

JAN 21 2022

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# A BILL FOR AN ACT

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RELATING TO CHILD ABUSE.

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

1       SECTION 1. The legislature finds that prior to 2015, the  
2 department of human services did not consistently notify all  
3 parties in a confirmed case of child abuse or neglect of their  
4 placement on Hawaii's child abuse and neglect registry.  
5 Placement on the registry can affect a party's ability to gain  
6 employment that involves children or vulnerable adults and their  
7 ability to foster or adopt children.

8       The legislature further finds that a party in a  
9 substantiated case of child abuse or neglect that was  
10 transferred and settled in family court may wrongfully remain on  
11 the registry. In the concurring opinion of Bird v. Hawaii, 935  
12 F.3d 738 (9th Cir. 2019), where a mother was placed on the  
13 registry without notice, the court noted the contradictory  
14 policies of the department of human services, which allowed it  
15 to return a child to a parent who remained on the registry when  
16 the department declined to pursue a case of child abuse or  
17 neglect to adjudication in family court. The opinion also noted



1 that persons on the registry were denied access to both an  
2 administrative hearing and a court adjudication as, under the  
3 department rules, a parent may either regain physical custody of  
4 their child and remain on the registry or decline the  
5 opportunity to regain custody and pursue litigation on the child  
6 abuse or neglect claims in family court. Accordingly, the  
7 legislature believes that a statutory remedy is necessary for  
8 persons on the Hawaii child abuse and neglect registry that were  
9 not provided notice nor due process. The purpose of this Act is  
10 to:

11 (1) Require the department of human services to expunge a  
12 report or reports in the Hawaii child abuse and  
13 neglect registry when the department finds that a  
14 miscarriage of justice would persist if the report or  
15 reports were not expunged;

16 (2) Require the department of human services to provide  
17 notice to all parties who are placed on the Hawaii  
18 child abuse and neglect registry; and

19 (3) Provide an avenue for persons on the Hawaii child  
20 abuse and neglect registry to petition for removal  
21 from the registry.



SECTION 2. Chapter 350, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§350- Report records; petition for removal. (a) A person listed on the registry may file a petition with the department for removal from the registry. If the department denies the petition for removal of the person's name from the registry, the person shall wait one year from the date of the petition for removal before filing a new petition with the department.

(b) If the department denies the petition for removal of the name from the registry, the person may request an administrative hearing under chapter 91, including any provisions for judicial review or appeal, within thirty days from the receipt of the department's decision; provided that the standard of review shall be whether the department abused its discretion.

(c) Any child abuse or neglect claims in family court shall not prevent a party from petitioning for removal from the registry.



1        (d) The department shall adopt rules pursuant to chapter  
2        91 to fulfill the purpose of this section.

3        (e) For purposes of this section, "registry" shall mean  
4        the central registry of reported child abuse or neglect cases  
5        maintained by the department pursuant to section 350-2."

6        SECTION 3. Section 350-2, Hawaii Revised Statutes, is  
7        amended by amending subsection (d) to read as follows:

8        "(d) The department shall maintain a central registry of  
9        reported child abuse or neglect cases and shall give timely  
10       notice to all parties placed on the registry. The department  
11       also shall promptly expunge the reports in cases if:

12       (1) The report is determined not confirmed by the  
13       department, an administrative hearing officer, or a  
14       Hawaii state court on appeal; ~~[or]~~

15       (2) The petition arising from the report has been  
16       dismissed by order of the family court after an  
17       adjudicatory hearing on the merits pursuant to chapter  
18       587A~~[-]~~; or

19       (3) The department, an administrative hearings officer, or  
20       a Hawaii state court on appeal finds that a  
21       miscarriage of justice would persist if the department



1           does not expunge the report or reports from the  
2           registry.

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."

6           SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8           SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

*Jane Acasio*



# S.B. NO. 2415

**Report Title:**

Hawaii Child Abuse and Neglect Registry; Notice; Removal

**Description:**

Adds a requirement that the Department of Human Services expunge a report or reports when the department finds that a miscarriage of justice would persist if the report or reports were not expunged. Requires the Department of Human Services to provide notice to all parties who are placed on the Hawaii Child Abuse and Neglect Registry. Provides an avenue for persons on the Hawaii Child Abuse and Neglect Registry to petition for removal from the registry.

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

