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# 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-       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 not confirmed by the department,  
14           including after administrative proceedings conducted  
15           pursuant to chapter 91; provided that in an  
16           administrative appeal hearing, the department shall



1           have the burden of proving by a preponderance of the  
2           evidence that the confirmation was correct; or

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

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

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

17           The family court shall retain exclusive jurisdiction  
18           for purposes of determining that a report was  
19           correctly confirmed under this paragraph as long as  
20           the family court matter is pending. The person whose  
21           name is included in the central registry may not



1           request an administrative appeal hearing to contest  
2           the confirmation unless the family court dismisses or  
3           closes the related matter without making findings as  
4           to the facts supporting the confirmation.

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

11           (1) The confirmed report is more than five years old;

12           (2) The record does not involve aggravated circumstances  
13           as defined in section 587A-4 or conduct described in  
14           paragraph (1)(B) of the definition of child abuse or  
15           neglect in section 350-1; and

16           (3) There are no other reports of abuse or neglect  
17           subsequent to the confirmed report.

18          Requests submitted that do not meet these requirements shall be  
19          denied.

20           (d) A person seeking to have the person's name expunged  
21          pursuant to subsection (c) shall submit a request for



1 expungement to the department on a form prescribed by the  
2 department. The request for expungement shall be reviewed in  
3 accordance with rules adopted by the department pursuant to  
4 chapter 91 that shall consider, at minimum, the following  
5 criteria:

- 6 (1) Length of time since the report was confirmed;  
7 (2) Severity of the child abuse or neglect, harm, or  
8 threatened harm;  
9 (3) Age of the child at the time of the report;  
10 (4) Age of the confirmed perpetrator at the time of the  
11 report;  
12 (5) Evidence of the confirmed perpetrator's  
13 rehabilitation; and  
14 (6) Any other relevant information received and deemed  
15 credible by the department.

16 (e) Upon review of a request for expungement, the  
17 department may grant the request for expungement based on a  
18 finding of good cause shown that the expungement would serve the  
19 interests of justice. A person whose request for expungement is  
20 denied may not submit another request for expungement for a  
21 period of five years from the date of the denial or five years



1 from the date the denial is affirmed on appeal, whichever is  
2 later.

3 (f) Notwithstanding any other provision of law to the  
4 contrary, the department may review reports on its own action  
5 and, in its discretion, may expunge a person's name from the  
6 central registry based on criteria established in rules adopted  
7 pursuant to chapter 91.

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

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

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

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

20 ~~(2) The petition arising from the report has been~~  
21 ~~dismissed by order of the family court after an~~



1 ~~adjudicatory hearing on the merits pursuant to chapter~~  
2 ~~587A.~~

3 ~~Records and information contained in a report that is~~  
4 ~~expunged may be retained by the department solely for future~~  
5 ~~risk and safety assessment purposes.] in accordance with section~~  
6 350- ."

7 SECTION 3. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on December 31,  
10 2050.



**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, HRS, or child abuse and neglect, as defined in chapter 350, HRS, 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. Takes effect 12/31/2050. (SD1)

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

