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February 1, 2024

To: The Honorable Senator Joy A. San Buenaventura, Chair  
Senate Committee on Health & Human Services

FROM: Cathy Betts, Director

SUBJECT: **SB 3114 – RELATING TO THE CHILD ABUSE AND NEGLECT CENTRAL REGISTRY.**

Hearing: February 5, 2024, 1:02 p.m.  
Conference Room 225, State Capitol & Video Conference

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this administration bill.

**PURPOSE:** The purpose of this bill 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.

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, Hawaii Revised Statutes (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 occurred, and the severity of the harm, among other things.

This amendment recognizes that an individual can make positive changes in their circumstances and supports an individual to be successful by allowing them to pursue employment, educational opportunities, licensures, or other personal matters.

Currently, court appointed counsel is only available when a child welfare case is in the Family Court pursuant to chapter 587A, HRS, and if a parent meets the Judiciary's eligibility requirements. For the administrative appeals process, parents can seek legal representation from legal services agencies or retain their own counsel.

The measure also allows the agency to expunge reports at its discretion pursuant to administrative rules. This authority will assist the Department's IT modernization efforts and determine which records to migrate to the new IT system.

The measure will require additional 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 Department requests an extended effective date of July 1, 2025, to give us time to draft and pass administrative rules and to develop and implement a form-based expungement process.

Thank you for the opportunity to provide comments.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 3114, RELATING TO THE CHILD ABUSE AND NEGLECT CENTRAL REGISTRY.

**BEFORE THE:**

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

**DATE:** Monday, February 5, 2024      **TIME:** 1:02 p.m.

**LOCATION:** State Capitol, Room 225 and Videoconference

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Lynne M. Youmans, Deputy Attorney General

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Chair San Buenaventura and Members of the Committee:

The Attorney General supports this bill in the interest of greater government transparency and efficiency.

Section 1 of this bill adds a new section to chapter 350, Hawaii Revised Statutes (HRS), to clarify when a person's name should be included in the central registry of people confirmed to be perpetrators of child abuse or neglect as defined in section 350-1, or "harm" or "threatened harm" as defined in section 587A-4, HRS<sup>1</sup>, and establishes a process for a person to request that their name be expunged from the central registry.

Section 2 of this bill eliminates the brief description of the central registry expungement process currently in section 350-2(d), HRS, in favor of the new section.

The new section added to chapter 350 in section 1 of the bill does five things. First, it clarifies that a person cannot be placed on the central registry unless the Department of Human Services (DHS), after investigation, confirms by a preponderance of evidence that the person has perpetrated abuse to a child. Second, it details the methods for challenging the initial confirmation by DHS through the administrative appeal process or through Family Court. Third, it creates a mechanism for people who

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<sup>1</sup> For brevity, we use the term "abuse" in this testimony to be inclusive of "child abuse or neglect" as defined in section 350-1, HRS, as well as "harm" or "threatened harm" as defined in section 587A-4, HRS.

were added to the central registry to have their names removed from the registry, or expunged, upon a showing of certain criteria that suggest that the behavior that led them to be placed on the registry is unlikely to reoccur. Fourth, it clarifies the details of the process for review of requests for expungement. Fifth, it authorizes DHS to review its records and expunge names from the registry on its own, without a request, based on criteria established by rules.

Being listed on the central registry can have serious consequences, including being barred from employment, volunteer opportunities, and adoption. Despite the seriousness of the consequences, the details of the process for people's names being added to the registry, and how that addition to the registry can be challenged, are not commonly understood. The Attorney General supports this bill because it will clarify the process and better inform people about the existence of the registry and the process to challenge the results of a DHS investigation.

Additionally, the Attorney General supports adding the new process that allows the expungement from the central registry based on positive changes people were able to make to their life and family relationships. The current central registry keeps people listed indefinitely in most cases. Although this may be appropriate for very serious abuse cases, including sexual abuse, it may not be appropriate for all cases of confirmed abuse. This amendment recognizes that people can mature and grow and, through hard work, perseverance, and dedication, change things in their lives that were at one time harming themselves and their families.

We respectfully request that the Committee pass this bill.

Senator San Buenaventura and HHS committee,

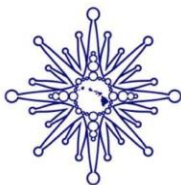
The HCCPR opposes SB3114 because it does not resolve the issues that were brought up in Courtney Bird's 2015 lawsuit that was unsuccessful due only to a late filing. Honolulu Civil Beat published the U.S. Appeals court decision against Ms. Bird in August 2019 that “Ms. Bird was plainly denied due process of law.” — Judge Jay Bybee. We believe that DHS has put the cart before the horse to address the method to remove a name from the Registry but has left out the due process issues to inform parents that a Child Abuse Registry even exists. Courtney Bird was taken by surprise when she learned that her name was on the Central Registry many years after the court case was closed.

