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# 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



1 continued contact with students 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 to prevent them from serving in any capacity that  
6 requires interaction with, or close proximity to, students.  
7 Action is required to ensure the safety of both private and  
8 public preschools and K-12 campuses and to bolster efforts to  
9 protect students from harm.

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

19 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
20 amended by adding a new section to part IV, subpart B, to be  
21 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 database of employees  
4 found to have inflicted harm on a student in the State. The  
5 harm to students registry shall contain:

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

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

9           (3) The employee's photograph;

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

11          (5) The name of the reporting institution.

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

17          (c) The reporting institution shall certify that there has  
18 been a final finding, including the date of the institution's  
19 final finding, resulting from the institution's investigation  
20 into whether the institution's employee engaged in acts or  
21 omissions that resulted in the infliction of harm to a student,



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

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

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

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

20 (3) Representation for the accused party if required by  
21 law or any applicable collective bargaining agreement;



1 provided that the department shall not provide  
2 representation for an accused party that is not  
3 entitled to representation pursuant to a collective  
4 bargaining agreement;

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

8 (5) Reasoned findings based on the information gathered  
9 that support the conclusion, by a preponderance of the  
10 evidence, that the accused party inflicted harm on a  
11 student.

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

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

20 (2) The employee was given the opportunity to appeal the  
21 decision; and



1        (3) The employee either waived the right to appeal or lost  
2            the appeal.

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

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

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

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

- 20        (1) Knowingly false; or  
21        (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. The department may share  
6 information from the harm to students registry with the  
7 department of human services.

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

18        (l) Any institution certifying the inclusion of an  
19 employee on or removal of an employee from the harm to students  
20 registry, or refusing to certify the removal of an employee from  
21 the harm to students registry, shall defend and indemnify the



1 department from any liability resulting from any claim or cause  
2 of action relating to the employee's inclusion on or removal  
3 from the registry, or relating to the institution's refusal to  
4 certify the removal of the employee from the registry.

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

9 (n) The department shall consult the harm to students  
10 registry before authorizing a volunteer's assistance in a role  
11 that involves the volunteer's interaction with, or close  
12 proximity to, a student or students.

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

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

21 (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 is transmitted  
12 to the department for inclusion on the harm to  
13 students registry was given prior written notice of  
14 the private school's decision to transmit the  
15 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 in section 302A- (q).

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

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

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

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

20        "Investigation" has the same meaning as in section  
21 302A- (q)."



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- , each 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 an investigation without regard to the status of  
14 employment of the employee under investigation or the status of  
15 the employee's future involvement with the institution.

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

19 (1) The employee whose name and information is transmitted  
20 to the department for inclusion on the harm to  
21 students registry was given prior written notice of



1           the public charter school's decision to transmit the  
2           employee's name and information for this purpose;

3           (2) The employee was given the opportunity to appeal the  
4           decision; and

5           (3) The employee either waived the right to appeal or lost  
6           the appeal.

7           The department shall rely on the certification of the  
8           public charter school that the employee was provided due process  
9           in accordance with this section.

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

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

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





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

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

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

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

17 (1) Knowingly false; or

18 (2) Knowingly misleading.

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



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

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

15       (l) As used in this section:

16       "Department" means department of education.

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

18       "Final finding" has the same meaning as in section  
19 302A- (q).

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



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

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

5 "Investigation" has the same meaning as in section  
6 302A- (q)."

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

10 "§302L- 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- , each early learning program or school shall certify to  
14 the department any final finding resulting from the early  
15 learning program or school's investigation that an employee  
16 inflicted harm on a student, notwithstanding whether the  
17 employee was terminated, retired, resigned, or was banned from  
18 the program or school pending completion of the investigation.  
19 Each early learning program and school shall complete an  
20 investigation without regard to the status of employment of the



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

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

6 (1) The employee whose name and information is transmitted  
7 to the department for inclusion on the harm to  
8 students registry was given prior written notice of  
9 the early learning program or school's decision to  
10 transmit the employee's name and information for this  
11 purpose;

12 (2) The employee was given the opportunity to appeal the  
13 decision; and

14 (3) The employee either waived the right to appeal or lost  
15 the appeal.

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

19 (c) Each early learning program and school shall consult  
20 the harm to students registry to determine whether a candidate



1 for employment at the program or school is listed on the  
2 registry.

3 (d) Each early learning program and school shall consult  
4 the harm to students registry before authorizing a volunteer's  
5 assistance in a role that involves the volunteer's interaction  
6 with, or close proximity to, a student or students.

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

13 (f) Each early learning program and school, when requested  
14 by another institution, shall share with that institution the  
15 existence of any employee investigation that includes  
16 allegations of infliction of harm to a student, including  
17 ongoing investigations.

18 (g) An early learning program or school that provides  
19 information or an opinion about an employee's job performance to  
20 a prospective employing institution shall be presumed to be  
21 acting in good faith and shall have qualified immunity from



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

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

6 (1) Knowingly false; or

7 (2) Knowingly misleading.

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

11 (j) A person whose name is listed on the harm to students  
12 registry may request the reporting early learning program or  
13 school to submit a certified request to the department to remove  
14 the person's name from the registry if new information is  
15 discovered that proves that the person has not inflicted harm on  
16 a student such that the person's name does not belong on the  
17 registry.

18 (k) An early learning program or school certifying the  
19 inclusion of an employee on or removal of an employee from the  
20 harm to students registry, or refusing to certify the removal of  
21 an employee from the harm to students registry, shall defend and



1 indemnify the department from any liability resulting from any  
2 claim or cause of action relating to the employee's inclusion on  
3 or removal from the registry, or relating to the early learning  
4 program or school's refusal to certify the removal of the  
5 employee from the registry.

6 (l) As used in this section:

7 "Department" means the department of education.

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

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

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

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

15 "Institution" has the same meaning as in section  
16 302A- (q).

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

19 SECTION 6. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$ or so  
21 much thereof as may be necessary for fiscal year 2024-2025 for



1 the establishment of full-time equivalent ( FTE)  
2 permanent positions within the department of education to manage  
3 the harm to students registry and carry out any other  
4 requirements pursuant to this Act.

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

7 SECTION 7. In accordance with section 9 of article VII of  
8 the Hawaii State Constitution and sections 37-91 and 37-93,  
9 Hawaii Revised Statutes, the legislature has determined that the  
10 appropriations contained in H.B. No. , will cause the state  
11 general fund expenditure ceiling for fiscal year 2024-2025 to be  
12 exceeded by \$ or per cent. In addition, the  
13 appropriation contained in this Act will cause the general fund  
14 expenditure ceiling for fiscal year 2024-2025 to be further  
15 exceeded by \$ or per cent. The combined total  
16 amount of general fund appropriations contained in only these  
17 two Acts will cause the state general fund expenditure ceiling  
18 for fiscal year 2024-2025 to be exceeded by  
19 \$ or per cent. The reasons for exceeding the  
20 general fund expenditure ceiling are that:





1 (1) The appropriation made in this Act is necessary to  
2 serve the public interest; and

3 (2) The appropriation made in this Act meets the needs  
4 addressed by this Act.

5 SECTION 8. 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 9. New statutory material is underscored.

9 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.*

