
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 involved in these offenses often seek to continue
11 their reign of harming children by taking advantage of the
12 inability of educational institutions to effectively share
13 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 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 employees, contractors, or
13 volunteers for whom, as a 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 institutions 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; due
2 process; immunity. (a) The department shall establish a harm
3 to students registry, which shall be a compilation of employees
4 found to have inflicted harm on a student in the State. The
5 harm to students registry shall contain the full and legal name
6 of the person, including any prior names used, such as maiden
7 name or married names; date of birth; photograph; last known
8 address; and the name of the reporting institution.

9 (b) An institution shall certify to the department that
10 any employee name and information transmitted to the department
11 for inclusion on the harm to students registry has been afforded
12 appropriate due process, as set forth in this section.

13 (c) An institution shall certify that there is a final
14 finding, including the date of the institution's final finding,
15 resulting from the institution's investigation into whether the
16 institution's employee engaged in acts or omissions that
17 resulted in the infliction of harm to a student, notwithstanding
18 whether the employee was terminated, retired, resigned, or was
19 banned from the school pending completion of the investigation.
20 Each institution shall complete its investigation without regard
21 to the employment status of the employee under investigation or



1 the status of the employee's future involvement with the
2 institution.

3 (d) For purposes of this section, in order for an
4 employee's name to be placed on the harm to students registry,
5 the investigation conducted by an institution that rendered a
6 final finding of infliction of harm to a student shall involve,
7 at a minimum:

8 (1) An investigator who was not a party or witness in the
9 investigation and does not report to a complaining
10 party or accused party;

11 (2) An opportunity for the complaining party and accused
12 party to provide information to the investigator
13 regarding the alleged misconduct or other
14 circumstances that caused initiation of the
15 investigation;

16 (3) Representation for the accused party if required by
17 law or any applicable collective bargaining agreement;
18 provided that the department shall not provide
19 representation for an accused party that does not
20 belong to a bargaining unit that is not entitled to



1 representation pursuant to a collective bargaining
2 agreement;

3 (4) Consideration of the information provided by all
4 parties and witnesses who participated in the
5 investigation; and

6 (5) Reasoned findings based on the information gathered
7 that support the conclusion, to at least a
8 preponderance of the evidence, that the accused party
9 inflicted harm on a student.

10 (e) An institution shall certify that the employee whose
11 name is transmitted to the department for inclusion on the harm
12 to students registry was given prior written notice of the
13 institution's decision to transmit the employee's name for such
14 purpose, that the employee was given the opportunity to appeal
15 the decision, and that the employee either waived the right to
16 appeal or lost the appeal, before the employee's name and other
17 information is transmitted to the department. The department
18 shall rely on an institution's certification that the employee
19 was provided due process in accordance with this section.

20 (f) Any institution in the State shall share the existence
21 of any employee investigations that include allegations of



1 infliction of harm to a student, including ongoing
2 investigations, when requested by another institution.

3 (g) An institution that provides information or an opinion
4 about an employee's job performance to a prospective employer
5 institution is presumed to be acting in good faith and shall
6 have qualified immunity from civil or criminal liability for
7 disclosing the information and for the consequences of the
8 disclosure.

9 (h) The good faith presumption under subsection (g) shall
10 be rebuttable upon a showing by a preponderance of the evidence
11 that the information or opinion disclosed was:

12 (1) Knowingly false; or

13 (2) Knowingly misleading.

14 (i) Nothing in subsections (g) and (h) shall affect the
15 rights, obligations, remedies, liabilities, or standards of
16 proof under chapters 89, 92F, 368, and 378.

17 (j) The harm to students registry shall be made accessible
18 to any institution within the State.

19 (k) Any institution certifying the inclusion of an
20 employee on the harm to students registry shall defend and
21 indemnify the department from any liability resulting from any



1 claim or cause of action relating to the employee's inclusion on
2 the harm to students registry.

3 (l) As part of the procedures followed pursuant to section
4 302A-601.5, the department shall consult the harm to students
5 registry to determine whether a candidate for employment is
6 listed on the harm to students registry.

7 (m) The department shall consult the harm to students
8 registry before authorizing a volunteer's assistance in a role
9 that involves the volunteer's interaction with or within close
10 proximity to a student or students.

11 (n) If a candidate for employment or a potential
12 volunteer's name is listed on the harm to students registry, the
13 department shall cease to consider the candidate for employment
14 or shall prohibit the volunteer's assistance in a role that
15 involves interaction with or within close proximity to a student
16 or students.

17 (o) The harm to students registry shall be exempt from
18 disclosure under chapter 92F.

19 (p) As used in this section:



1 "Employee" means all individuals currently or formerly
2 employed by the institution, contractors, and volunteers of an
3 institution.

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

7 "Harm to students registry" means a list of employees and
8 any related documents compiled by the department that any
9 institution certifies and transmits to the department.

10 "Inflicted harm on a student" or "infliction of harm on a
11 student" means the act of subjecting a student to abusive acts
12 or sexual exploitation, whether with, to, or in the presence of
13 a student, including but not limited to any sexual act; any
14 solicitation of a sexual act, whether written, visual, verbal,
15 or physical; any inappropriate sexual contact or conduct,
16 whether written, visual, verbal, or physical; any act of child
17 abuse; any intentional solicitation, encouragement, or
18 consummation of a romantic or physical relationship, which
19 includes dating a student; or any acts of abuse or violence,
20 including but not limited to assault, torture, or physical
21 punishment or restraint that results in serious bodily injury.



1 "Institution" means any educational institution that
2 services students in early learning programs or schools, and
3 from kindergarten through twelfth grade within the State.

4 "Investigation" means any fact finding by an institution
5 relating to an accusation of infliction of harm on a student
6 that meets the requirements of subsection (d)."

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

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



1 (b) A private school shall certify that the employee whose
2 name and information is transmitted to the department for
3 inclusion on the harm to students registry was given prior
4 written notice of the private school's decision to transmit the
5 employee's name and information for such purpose and the
6 employee was given the opportunity to appeal the decision before
7 the transmission of the employee's name and information occurs.
8 The department shall rely on the certification of the private
9 school that the employee was provided due process in accordance
10 with this section.

11 (c) All private schools shall consult the harm to students
12 registry to determine whether a candidate for employment at
13 their school is listed on the harm to students registry.

14 (d) Private schools shall consult the harm to students
15 registry before authorizing a volunteer's assistance in a role
16 that involves the volunteer's interaction with or within close
17 proximity to a student or students.

18 (e) If a candidate for employment or a potential
19 volunteer's name is listed on the harm to students registry, the
20 private school shall cease to consider the candidate for
21 employment or shall prohibit the volunteer's assistance in a



1 role that involves interaction with or within close proximity to
2 a student or students.

3 (f) All private schools shall share the existence of any
4 employee investigations that include allegations of infliction
5 of harm to a student, including ongoing investigations, when
6 requested by another institution.

7 (g) A private school that provides information or opinion
8 about an employee's job performance to a prospective employer
9 institution is presumed to be acting in good faith and shall
10 have qualified immunity from civil or criminal liability for
11 disclosing the information and for the consequences of the
12 disclosure.

13 (h) The good faith presumption under subsection (g) shall
14 be rebuttable upon a showing by a preponderance of the evidence
15 that the information or opinion disclosed was:

16 (1) Knowingly false; or

17 (2) Knowingly misleading.

18 (i) Nothing in subsections (g) and (h) shall affect the
19 rights, obligations, remedies, liabilities, or standards of
20 proof under chapters 89, 92F, 368, and 378.



1 (j) A private school certifying the inclusion of an
2 employee on the harm to students registry shall defend and
3 indemnify the department from any liability resulting from any
4 claim or cause of action relating to the employee's inclusion on
5 the harm to students registry.

6 (k) As used in this section:

7 "Department" means the department of education.

8 "Employee" has the same meaning as in section 302A- (p).

9 "Final finding" has the same meaning as in section
10 302A- (p).

11 "Harm to students registry" means a list of persons and any
12 related documents compiled by the department of education that
13 any institution certifies and transmits to the department for
14 inclusion on the harm to students registry.

15 "Inflicted harm on a student" or "infliction of harm on a
16 student" has the same meaning as in section 302A- (p).

17 "Institution" has the same meaning as in section
18 302A- (p).

19 "Investigation" has the same meaning as in section
20 302A- (p)."



