
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 persons who aim to exploit their positions at schools to carry
4 out acts that harm children, violating the trust inherent in
5 those positions. Recent investigations and reports indicate
6 that offenses, including sexual abuse, physical assault, and
7 other forms of harassment, have been committed against students
8 at various public and private preschools and K-12 campuses
9 throughout the State. The school personnel involved in these
10 offenses often seek to continue harming children by taking
11 advantage of the inability of educational institutions to
12 effectively share information.

13 The legislature further finds that, all too often, based on
14 real or perceived legal restrictions, schools fail to provide
15 vital information to one another to consider in rendering their
16 decisions. This lack of communication allows these perpetrators
17 continued contact with students and creates a revolving door for
18 the perpetrators at preschools and K-12 schools in the State.



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

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

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

20 "§302A- Harm to students registry; requirements; due
21 process; immunity. (a) The department shall establish a harm



1 to students registry, which shall be a database of employees
2 found to have inflicted harm on a student in the State. The
3 harm to students registry shall contain:

4 (1) The employee's full legal name and any prior names
5 used, such as maiden name or married name;

6 (2) The employee's date of birth;

7 (3) The employee's photograph;

8 (4) The employee's last known address; and

9 (5) The name of the reporting institution.

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

15 (c) The reporting institution shall certify that there has
16 been a final finding, including the date of the institution's
17 final finding, resulting from the institution's investigation
18 into whether the institution's employee engaged in acts or
19 omissions that resulted in the infliction of harm to a student,
20 notwithstanding whether the employee was terminated, retired,
21 resigned, or was banned from the school pending completion of



1 the investigation. Each institution shall complete an
2 investigation without regard to the employment status of the
3 employee under investigation or the status of the employee's
4 future involvement with the institution.

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

10 (1) An investigator who was not a party or witness to the
11 incident under investigation and who does not report
12 to a complaining party or accused party;

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

18 (3) Representation for the accused party if required by
19 law or any applicable collective bargaining agreement;
20 provided that the department shall not provide
21 representation for an accused party that is not



1 entitled to representation pursuant to a collective
2 bargaining 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, by a preponderance of the
8 evidence, that the accused party inflicted harm on a
9 student.

10 (e) The reporting institution shall certify, before
11 transmitting the employee's name and other information to the
12 department, that:

13 (1) The employee whose name is transmitted to the
14 department for inclusion on the harm to students
15 registry was given prior written notice of the
16 institution's decision to transmit the employee's name
17 for this purpose;

18 (2) The employee was given the opportunity to appeal the
19 decision; and

20 (3) The employee either waived the right to appeal or lost
21 the appeal.



1 The department shall rely on an institution's certification
2 that the employee was provided due process in accordance with
3 this section.

4 (f) Each institution in the State, when requested by
5 another institution, shall share with that institution the
6 existence of any employee investigation that includes
7 allegations of infliction of harm to a student, including
8 ongoing investigations.

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

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

18 (1) Knowingly false; or

19 (2) Knowingly misleading.



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

4 (j) The harm to students registry shall be made accessible
5 to all institutions within the State.

6 (k) A person whose name is listed on the harm to students
7 registry may request the reporting institution to submit a
8 certified request to the department to remove the person's name
9 from the registry if new information is discovered that proves
10 that the person has not inflicted harm on a student such that
11 the person's name does not belong on the registry. The
12 department shall remove the person's name from the harm to
13 students registry upon receiving a certified request from the
14 reporting institution to remove the person's name from the
15 registry.

16 (l) Any institution certifying the inclusion of an
17 employee on or removal of an employee from the harm to students
18 registry, or refusing to certify the removal of an employee from
19 the harm to students registry, shall defend and indemnify the
20 department from any liability resulting from any claim or cause
21 of action relating to the employee's inclusion on or removal



1 from the registry, or relating to the institution's refusal to
2 certify the removal of the employee from the registry.

3 (m) 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 registry.

7 (n) 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 close
10 proximity to, a student or students.

11 (o) 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 close proximity to, a student or
16 students.

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

19 (q) As used in this section:



1 "Employee" means a person currently or formerly employed by
2 the institution and includes contractors and volunteers for 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" or "registry" means a database
8 of employees and any related documents compiled by the
9 department that a reporting institution certifies and transmits
10 to the department.

