hawai‘i’s foster care system.³⁰⁰

- A. Several speakers highlighted that cultural connection likely serves as a protective factor for Native Hawaiian children in foster care.³⁰¹ Over time, children that are placed in foster care often lose their ethnic or cultural identity as they adopt a foster care identity, which compounds the trauma of removal.³⁰² If these children do not have opportunities for cultural connection, they may struggle with healing from their trauma and lose their capacity for resilience.³⁰³ Further, incorporating culture and cultural values into the policies of the Hawai‘i child welfare system has proven to be effective.³⁰⁴
- B. Several speakers also emphasized that kinship placements serves as a protective factor for Native Hawaiian children in foster care, leading to increased placement stability and overall wellbeing.³⁰⁵ The speakers highlighted several academic studies that supported this idea.³⁰⁶ Anecdotally, DHS representatives observed that successful families that reunified with their children had help from extended family and community.³⁰⁷
 1. Hawai‘i ranks among one of the top states in kinship placements; 40% of resource caregivers now identify as Native Hawaiian or Pacific Islander.³⁰⁸

²⁹⁶ Olevao Testimony, *Transcript I*, p. 5.

²⁹⁷ *Ibid.*

²⁹⁸ *Ibid.*

²⁹⁹ *Ibid.*

³⁰⁰ “Protective factors are characteristics or strengths of individuals, families, communities or societies that act to mitigate risks and promote positive well-being and healthy development. Most often, we see them as attributes that help families to successfully navigate difficult situations.” “About Strengthening Families and the Protective Factors Framework,” *Center for the Study of Social Policy*, <https://cssp.org/wp-content/uploads/2025/03/About-Strengthening-Families.pdf> (last accessed Jan. 15, 2026).

³⁰¹ Davis Testimony, *Transcript III*, p. 45; Tochiki Testimony, *Transcript II*, p. 4. Ms. Tochiki visited a Head Start program in Anchorage, Alaska, and the director of the program told her that children need to tough, feel, and smell culture and learn the language of their people. Tochiki Testimony, *Transcript II*, p. 4.

³⁰² Tochiki Testimony, *Transcript II*, p. 4.

³⁰³ *Ibid.*

³⁰⁴ *Ibid.*

³⁰⁵ Julien-Chinn Testimony, *Transcript I*, p. 12; Lee and others, “Native Hawaiian and Pacific Islander Children in Foster Care: A Descriptive Study”

³⁰⁶ Julien-Chinn Testimony, *Transcript I*, pp. 12-13. Dr. Godinet & Dr. Julien-Chinn’s study on kinship care used AFCAR data to examine how kinship placements provide a protective factor for Native Hawaiian and Pacific Islander children and determine what keeps Native Hawaiian children out of the child welfare system and how to apply those protective factors broadly. Julien-Chinn Testimony, *Transcript I*, pp. 12-13; Godinet, “Native Hawaiian Families Systemic Disparities in Hawaii’s Child Welfare System.”

³⁰⁷ Hartsfield Testimony, *Transcript V*, p. 12; Speer Testimony, *Transcript V*, p. 13. The community and family she speaks of could be family or friends that existed at the time of intervention, or a community that the family has created through the CWS process. Speer Testimony, *Transcript V*, p. 13.

³⁰⁸ Julien-Chinn Testimony, *Transcript I*, pp. 10, 12.

- C. Community support can serve as a protective factor for Native Hawaiian children and families in the foster care system.³⁰⁹ Community support is not necessarily limited to the support/extended family that exists at the time of removal, but also support systems are built and established during the course of their journey through CWS.³¹⁰

Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.³¹¹ In keeping with these responsibilities, and given the testimony heard on this topic, the Committee submits the following recommendations to the Commission:

