

S.B. NO. 3114

JAN 24 2024

A BILL FOR AN ACT

RELATING TO THE CHILD ABUSE AND NEGLECT CENTRAL REGISTRY.

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

1 SECTION 1. Chapter 350, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and read as follows:

4 "§350-A Central registry; expungement. (a) The
5 department shall maintain a central registry of reported child
6 abuse or neglect cases. When the department confirms a report
7 by a preponderance of the evidence that a person is the
8 perpetrator of child abuse or neglect as defined in section
9 350-1, or harm or threatened harm as defined in section 587A-4,
10 the person's name shall be included in the central registry.

11 (b) The department shall promptly expunge a person's name
12 from the central registry if:

13 (1) The report is determined not confirmed by the
14 department, including after administrative proceedings
15 conducted pursuant to chapter 91; provided that in an
16 administrative appeal hearing, the department shall
17 have the burden of proving by a preponderance of the
18 evidence that the confirmation was correct; or

S.B. NO. 3114

1 (2) The family court determines that the report is not
2 confirmed after:

3 (A) A petition arising from the report filed pursuant
4 to section 587A-12 has been dismissed by order of
5 the family court because the court did not find
6 sufficient evidence based upon a preponderance of
7 the evidence to assume jurisdiction pursuant to
8 section 587A-5; or

9 (B) A written report with the disposition is submitted
10 to the family court pursuant to a referral under
11 section 586-10.5, and the family court finds that
12 the facts supporting the confirmation were not
13 proven by a preponderance of the evidence.

14 The family court shall retain exclusive jurisdiction
15 for purposes of determining that a report was
16 correctly confirmed under this paragraph as long as
17 the family court matter is pending. The person whose
18 name is included in the central registry may not
19 request an administrative appeal hearing to contest
20 the confirmation unless the family court dismisses or
21 closes the related matter without making findings as
22 to the facts supporting the confirmation.

S.B. NO. 3114

1 (c) A person who has been confirmed as the perpetrator of
2 abuse or neglect as defined in section 350-1, or harm or
3 threatened harm as defined in section 587A-4, whose name has not
4 been expunged from the central registry pursuant to subsection
5 (b), may submit a request for expungement to the department
6 provided that:

- 7 (1) The confirmation is more than five years old;
8 (2) The record does not involve "aggravated circumstances"
9 as defined in section 587A-4 or conduct described in
10 paragraph (1)(B) of the definition of "child abuse or
11 neglect" in section 350-1; and
12 (3) There are no other reports of abuse or neglect
13 subsequent to the confirmation.

14 Requests submitted that do not meet these minimum requirements
15 shall be denied.

16 (d) A person seeking to have the person's own name
17 expunged pursuant to subsection (c) shall submit a request for
18 expungement to the department on a form prescribed by the
19 department. The request for expungement shall be reviewed in
20 accordance with rules adopted by the department pursuant to
21 chapter 91 that shall consider, at minimum, the following
22 criteria:

S.B. NO. 3114

- 1 (1) Length of time since the report was confirmed;
2 (2) Severity of the abuse or neglect, harm, or threatened
3 harm;
4 (3) Age of the child at the time of the report;
5 (4) Age of the confirmed perpetrator at the time of the
6 report;
7 (5) Evidence of the confirmed perpetrator's
8 rehabilitation; and
9 (6) Any other relevant information received and deemed
10 credible by the department.
11 (e) Upon review of a request for expungement, the
12 department may grant the request for expungement based on a
13 finding of good cause shown that the expungement would serve the
14 interests of justice. A person whose request for expungement is
15 denied may not submit another request for expungement for a
16 period of five years from the date of the denial or five years
17 from the date the denial is affirmed on appeal, whichever is
18 later.
19 (f) Notwithstanding any other provision of law to the
20 contrary, the department may review reports on its own action
21 and, in its discretion, may expunge a person's name from the

S.B. NO. 3114

1 central registry based on criteria established in rules adopted
2 pursuant to chapter 91.

