
A BILL FOR AN ACT

RELATING TO EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii's preschools
2 and K-12 schools have increasingly served as safe havens for
3 individuals who aim to exploit their positions at schools to
4 carry out acts that harm children, violating the trust inherent
5 in those positions. Recent investigations and reports indicate
6 that offenses, including but not limited to sexual abuse,
7 physical assault, and other forms of harassment, have been
8 committed against students on various public and private
9 preschools and K-12 campuses throughout the State. The school
10 personnel or volunteer involved in these offenses often seeks to
11 continue their reign of harming children at other schools by
12 taking advantage of the inability of educational institutions to
13 effectively share information with each other.

14 The legislature further finds that all too often, based on
15 real or perceived legal restrictions, schools fail to provide
16 vital information to one another to consider in the rendering of
17 their decisions. This lack of communication allows contact with



1 students to these perpetrators and creates a revolving door for
2 the perpetrators at preschools and K-12 schools in the State.

3 The legislature recognizes that it is essential to prevent
4 the presence of these individuals on any preschool and K-12
5 campus and from serving in any capacity that requires
6 interaction with or close proximity to students. Action is
7 required to preserve the safety of both private and public
8 preschools and K-12 campuses and bolster protections for
9 students from harm.

10 The purpose of this Act is to create a registry for all
11 preschools and K-12 educational institutions within the State
12 that contains information on school employee, contractor, or
13 volunteers for whom, as result of an investigation, a final
14 finding has been issued that the individual has inflicted harm
15 on a student, with the goal of preventing those individuals from
16 subsequently gaining employment in any other public or private
17 preschools and K-12 institution in Hawaii.

18 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
19 amended by adding a new section to part IV, subpart B, to be
20 appropriately designated and to read as follows:



1 "§302A- Harm to students registry; requirements;
2 appeals. (a) The department shall establish a harm to students
3 registry, which shall be a compilation of employees found to
4 have inflicted harm on a student in the State. The registry
5 shall contain the full and legal name of the person, the name of
6 the reporting institution, information submitted to the
7 department by an institution pursuant to subsection (b), any
8 significant dates including but not limited to the date of the
9 incident and the date of the institution's final finding as a
10 result of its investigation, and any other information deemed
11 necessary by the department.

12 (b) An institution shall register with the department any
13 final finding resulting from the institution's investigation of
14 an employee of that institution who engaged in acts or omissions
15 that resulted in the infliction of harm to a student,
16 notwithstanding whether the employee was terminated, retired,
17 resigned, or was banned from the school pending completion of
18 such investigation. Each institution shall complete its
19 investigation without regard to the employment status of the
20 individual under investigation or the status of the individual's
21 future involvement with the institution.



- 1 (c) For purposes of this section, in order for an
2 individual's name to be placed on the registry, the
3 investigation conducted by an institution that rendered a final
4 finding of infliction of harm to a student shall involve, at a
5 minimum:
- 6 (1) An investigator who was not a party or witness in the
7 investigation and does not report to a complaining
8 party or accused party;
- 9 (2) An opportunity for the complaining party and accused
10 party to provide information to the investigator, if
11 the complaining party and accused party regarding the
12 alleged misconduct or other circumstances that caused
13 initiation of the investigation;
- 14 (3) Representation for the accused party if required by
15 law or any applicable collective bargaining agreement;
- 16 (4) Consideration of the information provided by all
17 parties and witnesses who participated in the
18 investigation; and
- 19 (5) Reasoned findings based on the information gathered
20 that support the conclusion, to at least a



1 preponderance of the evidence, that the accused party
2 inflicted harm on a student.

3 (d) Any institution in the State shall share information
4 relating to any ongoing or concluded investigation of infliction
5 of harm to a student, including any final finding of the
6 investigation, when requested by another institution.

7 (e) The harm to students registry shall be made accessible
8 to any institution within the State.

9 (f) Any person whose name appears on the harm to students
10 registry may appeal to the superintendent to remove their name
11 from the registry. Upon submission of the appeal, the
12 superintendent shall convene a temporary panel to determine the
13 deletion of the person from the harm to students registry, which
14 shall be comprised of the following three members:

15 (1) The superintendent, or the superintendent's designee;

16 (2) The executive director of the state public charter
17 school commission, or the executive director's
18 designee; and

19 (3) The executive director of the Hawaii Association of
20 Independent Schools, or the executive director's
21 designee.



1 The panel shall serve as the final arbitrator of appeals
2 authorized by this section.

3 (g) As used in this section:

4 "Employee" means all employees, contractors, and volunteers
5 of an institution.

6 "Final finding" means the conclusion of an institution's
7 investigation that results in a determination by the
8 institution.

9 "Harm to students registry" means a list of persons
10 compiled by the department that have been found through an
11 investigation to have inflicted harm on a student.

12 "Inflicted harm on a student" means the act of subjecting a
13 student to sexual contact or conduct, including but not limited
14 to sexual assault as proscribed by chapter 707, part V,
15 molestation, sexual fondling, incest, or prostitution; obscene
16 or pornographic photographing, filming, or depiction; or other
17 similar forms of sexual exploitation, including but not limited
18 to acts that constitute an offense pursuant to section
19 712-1202 (1) (b) .



1 "Institution" means any educational institution that serves
2 students in prekindergarten and from kindergarten through
3 twelfth grade within the State.

4 "Investigation" means any fact finding by an institution in
5 relating to an accusation of infliction of harm on a student."

6 SECTION 3. Chapter 302C, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 **"§302C- Investigation of misconduct; reporting to**
10 **department of education; registry.** (a) Pursuant to the
11 requirements of section 302A- , a private school shall report
12 to the department of education any final finding resulting from
13 the private school's investigation that an employee inflicted
14 harm on a student, notwithstanding whether the employee was
15 terminated, retired, resigned, or was banned from the school
16 pending completion of such investigation. Each private school
17 shall complete its investigation without regard to the status of
18 employment of the individual or the status of the individual's
19 future involvement with the school.