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 the
5 department of education; harm to students registry; due process;
6 indemnity. (a) Pursuant to the requirements of section
7 302A- , a public charter school shall certify to the
8 department any final finding resulting from the public charter
9 school's investigation that an employee inflicted harm on a
10 student, notwithstanding whether the employee was terminated,
11 retired, resigned, or was banned from the school pending
12 completion of the investigation. Each public charter school
13 shall complete its investigation without regard to the status of
14 employment of the individual under investigation or the status
15 of the individual's future involvement with the institution.

16 (b) A public charter school shall certify that the
17 employee whose name and information is transmitted to the
18 department for inclusion on the harm to students registry was
19 given prior written notice of the public charter school's
20 decision to transmit the employee's name and information for
21 such purpose and the employee was given the opportunity to



1 appeal the decision before the transmission of the employee's
2 name and information occurs. The department shall rely on the
3 certification of the public charter school that the employee was
4 provided due process in accordance with this section.

5 (c) All public charter schools shall consult the harm to
6 students registry to determine whether a candidate for
7 employment at their school is listed on the harm to students
8 registry.

9 (d) Public charter schools shall consult the harm to
10 students registry before authorizing a volunteer's assistance in
11 a role that involves the volunteer's interaction with or within
12 close proximity to a student or students.

13 (e) If a candidate for employment or a potential
14 volunteer's name is listed on the harm to students registry, the
15 public charter school shall cease to consider the candidate for
16 employment or shall prohibit the volunteer's assistance in a
17 role that involves interaction with or within close proximity to
18 a student or students.

19 (f) All public charter schools shall share the existence
20 of any employee investigations that include allegations of



1 infliction of harm to a student, including ongoing
2 investigations, when requested by another institution.

3 (g) A public charter school that provides information or
4 opinion about an employee's job performance to a prospective
5 employer institution is presumed to be acting in good faith and
6 shall have qualified immunity from civil or criminal liability
7 for disclosing the information and for the consequences of the
8 disclosure.

9 (h) The good faith presumption under subsection (g) shall
10 be rebuttable upon a showing by a preponderance of the evidence
11 that the information or opinion disclosed was:

12 (1) Knowingly false; or

13 (2) Knowingly misleading.

14 (i) Nothing in subsections (g) and (h) shall affect the
15 rights, obligations, remedies, liabilities, or standards of
16 proof under chapters 89, 92F, 368, and 378.

17 (j) Any public charter school certifying the inclusion of
18 an employee on the harm to students registry shall defend and
19 indemnify the department from any liability resulting from any
20 claim or cause of action relating to the employee's inclusion on
21 the harm to students registry.



1 (k) As used in this section:

2 "Department" means department of education.

3 "Employee" has the same meaning as in section 302A- (p).

4 "Final finding" has the same meaning as in section
5 302A- (p).

6 "Harm to students registry" means a list of persons and any
7 related documents compiled by the department that any
8 institution certifies and transmits to the department for
9 inclusion on the harm to students registry.

10 "Inflicted harm on a student" or "infliction of harm on a
11 student" has the same meaning as in section 302A- (p).

12 "Institution" has the same meaning as in section
13 302A- (p).

14 "Investigation" has the same meaning as in section
15 302A- (p)."

16 SECTION 5. Chapter 302L, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§302L- Investigation of misconduct; reporting to the
20 department of education; harm to students registry; due process;
21 indemnity. (a) Pursuant to the requirements of section



1 302A- , any early learning program or school shall certify to
2 the department of education any final finding resulting from the
3 early learning program or school's investigation that an
4 employee inflicted harm on a student, notwithstanding whether
5 the employee was terminated, retired, resigned, or was banned
6 from the program or school pending completion of the
7 investigation. Each early learning program and school shall
8 complete its investigation without regard to the status of
9 employment of the individual under investigation or status of
10 the individual's future involvement with the institution.

11 (b) An early learning program or school shall certify that
12 the employee whose name and information is transmitted to the
13 department for inclusion on the harm to students registry was
14 given prior written notice of the early learning program or
15 school's decision to transmit the employee's name and
16 information for such purpose and the employee was given the
17 opportunity to appeal the decision before the transmission of
18 the employee's name and information occurs. The department
19 shall rely on the certification of the early learning program or
20 school that the employee was provided due process in accordance
21 with this section.