11 "Inflicted harm on a student" or "infliction of harm on a
12 student" means the act of subjecting a student to abusive acts
13 or sexual exploitation, whether with, to, or in the presence of
14 a student, including any:

- 15 (1) Sexual act;
- 16 (2) Solicitation of a sexual act, whether written, visual,
17 verbal, or physical;
- 18 (3) Inappropriate sexual contact or conduct, whether
19 written, visual, verbal, or physical;
- 20 (4) Act of child abuse;



1 (5) Intentional solicitation, encouragement, or
2 consummation of a romantic or physical relationship,
3 which includes dating a student; or

4 (6) Acts of abuse or violence, including assault, torture,
5 or physical punishment or restraint that results in
6 serious bodily injury.

7 "Institution" means any public or private educational
8 institution that services students in early learning programs or
9 schools, and from kindergarten through twelfth grade within the
10 State.

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

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

17 "§302C- Investigation of misconduct; reporting to the
18 department of education; harm to students registry; due process;
19 indemnity. (a) Pursuant to the requirements of section
20 302A- , each private school shall certify to the department
21 any final finding resulting from the private school's



1 investigation that an employee inflicted harm on a student,
2 notwithstanding whether the employee was terminated, retired,
3 resigned, or was banned from the school pending completion of
4 the investigation. Each private school shall complete an
5 investigation without regard to the status of employment of the
6 employee under investigation or the status of the employee's
7 future involvement with the institution.

8 (b) The reporting private school shall certify, before
9 transmitting an employee's name and other information to the
10 department, that:

11 (1) The employee whose name and information are
12 transmitted to the department for inclusion on the
13 harm to students registry was given prior written
14 notice of the private school's decision to transmit
15 the employee's name and information for this purpose;

16 (2) The employee was given the opportunity to appeal the
17 decision; and

18 (3) The employee either waived the right to appeal or lost
19 the appeal.



1 The department shall rely on the certification of the
2 private school that the employee was provided due process in
3 accordance with this section.

4 (c) Each private school shall consult the harm to students
5 registry to determine whether a candidate for employment at the
6 school is listed on the registry.

7 (d) Each private school 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 close
10 proximity to, a student or students.

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

17 (f) Each private school, when requested by another
18 institution, shall share with that institution the existence of
19 any employee investigation that includes allegations of
20 infliction of harm to a student, including ongoing
21 investigations.



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

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

10 (1) Knowingly false; or

11 (2) Knowingly misleading.

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

15 (j) A person whose name is listed on the harm to students
16 registry may request the reporting private school to submit a
17 certified request to the department to remove the person's name
18 from the registry if new information is discovered that proves
19 that the person has not inflicted harm on a student such that
20 the person's name does not belong on the registry.



1 (k) A private school certifying the inclusion of an
2 employee on or removal of an employee from the harm to students
3 registry, or refusing to certify the removal of an employee from
4 the harm to students registry, shall defend and indemnify the
5 department from any liability resulting from any claim or cause
6 of action relating to the employee's inclusion on or removal
7 from the registry, or relating to the private school's refusal
8 to certify the removal of the employee from the registry.

9 (l) As used in this section:

10 "Department" means the department of education.

11 "Employee" has the same meaning as defined in section
12 302A- (q).

13 "Final finding" has the same meaning as defined in section
14 302A- (q).

15 "Harm to students registry" or "registry" has the same
16 meaning as defined in section 302A- (q).

17 "Inflicted harm on a student" or "infliction of harm on a
18 student" has the same meaning as defined in section 302A- (q).

19 "Institution" has the same meaning as defined in section
20 302A- (q).



1 "Investigation" has the same meaning as defined in section
2 302A- (q)."

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

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

18 (b) The reporting public charter school shall certify,
19 before transmitting the employee's name and other information to
20 the department, that:



1 (1) The employee whose name and information are
2 transmitted to the department for inclusion on the
3 harm to students registry was given prior written
4 notice of the public charter school's decision to
5 transmit the employee's name and information for this
6 purpose;

7 (2) The employee was given the opportunity to appeal the
8 decision; and

9 (3) The employee either waived the right to appeal or lost
10 the appeal.

11 The department shall rely on the certification of the
12 public charter school that the employee was provided due process
13 in accordance with this section.

14 (c) Each public charter school shall consult the harm to
15 students registry to determine whether a candidate for
16 employment at the school is listed on the registry.

17 (d) Each public charter school shall consult the harm to
18 students registry before authorizing a volunteer's assistance in
19 a role that involves the volunteer's interaction with, or close
20 proximity to, a student or students.



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

7 (f) Each public charter school, when requested by another
8 institution, shall share with that institution the existence of
9 any employee investigation that includes allegations of
10 infliction of harm to a student, including ongoing
11 investigations.

12 (g) A public charter school that provides information or
13 an opinion about an employee's job performance to a prospective
14 employing institution shall be presumed to be acting in good
15 faith and shall have qualified immunity from civil or criminal
16 liability for disclosing the information and for the
17 consequences of the disclosure.

