



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

S.B. NO. 2461, RELATING TO CHILD SAFETY.

BEFORE THE:

SENATE COMMITTEE ON HUMAN SERVICES

DATE: Monday, February 3, 2020 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Clare E. Connors, Attorney General, or
Erin K.S. Torres, Deputy Attorney General

Chair Ruderman and Members of the Committee:

The Department of the Attorney General (Department) offers the following comments on this bill.

This bill requires the family court to order the Department of Human Services (DHS) to enter a person's name into its central registry of reported child abuse or neglect cases under certain circumstances, and allows the family court to order the DHS to enter a person's name into its central registry under certain other circumstances. It also requires the DHS to expunge a report from the central registry if a service plan is entered into pursuant to section 587A-11, Hawaii Revised Statutes (HRS).

The addition of a new section to chapter 587A, HRS, as set forth in section 1 of the bill is unnecessary because the DHS is already required to "maintain a central registry of reported child abuse or neglect cases" pursuant to section 350-2(d), HRS.

The proposed addition to section 350-2(d) in section 2 of the bill is unnecessary and potentially problematic. Pursuant to section 587A-11(6), "[i]f the child is placed in voluntary foster care and the family does not successfully complete the service plan within three months after the date on which the department assumed physical custody of the child, the department shall file a petition." This could result in cases where the family fails to successfully complete the service plan and the DHS is required to file a chapter 587A, Child Protective Act petition at the same time that it is required to

expunge the report of abuse or neglect pursuant to this bill's proposed addition to section 350-2(d). To the contrary, if a family fails to complete a voluntary service plan, the DHS should maintain its record of the report of abuse or neglect because the underlying risk factors and safety concerns within the family remain unaddressed. Therefore, the Department recommends that section 2, page 4, lines 5-6, be amended to read as follows:

(3) An investigation results in a service plan successfully completed pursuant to section 587A-11.

If the Committee chooses to pass this measure, we respectfully ask that it make the amendment suggested by the Department.



The Judiciary, State of Hawai'i

Testimony to the Senate Committee on Human Services

Senator Russell E. Ruderman, Chair

Senator Karl Rhoads, Vice Chair

Monday, February 3, 2020 at 3:00 p.m.

State Capitol, Conference Room 016

by

Christine E. Kuriyama

Senior Judge, Deputy Chief Judge

Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 2461, Relating to Child Safety.

Purpose: Requires a family court to order a person's name be entered in the central registry of reported child abuse and neglect cases under certain circumstances. Allows the court to order a person's name be entered in the central registry of reported child abuse and neglect cases upon certain circumstances. Requires the department of human services to expunge reports in the central registry of reported child abuse and neglect cases if an investigation results in a service plan.

Judiciary's Position:

The Judiciary takes no position on this bill but offers comments.

We have the following concerns.

1. The bill is unclear about the purposes of the new language to be added to HRS Chapter 587A. The central registry was designed for use by the Department of Human Services as a tool in their important work of protecting abused and neglected children. The court is unaware of any need for judicial involvement vis-à-vis maintenance of this registry.

2. There may be constitutional issues which we refrain from analyzing or take issue with since we will be the body that decides such issues.



3. The bill is mandatory in nature, thus, forsaking any attempt to allow the court to maintain its focus on the best interests of the children, including their safety.

4. This may cause more contested hearings. Litigation overwhelmingly hurts children. Even the fastest track for litigation will mean time and energy taken away from rehabilitation of the family and returning the child to a safe family home.

5. Sexual abuse of a child can lead to a person being added to the sex offender registry after being found guilty beyond a reasonable doubt. Many of the sex abuse cases in family court are not prosecuted and these names will not appear on the sex offender registry. This underscores two considerations, i.e., the usefulness of the central registry of this bill in terms of public safety and the question of fairness across the divide of “beyond a reasonable doubt” and “preponderance of the evidence.”

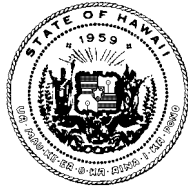
6. This bill may disproportionately impact women and the poor.

7. This bill gives the court discretion to add to the registry persons who “would present a significant risk of committing physical or sexual abuse or willful or reckless neglect if the person were in a position or setting outside of the person’s home that involves care of or substantial contact with children.” This finding would not be relevant to the case before the court.