1 (c) All early learning programs and schools shall consult
2 the harm to students registry to determine whether a candidate
3 for employment at their program or school is listed on the harm
4 to students registry.

5 (d) Early learning programs and schools shall consult the
6 harm to students registry before authorizing a volunteer's
7 assistance in a role that involves the volunteer's interaction
8 with or within close proximity to a student or students.

9 (e) If a candidate for employment or a potential
10 volunteer's name is listed on the harm to students registry, the
11 early learning program or school shall cease to consider the
12 candidate for employment or shall prohibit the volunteer's
13 assistance in a role that involves interaction with or within
14 close proximity to a student or students.

15 (f) All early learning programs and schools shall share
16 the existence of any employee investigations that include
17 allegations of infliction of harm to a student, including
18 ongoing investigations, when requested by another institution.

19 (g) An early learning program or school that provides
20 information or opinion about an employee's job performance to a
21 prospective employer institution is presumed to be acting in



1 good faith and shall have qualified immunity from civil or
2 criminal liability for disclosing the information and for the
3 consequences of the disclosure.

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

7 (1) Knowingly false; or

8 (2) Knowingly misleading.

9 (i) Nothing in subsections (g) and (h) shall affect the
10 rights, obligations, remedies, liabilities, or standards of
11 proof under chapters 89, 92F, 368, and 378.

12 (j) Any early learning program or school certifying the
13 inclusion of an employee on the harm to students registry shall
14 defend and indemnify the department from any liability resulting
15 from any claim or cause of action relating to the employee's
16 inclusion on the harm to students registry.

17 (k) As used in this section:

18 "Department" means the department of education.

19 "Employee" has the same meaning as in section 302A- (p).

20 "Final finding" has the same meaning as in section
21 302A- (p).



1 "Harm to students registry" means a list of persons and any
2 documents compiled by the department that any institution
3 certifies and transmits to the department for inclusion on the
4 harm to students registry.

5 "Inflicted harm on a student" or "infliction of harm on a
6 student" has the same meaning as in section 302A- (p).

7 "Institution" has the same meaning as in section
8 302A- (p).

9 "Investigation" has the same meaning as in section
10 302A- (p)."

11 SECTION 6. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2024-2025 for
14 the establishment of one full-time equivalent (1.0 FTE)
15 permanent position within the department of education to manage
16 the harm to students registry and carry out any other
17 requirements pursuant to this Act.

18 The sum appropriated shall be expended by the department of
19 education for the purposes of this Act.

20 SECTION 7. In accordance with section 9 of article VII of
21 the Hawaii State Constitution and sections 37-91 and 37-93,



1 Hawaii Revised Statutes, the legislature has determined that the
 2 appropriations contained in H.B. No. , will cause the state
 3 general fund expenditure ceiling for fiscal year 2024-2025 to be
 4 exceeded by \$ or per cent. In addition, the
 5 appropriation contained in this Act will cause the general fund
 6 expenditure ceiling for fiscal year 2024-2025 to be further
 7 exceeded by \$ or per cent. The combined total
 8 amount of general fund appropriations contained in only these
 9 two Acts will cause the state general fund expenditure ceiling
 10 for fiscal year 2024-2025 to be exceeded by
 11 \$ or per cent. The reasons for exceeding the
 12 general fund expenditure ceiling are that:

- 13 (1) The appropriation made in this Act is necessary to
 14 serve the public interest; and
- 15 (2) The appropriation made in this Act meets the needs
 16 addressed by this Act.

17 SECTION 8. This Act does not affect rights and duties that
 18 matured, penalties that were incurred, and proceedings that were
 19 begun before its effective date.

20 SECTION 9. New statutory material is underscored.



1 SECTION 10. This Act shall take effect on July 1, 3000.



Report Title:

Department of Education; Private Schools; Charter Schools;
Prekindergarten Programs and Schools; Harm to Students Registry;
Appropriation; Expenditure Ceiling

Description:

Establishes a harm to students registry for all early learning programs or schools and K-12 educational institutions within the State that contains information on school employees, contractors, or volunteers for whom, as result of an investigation, a final finding has been issued that the individual has inflicted harm on a student. Appropriates funds. Effective 7/1/3000. (HD2)

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

