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# A BILL FOR AN ACT

RELATING TO THE HARM TO STUDENTS REGISTRY.

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

1           SECTION 1. The legislature finds that pursuant to Act 156,  
2 Session Laws of Hawaii 2024, the department of education was  
3 required to establish a harm-to-students registry. The  
4 legislature further finds that clarifying the scope of the  
5 registry by including contractors and volunteers only if their  
6 roles involve interaction with students, and by excluding K-12  
7 students, will reduce unnecessary complexity and administrative  
8 burdens while maintaining a safe learning environment for  
9 students.

10           Therefore, the purpose of this Act is to clarify which  
11 individuals are covered under the harm-to-students registry to  
12 ensure both efficiency and student safety.

13           SECTION 2. Section 302A-1006, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "**[+]§302A-1006[+]** **Harm to students registry; requirements;**  
16 **due process; immunity.** (a) The department shall establish a  
17 harm to students registry, which shall be a database of



1 employees found to have inflicted harm on a student in the  
2 State. The harm to students registry shall contain:

- 3 (1) The employee's full legal name and any prior names  
4 used, such as maiden name or married name;
- 5 (2) The employee's date of birth;
- 6 (3) The employee's photograph;
- 7 (4) The employee's last known address; and
- 8 (5) The name of the reporting institution.

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

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



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

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

- 9 (1) An investigator who was not a party or witness to the  
10 incident under investigation and who does not report  
11 to a complaining party or accused party;
- 12 (2) An opportunity for the complaining party and accused  
13 party to provide information to the investigator  
14 regarding the alleged misconduct or other  
15 circumstances that caused initiation of the  
16 investigation;
- 17 (3) Representation for the accused party if required by  
18 law or any applicable collective bargaining agreement;  
19 provided that the department shall not provide  
20 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) An individual enrolled as a student at an institution  
20 at the time of employment shall be exempt from this section.

21 [~~(q)~~] (r) As used in this section:



1 "Employee" means a person currently or formerly employed by  
2 ~~[the]~~ an institution and includes contractors ~~[and]~~ or  
3 volunteers for ~~[an]~~ the institution~~[-]~~ who performs any role  
4 that involves interaction with a student.

5 "Final finding" means the conclusion of an institution's  
6 investigation that results in a determination by the  
7 institution.

8 "Harm to students registry" or "registry" means a database  
9 of employees and any related documents compiled by the  
10 department that a reporting institution certifies and transmits  
11 to the department.

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

- 16 (1) Sexual act;  
17 (2) Solicitation of a sexual act, whether written, visual,  
18 verbal, or physical;  
19 (3) Inappropriate sexual contact or conduct, whether  
20 written, visual, verbal, or physical;  
21 (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. Section 302C-2, Hawaii Revised Statutes, is  
15 amended by amending subsection (1) to read as follows:

16 "(1) As used in this section:

17 "Department" means the department of education.

18 "Employee" has the same meaning as defined in section

19 [~~302A-1006(q).~~] 302A-1006(r).

20 "Final finding" has the same meaning as defined in section

21 [~~302A-1006(q).~~] 302A-1006(r).



1 "Harm to students registry" or "registry" has the same  
2 meaning as defined in section [~~302A-1006(q).~~] 302A-1006(r).

3 "Inflicted harm on a student" or "infliction of harm on a  
4 student" has the same meaning as defined in section [~~302A-~~  
5 ~~1006(q).~~] 302A-1006(r).

6 "Institution" has the same meaning as defined in section  
7 [~~302A-1006(q).~~] 302A-1006(r).

8 "Investigation" has the same meaning as defined in section  
9 [~~302A-1006(q).~~] 302A-1006(r)."

10 SECTION 4. Section 302D-33.5, Hawaii Revised Statutes, is  
11 amended by amending subsection (l) to read as follows:

12 "(l) As used in this section:

13 "Department" means department of education.

14 "Employee" has the same meaning as defined in section  
15 [~~302A-1006(q).~~] 302A-1006(r).

16 "Final finding" has the same meaning as defined in section  
17 [~~302A-1006(q).~~] 302A-1006(r).

18 "Harm to students registry" or "registry" has the same  
19 meaning as defined in section [~~302A-1006(q).~~] 302A-1006(r).



1 "Inflicted harm on a student" or "infliction of harm on a  
2 student" has the same meaning as defined in section [~~302A-~~  
3 ~~1006(q)-.~~] 302A-1006(r).

4 "Institution" has the same meaning as defined in section  
5 [~~302A-1006(q)-.~~] 302A-1006(r).

6 "Investigation" has the same meaning as defined in section  
7 [~~302A-1006(q)-.~~] 302A-1006(r)."

8 SECTION 5. Section 302L-11, Hawaii Revised Statutes, is  
9 amended by amending subsection (l) to read as follows:

10 "(l) As used in this section:

11 "Department" means the department of education.

12 "Employee" has the same meaning as defined in section  
13 [~~302A-1006(q)-.~~] 302A-1006(r).

14 "Final finding" has the same meaning as defined in section  
15 [~~302A-1006(q)-.~~] 302A-1006(r).

16 "Harm to students registry" or "registry" has the same  
17 meaning as defined in section [~~302A-1006(q)-.~~] 302A-1006(r).

18 "Inflicted harm on a student" or "infliction of harm on a  
19 student" has the same meaning as defined in section [~~302A-~~  
20 ~~1006(q)-.~~] 302A-1006(r).



1 "Institution" has the same meaning as defined in section  
2 [~~302A-1006(q).~~] 302A-1006(r).

3 "Investigation" has the same meaning as defined in section  
4 [~~302A-1006(q).~~] 302A-1006(r)."

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

7 SECTION 7. This Act shall take effect on July 1, 3000.



**Report Title:**

DOE; Harm to Students Registry; Employee; Definition; Exemption for Students

**Description:**

Clarifies the scope of the Department of Education's harm-to-students registry by providing that contractors and volunteers are included only if their roles involves interaction with students, and by excluding K-12 students. Effective 7/1/3000. (HD1)

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