No entry onto the registry should be issued prior to a parent's first appearance in court to stipulate or contest the allegations unless there is information as to the Registry and the knowledge that stipulation will bar employment from certain childcare occupations, ability to foster or adopt children. The number of 9<sup>th</sup> circuit court rulings on lawsuits should be an indicator that a caseworker assessment of abuse or neglect that is rubber-stamped by a judge or lack of parent defense does not mean that the parent is actually guilty of abuse or neglect. The Civil Beat has published multiple pieces that indict DHS for removing children in violation of constitutional rights, and that court appointed lawyers commonly fail to diligently defend their clients (note the November 2022 investigative piece.)

A dispositional letter to parents does explain about the Registry, but dozens of parents whose children were removed reported that they never received the letter. This bill does not address when a parent would receive notification of an assessment of abuse or neglect “in time” to understand the consequences of stipulation to an allegation at an initial appearance in court.

DHS did not address the likely fact that parents would have to pay a retainer to file a request to remove a name from the Registry. It is widely known that the majority of families in the system are appointed lawyers due to low income. There is no provision for court appointed lawyers outside of an active CWS case and most parents do not have the resources to retain a lawyer or learn pro se litigation.

The Coalition sent a nationally approved model Registry bill from the Parental Rights Foundation to DHS when we were given a copy of this bill and asked for feedback. The model bill provided for adequate notice of the Registry. We provided the above comments as well but never heard back. The HCCPR feels that this bill needs more checks and balances for fairness and due process.



HAWAII COALITION  
FOR  
CHILD PROTECTIVE REFORM

FEBRUARY 1, 2024

TO: STATE OF HAWAII SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

FROM: SHANA W. KUKILA

RE: SB3114 RELATING TO THE CHILD ABUSE AND NEGLECT CENTRAL REGISTRY

POSITION: SUPPORT WITH AMENDMENTS

ALOHA COMMITTEE MEMBERS,

MAY I SUGGEST THE FOLLOWING AMENDMENTS AND ADDITIONS TO SB3114 / CHAP 350:

1. PROPOSED AMENDMENTS:

A) PAGE 1, LINE 7: STRIKE "PREPONDERANCE OF THE EVIDENCE" TO

"A CONVICTION OF ANY CRIME UNDER HAWAII REVISED STATUTES SECTION 707 -733.6  
IN WHICH A JURY HAS FOUND THE INDIVIDUAL GUILTY"

REFERENCE:

[https://www.capitol.hawaii.gov/hrsarchive/hrs2009/Vol14\\_Ch0701-0853/HRS0707/HRS\\_0707-0733\\_0006.htm](https://www.capitol.hawaii.gov/hrsarchive/hrs2009/Vol14_Ch0701-0853/HRS0707/HRS_0707-0733_0006.htm)

B) PAGE 3, LINE 7: STRIKE ENTIRE LINE. IT SHOULD NOT HAVE A TIME LIMIT.

C) PROPOSED ADDITIONS:

A) THE ATTORNEY GENERAL SHALL AUTHORIZE CONTRACTING AN INDEPENDENT, PRIVATE ATTORNEY SPECIALIZING IN FAMILY LAW AND OTHER SPECIALIZATIONS AS APPROPRIATE TO REPRESENT ANY INDIVIDUALS IN COURT WHO ARE SEEKING EXPUNGEMENT OF THEIR NAMES FROM THE ABUSE CENTRAL REGISTRY;

B) THE ATTORNEY GENERAL SHALL AUTHORIZE A SPECIFIC GRACE PERIOD (FOR EXAMPLE, DURING THE YEAR OF 2025) WHERE ABUSE CENTRAL REGISTRY NAME EXPUNGEMENT CASES CAN BE HEARD DIRECTLY BY THE ATTORNEY GENERAL'S OFFICE AND EXPUNGEMENTS CAN OCCUR WITHOUT A COURT HEARING BY PROVIDING THE ATTORNEY GENERAL WITH SUFFICIENT EVIDENTIARY PROOF THAT AN INDIVIDUAL'S NAME SHOULD NOT BE ON THE ABUSE CENTRAL REGISTRY;

C) THE ATTORNEY GENERAL AND THE DEPARTMENT OF HUMAN SERVICES, UPON EXPUNGEMENT OF AN INDIVIDUAL'S NAME ON THE ABUSE CENTRAL REGISTRY SHALL PROVIDE THE INDIVIDUAL AN OFFICIAL LETTER STATING THIS DISPOSITION.