1 (b) All private schools shall inquire with the department
2 of education whether a candidate for employment at their school
3 is listed on the harm to students registry.

4 (c) Private schools shall consult the harm to student
5 registry prior to authorizing a volunteer's assistance at a
6 school event that requires the volunteer's interaction or close
7 proximity to a student.

8 (d) If a candidate for employment or a potential
9 volunteer's name is listed on the registry, the private school
10 shall cease to consider the candidate or volunteer for
11 employment or prohibit volunteer's assistance in a role that
12 involves interaction or close proximity to a student.

13 (e) All private schools shall share information relating
14 to any ongoing or concluded investigation relating to an
15 accusation that an employee has inflicted harm on a student when
16 requested by another institution.

17 (f) As used in this section:

18 "Employee" means all employees, contractors, and volunteers
19 of a private school.



1 "Final finding" means the conclusion of an institution's
2 investigation that results in a determination by the
3 institution.

4 "Harm to students registry" means a list of persons
5 compiled by the department that have been found through an
6 investigation to have inflicted harm on a student.

7 "Inflicted harm on a student" means the act of subjecting a
8 student to sexual contact or conduct, including but not limited
9 to sexual assault as proscribed by chapter 707, part V,
10 molestation, sexual fondling, incest, or prostitution; obscene
11 or pornographic photographing, filming, or depiction; or other
12 similar forms of sexual exploitation, including but not limited
13 to acts that constitute an offense pursuant to section
14 712-1202(1)(b).

15 "Institution" means any educational institution that serves
16 students in prekindergarten and from kindergarten through
17 twelfth grade within the State.

18 "Investigation" means any fact finding by an institution in
19 relating to an accusation of infliction of harm on a student."



1 SECTION 4. Chapter 302D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§302D- Investigation of misconduct; reporting to**
5 **department; registry.** (a) Pursuant to the requirements of
6 section 302A- , a public charter school shall report to the
7 department any final finding resulting from the public charter
8 school's investigation that an employee inflicted harm on a
9 student, notwithstanding whether the employee was terminated,
10 retired, resigned, or was banned from the school pending
11 completion of such investigation. Each public charter school
12 shall complete its investigation without regard to the status of
13 employment of the individual or the status of the individual's
14 future involvement with the school.

15 (b) All public charter schools shall inquire with the
16 department whether a candidate for employment at their school is
17 listed on the harm to students registry.

18 (c) Public charter schools shall consult the harm to
19 student registry prior to authorizing a volunteer's assistance
20 at a school event that requires the volunteer's interaction or
21 close proximity to a student.



1 (d) If a candidate for employment or a potential
2 volunteer's name is listed on the registry, the public charter
3 school shall cease to consider the candidate or volunteer for
4 employment or prohibit volunteer's assistance in a role that
5 involves interaction or close proximity to a student.

6 (e) All public charter schools shall share information
7 relating to any ongoing or concluded investigation relating to
8 an accusation that an employee has inflicted harm on a student
9 when requested by another institution.

10 (f) As used in this section:

11 "Employee" means all employees, contractors, and volunteers
12 of a public charter school.

13 "Final finding" means the conclusion of an institution's
14 investigation that results in a determination by the
15 institution.

16 "Harm to students registry" means a list of persons
17 compiled by the department that have been found through an
18 investigation to have inflicted harm on a student.

19 "Inflicted harm on a student" means the act of subjecting a
20 student to sexual contact or conduct, including but not limited
21 to sexual assault as proscribed by chapter 707, part V,



1 molestation, sexual fondling, incest, or prostitution; obscene
2 or pornographic photographing, filming, or depiction; or other
3 similar forms of sexual exploitation, including but not limited
4 to acts that constitute an offense pursuant to section
5 712-1202(1)(b).

6 "Institution" means any educational institution that serves
7 students in prekindergarten and from kindergarten through
8 twelfth grade within the State.

9 "Investigation" means any fact finding by an institution in
10 relating to an accusation of infliction of harm on a student."

11 SECTION 5. Section 302A-1003, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"[+]§302A-1003[+]** **Indemnity upon reporting.** (a) The
14 State shall indemnify and hold harmless anyone participating in
15 good faith in making a report pursuant to section 302A-1002 from
16 any civil liability that might otherwise be incurred or imposed
17 by, or as a result of, the making of the report.

18 (b) An employer that provides to an employee's prospective
19 employer information or opinion about a current or former
20 employee's job performance is presumed to be acting in good
21 faith and shall have a qualified immunity from civil or criminal



1 liability for disclosing the information and for the
2 consequences of the disclosure.

3 (c) The good faith presumption under subsection (b) shall
4 be rebuttable upon a showing by a preponderance of the evidence
5 that the information or opinion disclosed was:

6 (1) Knowingly false; or

7 (2) Knowingly misleading.

8 (d) Nothing in this section shall affect rights,
9 obligations, remedies, liabilities, or standards of proof under
10 chapters 89, 92F, 368, and 378."

11 SECTION 6. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect upon its approval.

17

INTRODUCED BY:

JAN 19 2024



H.B. NO. 2043

Report Title:

Department of Education; Charter Schools; Private Schools; Harm to Students Registry;

Description:

Establishes a harm to students registry for all preschools and K-12 educational institutions within the State that contains information on school employee, contractor, or volunteers for whom, as result of an investigation, a final finding has been issued that the individual has inflicted harm on a student. Defines "inflicted harm on a student". Allows for an appeal process to remove an individual's name from the registry.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