3 (g) Records and information contained in a report for
4 which a person's name is expunged from the central registry
5 shall be retained by the department solely for future risk and
6 safety assessment purposes."

7 SECTION 2. Section 350-2, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) The department shall maintain a central registry of
10 reported child abuse or neglect cases [~~and shall promptly~~
11 ~~expunge the reports in cases if:~~

12 ~~(1) The report is determined not confirmed by the~~
13 ~~department, an administrative hearing officer, or a~~
14 ~~Hawaii state court on appeal; or~~

15 ~~(2) The petition arising from the report has been~~
16 ~~dismissed by order of the family court after an~~
17 ~~adjudicatory hearing on the merits pursuant to chapter~~
18 ~~587A.~~

19 ~~Records and information contained in a report that is~~
20 ~~expunged may be retained by the department solely for future~~
21 ~~risk and safety assessment purposes.] in accordance with section~~

22 350-A."

S.B. NO. 3114

1 SECTION 3. In codifying the new section added by section 1
2 and referenced in section 2 of this Act, the revisor of statutes
3 shall substitute an appropriate section number for the letter
4 used in designating the new section in this Act.

5 SECTION 4. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act, upon its approval, shall take effect
8 on July 1, 2025.

9

10

INTRODUCED BY:

 _____

11

BY REQUEST

S.B. NO. 3114

Report Title:

Child Protective Act; Child Abuse and Neglect; Harm or Threatened Harm; Central Registry; Expungement

Description:

Clarifies that a confirmed report of harm or threatened harm, as defined in chapter 587A, or child abuse and neglect, as defined in chapter 350, will result in the perpetrator's name being maintained in the central registry. Clarifies when a confirmed report may be expunged from the central registry, and establishes a process for expungement upon request.

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

JUSTIFICATION SHEET

SB. NO. 3114

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO THE CHILD ABUSE AND NEGLECT CENTRAL REGISTRY.

PURPOSE: To clarify when a confirmed report of child abuse and neglect is added to the central registry. To provide a process by which a record of child abuse or neglect that was confirmed by the Department and included in the central registry under chapter 350, Hawaii Revised Statutes (HRS), may be expunged from the central registry.

MEANS: Add a section to chapter 350, HRS, and amend section 350-2, HRS.

JUSTIFICATION: Currently, when the Department confirms that a person is the perpetrator of child abuse or neglect, and the person's name is placed in its central registry according to section 350-2, HRS, the information remains in the registry indefinitely unless it is expunged.

The central registry's information can be used as a basis for licensing and employment decisions and may also affect a person's ability to adopt a child. The law currently provides that the registry information can only be expunged if the report of abuse or neglect is later determined to be unconfirmed by the Department or through a judicial proceeding.

This bill provides an administrative process for identified perpetrators of confirmed reports of harm or threatened harm other than those involving "aggravated . . . circumstances," as defined in section 587A-4, HRS, to request that a record, five years or older, be expunged from the central registry. The Department will review the request for expungement based on factors such as the age of the report, the age of the child at the time the confirmed harm

SB. NO. 3114

occurred, and the severity of the harm, among other things. The Department will adopt rules pursuant to chapter 91, HRS.

Impact on the public: The bill establishes how individuals whose names are placed on the Department's child abuse and neglect central registry may request an administrative review to expunge their name from the central registry. Expungement from the central registry may allow individuals whose circumstances have changed since the report was made to pursue employment, educational opportunities, licensure, or other personal matters.

Impact on the department and other agencies: This bill will require time and resources for the Department to revise its policies and administrative rules and upgrade its record system. It will also require further resources from the Department and the Department of the Attorney General to respond to requests for expungements of central registry information and possible appeals of those decisions.

The bill will also assist the Department's IT modernization efforts and allow the Department the discretion to determine the reports and records that will be migrated to the new IT system.

GENERAL FUND:

None.

OTHER FUNDS:

None.

PPBS PROGRAM
DESIGNATION:

None.

OTHER AFFECTED
AGENCIES:

Department of the Attorney General;
Judiciary.

EFFECTIVE DATE:

July 1, 2025.