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

21 (1) Knowingly false; or



1 (2) Knowingly misleading.

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

5 (j) A person whose name is listed on the harm to students
6 registry may request the reporting public charter school to
7 submit a certified request to the department to remove the
8 person's name from the registry if new information is discovered
9 that proves that the person has not inflicted harm on a student
10 such that the person's name does not belong on the registry.

11 (k) A public charter school certifying the inclusion of an
12 employee on or removal of an employee from the harm to students
13 registry, or refusing to certify the removal of an employee from
14 the harm to students registry, shall defend and indemnify the
15 department from any liability resulting from any claim or cause
16 of action relating to the employee's inclusion on or removal
17 from the registry, or relating to the public charter school's
18 refusal to certify the removal of the employee from the
19 registry.

20 (l) As used in this section:

21 "Department" means department of education.



1 "Employee" has the same meaning as defined in section
2 302A- (q).

3 "Final finding" has the same meaning as defined in section
4 302A- (q).

5 "Harm to students registry" or "registry" has the same
6 meaning as defined in section 302A- (q).

7 "Inflicted harm on a student" or "infliction of harm on a
8 student" has the same meaning as defined in section 302A- (q).

9 "Institution" has the same meaning as defined in section
10 302A- (q).

11 "Investigation" has the same meaning as defined in section
12 302A- (q)."

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

16 **"§302L- Investigation of misconduct; reporting to the**
17 **department of education; harm to students registry; due process;**
18 **indemnity.** (a) Pursuant to the requirements of section
19 302A- , each early learning program or school shall certify to
20 the department any final finding resulting from the early
21 learning program or school's investigation that an employee



1 inflicted harm on a student, notwithstanding whether the
2 employee was terminated, retired, resigned, or was banned from
3 the program or school pending completion of the investigation.
4 Each early learning program and school shall complete an
5 investigation without regard to the status of employment of the
6 employee under investigation or status of the employee's future
7 involvement with the institution.

8 (b) The reporting early learning program or school shall
9 certify, before transmitting the employee's name and other
10 information to the department, that:

11 (1) The employee whose name and information are
12 transmitted to the department for inclusion on the
13 harm to students registry was given prior written
14 notice of the early learning program or school's
15 decision to transmit the employee's name and
16 information for this purpose;

17 (2) The employee was given the opportunity to appeal the
18 decision; and

19 (3) The employee either waived the right to appeal or lost
20 the appeal.



1 The department shall rely on the certification of the early
2 learning program or school that the employee was provided due
3 process in accordance with this section.

4 (c) Each early learning program or school shall consult
5 the harm to students registry to determine whether a candidate
6 for employment at the program or school is listed on the
7 registry.

8 (d) Each early learning program or school shall consult
9 the harm to students registry before authorizing a volunteer's
10 assistance in a role that involves the volunteer's interaction
11 with, or close proximity to, a student or students.

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

18 (f) Each early learning program or school, when requested
19 by another institution, shall share with that institution the
20 existence of any employee investigation that includes



1 allegations of infliction of harm to a student, including
2 ongoing investigations.

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

9 (h) The good faith presumption under subsection (g) shall
10 be rebuttable upon a showing, by a preponderance of the
11 evidence, 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) A person whose name is listed on the harm to students
18 registry may request the reporting early learning program or
19 school to submit a certified request to the department to remove
20 the person's name from the registry if new information is
21 discovered that proves that the person has not inflicted harm on



1 a student such that the person's name does not belong on the
2 registry.

3 (k) An early learning program or school certifying the
4 inclusion of an employee on or removal of an employee from the
5 harm to students registry, or refusing to certify the removal of
6 an employee from the harm to students registry, shall defend and
7 indemnify the department from any liability resulting from any
8 claim or cause of action relating to the employee's inclusion on
9 or removal from the registry, or relating to the early learning
10 program or school's refusal to certify the removal of the
11 employee from the registry.

12 (l) As used in this section:

13 "Department" means the department of education.

14 "Employee" has the same meaning as defined in section
15 302A- (q).

16 "Final finding" has the same meaning as defined in section
17 302A- (q).

18 "Harm to students registry" or "registry" has the same
19 meaning as defined in section 302A- (q).

20 "Inflicted harm on a student" or "infliction of harm on a
21 student" has the same meaning as defined in section 302A- (q).



1 "Institution" has the same meaning as defined in section
2 302A- (g).

3 "Investigation" has the same meaning as defined in section
4 302A- (g)."

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

8 SECTION 7. New statutory material is underscored.

9 SECTION 8. This Act shall take effect on July 1, 2024.



Report Title:

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

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. (CD1)

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