1. The U.S. Commission on Civil Rights should send this report and issue a formal request to Congress and the President to:
 - a. Modify the “evidence-based” criteria of the Family First Prevention Services Act to address how current federal funding models (e.g., Family First Act) prioritize evidence-based programs, thereby limiting funding access for culturally grounded interventions.
 - b. Provide funding to build affordable housing units across all islands in the State, with occupancy priorities for families with minors.
 - c. Provide funding to expand public transportation, particularly on the neighboring islands (i.e., island of Hawai‘i, Maui, Kauai, etc.).
 - d. Expand eligibility for federal student loan forgiveness programs for child welfare professionals, including social workers, child welfare attorneys, and guardians ad litem (GALs).
2. The U.S. Commission on Civil Rights should issue the following recommendation to Hawai‘i’s Governor’s Office and State Legislature to:
 - a. Make child welfare reform a bipartisan priority and better collaborate across sectors to break down silos within the government.
 - b. Address the root causes of poverty that contribute to child welfare system failures.
 - c. Expand social safety nets to reduce financial stressors for young families, including paid family leave, affordable childcare, food security programs, housing support.

³⁰⁹ Hartsfield Testimony, *Transcript V*, p. 12; Speer Testimony, *Transcript V*, p. 13.

³¹⁰ Speer Testimony, *Transcript V*, p. 13. Many times, CWS staff becomes that support system for families; they are there for them, hold parents accountable, but also show grace when they are struggling. *Ibid.*

³¹¹ 45 C.F.R. § 703.2 (2018).

- d. Increase the availability of affordable housing and prioritize housing for families with minor children.
 - e. Implement the recommendations contained in the Mālama ‘Ohana Working Group report.
 - f. Continue supporting Indigenous and culturally relevant services and programs.
 - g. Increase funding for local initiatives that support Native Hawaiian families.
 - h. Increase funding for community organizations serving Native Hawaiians so that they may hire more staff to serve more families and reduce wait times.
 - i. Revise the Child Welfare Act to extend (or increase the flexibility of) deadlines in child welfare cases recognizing that families facing substance abuse challenges or poverty-related barriers (like housing instability) may demonstrate the ability to provide a safe family home if given adequate time.
 - j. Increase funding for the judiciary to attract and retain more people to serve as guardians ad litem (GAL) and parent attorneys. Increased staffing would allow reduce caseloads, allow more time and greater attention for their current caseloads, increase client interactions and improve advocacy and legal representation.
 - k. Fund an additional family court judge position, which would allow more frequent hearings and expedite reunification when appropriate.
 - l. Increase funding to expand the number of service providers qualified to conduct psychological evaluations for child welfare cases, thereby reducing wait times for these services.
 - m. Pass legislation amending Hawai‘i’s Child Welfare Act to require a higher burden of proof in child welfare proceedings.
 - n. Carefully consider whether Hawai‘i should enact a Native Hawaiian equivalent of the Indian Child Welfare Act (ICWA), recognizing that stakeholders hold differing view on whether such legislation would effectively reduce Native Hawaiian involvement in the child welfare system.
 - o. Conduct a comprehensive review to develop strategies for reducing the length of time children spend in the child welfare system.
3. The U.S. Commission on Civil Rights should issue the following recommendation to the Child Welfare Services Branch of Hawai‘i’s Department of Human Services, Social Service Division to:
- a. Improve data collection and accuracy to better inform policy and service decisions, including the disaggregation of data related to Native Hawaiian children and families.
 - b. Continue improving transparency within the CWS Branch, as increased transparency can foster greater trust and community buy-in.
 - c. Implement culturally informed child welfare policies and continue emphasizing culturally responsive training for service providers, including CWS staff and family service providers.

- d. Continue amplifying community voices of families and former foster youth with lived experience in the child welfare system, and ensure that peer support programs are adequately funded.
 - e. Establish opportunities, such as an advisory board, for parents with prior child welfare system involvement to collaborate with and advise the CWS Branch.
 - f. Prioritize preventive strategies to keep Native Hawaiian children and families from entering the child welfare system.
 - g. Increase efforts to promote the University of Hawai‘i’s Thompspon’s School of Social Work pipeline program, which provides stipends to Masters of Social Work students who commit to at least two years of child welfare employment.
 - h. Increase support for CWS staff, including funding competitive salaries and access to psychological care and wellness resources to address secondary trauma.
 - i. Consider filling CWS Branch vacancies with qualified parents who may have been involved in the system.
 - j. Continue efforts to increase Native Hawaiian representation among caregivers and CWS staff.
 - k. Strengthen oversight and accountability within the CWS Branch, including conducting audits to assess compliance with federal and state requirements.
 - l. Ensure comprehensive assessments of children, particularly children with disabilities, and tailor care plans and services to meet their specific needs.
4. The U.S. Commission on Civil Rights should send this report to and issue a formal request to Hawai‘i’s Judiciary and Attorney General’s Office to:
- a. Seek increased funding to attract and retain more guardians ad litem (GALs) and court appointed parent attorneys, thereby reducing caseloads, increasing client engagement and improving the quality of advocacy and legal representation.
 - b. Implement judiciary policies requiring judges to more frequently hold review hearings for child welfare cases.
 - c. Consider providing parents with additional advocates (other than parent attorneys) throughout the judicial process of the child welfare system.
 - d. Encourage judges to conduct thorough, individualized case reviews rather than automatically accepting CWS staff recommendations.
 - e. Require judicial personnel to complete regular implicit bias training.
 - f. Improve coordination between the CWS Branch, family court judges, and attorneys from the Attorney General’s Office.
5. The U.S. Commission on Civil Rights should issue the following recommendation to the University of Hawai‘i Thompson School of Social Work to:

- a. Continue to promote their pipeline program, which provides stipends to Master of Social Work students who commit to at least two years of child welfare employment.
 - b. Develop a “grow-your-own” social work program that recruits and trains local community members to become social workers and remain in Hawai‘i after graduation.
 - c. Increase research on Native Hawaiian children involved in the child welfare system, including, but not limited to, studies examining:
 - i. whether there are protective factors for Native Hawaiian children who do not enter the child welfare system and how those can be replicated for at-risk Native Hawaiian children;
 - ii. whether staffing shortages within the CWS Branch affect staff decision-making and ability to respond to cases;
 - iii. whether Native Hawaiian children are disproportionately reported to the CWS Branch;
 - iv. differences, if any, in child welfare outcomes for families participating in specialty courts compared to traditional court settings;
 - v. whether Native Hawaiian families experience disproportionate rates of reunification; and
 - vi. whether parental rights of Native Hawaiian parents are terminated at disproportionate rates compared to other racial or ethnic groups.
6. The U.S. Commission on Civil Rights should issue the following recommendation to the University of Hawai‘i William Richardson School of Law to:
- a. Develop a “grow-your-own” program to recruit and train local community members to serve as legal representatives for parents in child welfare cases and remain in Hawai‘i after graduation.
 - b. Establish a pipeline program (modeled after University of Hawai‘i’s Thompspon’s School of Social Work pipeline program) to strengthen parent representation in child welfare cases.
7. The U.S. Commission on Civil Rights should issue the following recommendation to Hawai‘i’s Board of Education to:
- a. Improve coordination across systems, including the CWS Branch, Department of Education, community organizations like Queen Lili’uokalani Trust, and the Office of Hawaiian Education, etc.
 - b. Enhance training for employees related to mandated reporting requirements.
 - c. Strengthen protections for employees against potential retaliation related to mandatory reporting.
 - d. Create and fund an ombudsman position to provide oversight of child welfare cases.

8. The U.S. Commission on Civil Rights should issue the following recommendation to Hawai'i's Native Hawaiian trusts, such as the Lili'uokalani Trust and Office of Hawaiian Affairs, to:
 - a. Consider funding initiatives that support and protect Native Hawaiian children involved in the child welfare system, consistent with their fiduciary duty or responsibilities to Native Hawaiians.

**Hawai'i Advisory Committee to the
United States Commission on Civil Rights**



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