8. The last point is a practical one. The court’s jurisdiction under HRS Chapter 587A is generally invoked by DHS, i.e., the same department that maintains the central registry. Therefore, there does not appear to be any need to involve the court and court proceedings in this process at all.

Thank you for the opportunity to provide testimony on this matter.

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96808

February 2, 2020

TO: The Honorable Senator Russell E. Ruderman, Chair
Senate Committee on Human Services and Homelessness

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 2461 – Relating to Child Safety**

Hearing: February 3, 2020, 3:00 p.m.
Conference Room 016, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes this bill as drafted and offers the following comments.

PURPOSE: The purpose of this bill is to require a family court to order a person's name be entered in the central registry of reported child abuse and neglect cases under certain circumstances. Allows the court to order a person's name be entered in the central registry of reported child abuse and neglect cases upon certain circumstances. Requires the department of human services to expunge reports in the central registry of reported child abuse and neglect cases if an investigation results in a service plan.

The central registry is used to provide programs and agencies with important background information about their applicants who will have access to children. It exists for the purpose to keep Hawaii's keiki safe and provides programs and agencies with critical information for the suitability assessment of each applicant. Also, DHS may retain expunged reports of child abuse and neglect for future risk and safety assessment purposes. Recall Act 16, (2017) amended section 350-2, HRS, to retain expunged reports to align Hawaii law with the federal Child Abuse Prevention and Treatment Act of 2010, P.L. 111-320, as amended.

As drafted, the measure would not necessarily apply to all information entered into the central registry, it would only apply to cases in which petitions are filed pursuant to Chapter

587A, HRS. Petitions for court jurisdiction are not filed in all confirmed cases of child abuse and neglect. In these situations, confirmed perpetrators of harm are provided with information at the time of notice of the confirmation, and notified of their ability to file for an administrative hearing with the DHS Administrative Appeals Office to contest the disposition of the allegations of harm.

Importantly, all confirmed cases of familial or custodial child abuse and neglect are assessed for safety factors and if safety factors exist, a service plan is established to access services to strengthen the family and mitigate the identified safety concerns.

Section 2 of the bill proposes to require expungement from the central registry in cases where the investigation results in a safety plan, whether successfully completed or not. A real safety concern if section 2 of this bill is enacted as drafter is that cases with safety plans that include confirmed sex offenders and those with on-going histories of violent behavior would be expunged from the central registry. This would not be in the best interest of protecting Hawaii's children or other vulnerable individuals who require care.

Thank you for the opportunity to testify.

SB-2461

Submitted on: 1/31/2020 8:45:18 PM

Testimony for HMS on 2/3/2020 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn R Yamamoto	Testifying for Hawaii Family Advocacy Team	Support	No

Comments:

January 31, 2020

Human Services Committee - Senator Russell Ruderman, Chair

Public Hearing - February 3, 2020, Capitol Bldg, Rm 016, 3 PM

I submitted this bill to address a lawsuit filed in 2015 by a Mom who had been involved in a child welfare case and was never aware that her name on the state Abuse and Neglect Registry would stand in the way of her adoption of a child many years later. As an advocate for families, I have 37 parents who have not received notice about the Registry. CWS is required to disclose the results of an investigation and offer recourse if the disposition is in disagreement by the parent.

In the case of court involvement, the only recourse is to clear one's name in an adjudication. Parents are not always getting notice of a founded disposition, parent lawyers are not informing their clients that there even is a Registry and when they advise to waive their right to a "trial" for reasons of speeding up the process of reunification of children, the result can be permanent denial of the right to adopt (in the recent lawsuit) or the right to enter careers that involve children (such as teaching and nursing).

The only way to correct the current procedure is to put the decision of whether a name is placed upon the Registry with the judge of a court case.

HRS 350-2 that requires ALL reports of abuse or neglect be put onto the Registry is jumping the gun before there is any investigation at all and allows unfounded dispositions and court dismissals to be overlooked on expungement.

Thank you,

Marilyn Yamamoto, Hawaii Family Advocacy Team

SB-2461

Submitted on: 2/3/2020 1:21:09 PM

Testimony for HMS on 2/3/2020 3:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

STRONG SUPPORT

SB-2461

Submitted on: 2/3/2020 2:19:37 PM

Testimony for HMS on 2/3/2020 3:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Guy Yatsushiro	Individual	Support	No

Comments: