
A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 PART I

2 SECTION 1. The legislature finds that Hawaii's
3 prekindergarten through grade twelve schools have increasingly
4 served as safe havens for individuals who aim to exploit their
5 positions at schools to carry out acts that harm children,
6 violating the inherent trust in those positions. Recent
7 investigations and reports indicate that offenses including
8 sexual abuse, physical assault, and other forms of harassment
9 have been committed against students on various public and
10 private school campuses throughout the State. The school
11 personnel or volunteers involved in these offenses often seek to
12 continue harming children by taking advantage of the inability
13 of educational institutions to effectively share with each other
14 information that may prevent future employment in similar
15 educational settings.

16 The legislature further finds that based on real or
17 perceived legal restrictions, educational institutions fail to



1 provide vital information to one another regarding individuals
2 who have committed various forms of harassment against students,
3 creating a revolving door for repeat offenders and perpetrators
4 at these schools.

5 The legislature recognizes that it is essential to prevent
6 the presence of these individuals on any prekindergarten through
7 grade twelve campus and from serving in any capacity that
8 requires interaction with or close proximity to students.
9 Therefore, preventive measures are necessary to preserve the
10 safety of both public and private school campuses and bolster
11 protections for students from harm.

12 Therefore, the purpose of this Act is to:

- 13 (1) Establish a registry for all prekindergarten through
14 grade twelve educational institutions within the State
15 to report instances of acts that demonstrate harm to
16 students by school personnel or volunteers;
- 17 (2) Establish qualified immunity for any employer that
18 provides any good-faith information or opinion on a
19 current or former employee's employment performance;
20 and



1 (3) Require the surrender of teaching licenses of certain
2 individuals who have resigned or retired during a
3 pending investigation into allegations of sexual
4 assault or sexual harassment.

5 SECTION 2. Section 302A-1002, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~+~~§302A-1002~~+~~ Reporting of crime-related incidents~~-~~;
8 harm to students registry; appeals. (a) There is established a
9 harm to students registry, which shall be made accessible to any
10 institution within the State. The department shall compile a
11 registry of employees found to have inflicted harm to a student
12 in the State. The registry shall contain:

- 13 (1) The full and legal name of the employee;
14 (2) The name of the reporting institution;
15 (3) Any significant dates including the date of each
16 relevant incident and the corresponding date of the
17 institution's final finding as a result of its
18 investigation pursuant to subsection (b); and
19 (4) Any other information deemed necessary by the
20 department.



1 Each institution shall share information relating to any ongoing
2 or concluded investigation of infliction of harm to a student
3 when requested by another institution. The information shared
4 shall not include personally identifiable information of any
5 student.

6 Notwithstanding any other law to the contrary, any
7 information or employment documents related to the registry
8 obtained from non-governmental educational institutions shall be
9 exempt from disclosure under chapter 92F.

10 (b) Upon notification that an employee has allegedly
11 inflicted harm to a student, an institution shall complete an
12 investigation of the allegation. The institution shall register
13 with the department via the registry any final finding resulting
14 from its investigation that an employee of the institution
15 engaged in acts or omissions that resulted in the infliction of
16 harm to a student, notwithstanding whether the employee was
17 terminated, retired, resigned, or prohibited from returning to
18 the school, pending completion of its investigation.
19 Notwithstanding the status of employment of the employee or
20 future involvement with the school, each institution shall
21 complete the investigation.



1 (c) Each public school shall inquire with the department
2 to confirm whether a candidate for employment or prospective
3 volunteer at the school is listed on the registry. Each public
4 school shall consult the registry before authorizing a
5 candidate's or volunteer's assistance at any school event at the
6 school that requires the candidate's or volunteer's interaction
7 with, or close proximity to, a student. If the candidate's or
8 volunteer's name is listed in the registry, the public school
9 shall cease to consider the candidate for employment and shall
10 not authorize the volunteer's assistance in a role that involves
11 interaction with, or close proximity to, a student.

12 (d) Any person whose name appears on the registry may
13 appeal to the office of the superintendent to remove the
14 person's name from the registry. Upon submission of the appeal,
15 the superintendent shall convene a temporary commission to
16 determine the potential removal of the person from the registry.
17 The temporary commission shall consist of the following members:

- 18 (1) The superintendent or the superintendent's designee;
19 (2) The executive director of the state public charter
20 school commission or the executive director's
21 designee; and



1 (3) A representative of private schools located in the
2 State, as invited by the superintendent; provided that
3 the right of first refusal shall go to the executive
4 director of the Hawaii Association of Independent
5 Schools or the executive director's designee.

6 The commission shall serve as the final arbitrator of
7 appeals authorized by this section.

8 (e) The department may share information from the registry
9 with the department of human services.

10 (f) The board shall adopt rules pursuant to chapter 91 to:

11 (1) Require a report to appropriate authorities from a
12 teacher, official, or other employee of the department
13 who knows or has reason to believe that an act has
14 been committed or will be committed, which:

15 (A) Occurred or will occur on school property during
16 school hours or during activities supervised by
17 the school; and

18 (B) Involves crimes relating to arson, assault,
19 burglary, disorderly conduct, dangerous weapons,
20 dangerous drugs, harmful drugs, extortion,
21 firearms, gambling, harassment, intoxicating



1 drugs, marijuana or marijuana concentrate,
2 murder, attempted murder, sexual offenses,
3 rendering a false alarm, criminal property
4 damage, robbery, terroristic threatening, theft,
5 or trespass;

6 (2) Establish procedures for disposing of any incident
7 reported; [~~and~~]

8 (3) Impose, in addition to any other powers or authority
9 the department may have to discipline school
10 officials, appropriate disciplinary action for failure
11 to report these incidents, including probation,
12 suspension, demotion, and discharge of school
13 officials[-]; and

14 (4) Require the compilation and maintenance of the
15 registry established pursuant to subsection (a).

16 (g) As used in this section:

17 "Employee" means any employee, contractor, or volunteer of
18 any institution.

19 "Final finding" means the conclusion of an institution's
20 investigation that results in a determination by the
21 institution.



1 "Inflicted harm to a student" or "infliction of harm to a
2 student" means a student has been subjected to sexual contact or
3 conduct, including any form of sexual assault as defined under
4 chapter 707, part V; molestation; sexual fondling; incest; or
5 prostitution; obscene or pornographic photographing, filming, or
6 depiction; or any similar form of sexual exploitation, including
7 any act that constitutes an offense pursuant to section
8 712-1202(1)(b).

9 "Institution" means any educational institution that serves
10 any combination of students from grades prekindergarten through
11 grade twelve within the State.

12 "Investigation" means any fact finding by an institution
13 related to an individual's potential infliction of harm to a
14 student and includes, at minimum:

15 (1) An investigator who is not a party or witness in the
16 investigation and does not report to a complaining
17 party or accused party;

18 (2) An opportunity for the complaining party and accused
19 party to provide information to the investigator
20 regarding the alleged misconduct or other



- 1 circumstances that caused initiation of the
2 investigation;
- 3 (3) Representation for an accused bargaining unit employee
4 as required by law and the applicable collective
5 bargaining agreement;
- 6 (4) Consideration of the information provided by all
7 parties and witnesses who participated in the
8 investigation; and
- 9 (5) Reasoned findings based on the information gathered
10 that support the conclusion, by at least a
11 preponderance of the evidence, that the individual
12 inflicted harm to a student.

13 "Registry" means the harm to students registry established
14 in this section."

15 SECTION 3. Section 302A-1003, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~§~~**302A-1003**~~§~~ **Indemnity upon reporting.** (a) The
18 State shall indemnify and hold harmless anyone participating in
19 good faith in making a report pursuant to section 302A-1002 from
20 any civil liability that might otherwise be incurred or imposed
21 by, or as a result of, the making of the report.



1 student, a private school shall complete an investigation of the
2 allegation.

3 (b) Pursuant to section 302A-1002, the private school
4 shall report to the department of education via the registry any
5 final finding resulting from a private school's investigation
6 that an employee or volunteer of the school engaged in acts or
7 omissions that resulted in the infliction of harm to a student,
8 notwithstanding whether the employee or volunteer was
9 terminated, retired, resigned, or prohibited from returning to
10 the school, pending completion of the investigation.
11 Notwithstanding the employment status or future involvement of
12 the employee or volunteer with the school, each private school
13 shall complete the investigation.

14 (c) Each private school shall inquire with the department
15 of education to confirm whether a candidate for employment or
16 prospective volunteer at the school is listed on the registry.
17 Each private school shall consult the registry before
18 authorizing a candidate's or volunteer's assistance at any
19 school event at the school that requires the candidate's or
20 volunteer's interaction with, or close proximity to, a student.
21 If the candidate's or volunteer's name is listed in the



1 registry, the private school shall cease to consider the
2 candidate for employment and shall not authorize the volunteer's
3 assistance in a role that involves interaction with, or close
4 proximity to, a student.

5 (d) Each private school shall share information relating
6 to any ongoing or concluded investigation of infliction of harm
7 to a student when requested by another institution.

8 (e) For purposes of this section, "employee", "final
9 finding", "inflicted harm to a student", "infliction of harm to
10 a student", "institution", "investigation", and "registry" shall
11 have the same meanings as defined in section 302A-1002."

12 SECTION 5. Chapter 302D, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 **"§302D- Investigation of misconduct; reporting to**
16 **department; harm to students registry.** (a) Upon notification
17 that an employee has allegedly inflicted harm to a student, a
18 charter school shall complete an investigation of the
19 allegation.

20 (b) Pursuant to section 302A-1002, the executive director
21 shall report to the department via the registry any final



1 finding resulting from a charter school's investigation that an
2 employee or volunteer of the school engaged in acts or omissions
3 that resulted in the infliction of harm to a student,
4 notwithstanding whether the employee or volunteer was
5 terminated, retired, resigned, or prohibited from returning to
6 the school, pending completion of the investigation.
7 Notwithstanding the employment status or future involvement of
8 the individual with the school, each charter school shall
9 complete the investigation.

10 (c) Each charter school shall inquire with the department
11 to confirm whether a candidate for employment or prospective
12 volunteer at the school is listed on the registry. Each charter
13 school shall consult the registry before authorizing a
14 candidate's or volunteer's assistance at any event at the school
15 that requires the candidate's or volunteer's interaction with,
16 or close proximity to, a student. If the candidate's or
17 volunteer's name is listed in the registry, the charter school
18 shall cease to consider the candidate for employment and shall
19 not authorize the volunteer's assistance in a role that involves
20 interaction with, or close proximity to, a student.



1 (d) Each charter school shall share information relating
2 to any ongoing or concluded investigation of infliction of harm
3 to a student when requested by another institution.

4 (e) For purposes of this section, "employee", "final
5 finding", "inflicted harm to a student" or "infliction of harm
6 to a student", "institution", "investigation", and "registry"
7 shall have the same meaning as defined in section 302A-1002."

8 SECTION 6. Chapter 302L, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 **"§302L- Investigation of misconduct; reporting to**
12 **department of education; harm to students registry.** (a) Upon
13 notification that an employee has allegedly inflicted harm to a
14 student, an early learning program shall complete an
15 investigation of the allegation.

16 (b) Pursuant to section 302A-1002, the early learning
17 program shall report to the department of education via the
18 registry any final finding resulting from an early learning
19 program's investigation that an employee or volunteer of the
20 program engaged in acts or omissions that resulted in the
21 infliction of harm to a student, notwithstanding whether the



1 employee or volunteer was terminated, retired, resigned, or
2 prohibited from returning to the program, pending completion of
3 the investigation. Notwithstanding the employment status or
4 future involvement of the employee or volunteer with the
5 program, each early learning program shall complete the
6 investigation.

7 (c) Each early learning program shall inquire with the
8 department of education to confirm whether a candidate for
9 employment or prospective volunteer at the program is listed on
10 the registry. Each early learning program shall consult the
11 registry before authorizing a candidate's or volunteer's
12 assistance at any school event at the program that requires the
13 candidate's or volunteer's interaction with, or close proximity
14 to, a student. If the candidate's or volunteer's name is listed
15 in the registry, the early learning program shall cease to
16 consider the candidate for employment and shall not authorize
17 the volunteer's assistance in a role that involves interaction
18 with, or close proximity to, a student.

19 (d) Each early learning program shall share information
20 relating to any ongoing or concluded investigation of infliction
21 of harm to a student when requested by another institution.



1 (e) For purposes of this section, "employee", "final
2 finding", "inflicted harm to a student", "infliction of harm to
3 a student", "institution", "investigation", and "registry" shall
4 have the same meanings as defined in section 302A-1002."

5 SECTION 7. Section 302A-602, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§302A-602 Teachers; licenses and certificates.** (a) No
8 person shall serve as a teacher in the department without first
9 having obtained a license from the Hawaii teacher standards
10 board in [~~such~~] a form as the Hawaii teacher standards board
11 determines. The department shall establish types of
12 certificates in the educational field and the requirements to
13 qualify for those certificates issued to individuals who are not
14 required to obtain a license pursuant to sections 302A-801 to
15 302A-808.

16 (b) Beginning with the 2002-2003 school year, no person
17 paid under the salary schedule contained in the unit 5
18 collective bargaining agreement shall serve as a teacher in the
19 department without first having obtained a license pursuant to
20 sections 302A-801 to 302A-808 from the Hawaii teacher standards



1 board in [~~such~~] a form as the Hawaii teacher standards board
2 determines.

3 (c) Beginning with the 2002-2003 school year, the
4 department may employ unlicensed individuals as emergency hires
5 pursuant to sections 302A-801 to 302A-808. The Hawaii
6 Association of Independent Schools may, on a voluntary basis,
7 collaborate with the department of education by reporting to the
8 department the names of all individuals who were previously
9 employed at a private school in the State and meet the criteria
10 for placement on the list of individuals disqualified from
11 employment with the department pursuant to section 302A-1002(a).

12 (d) The department shall inform in writing and obtain a
13 signature from any individual paid under the salary schedule
14 contained in the collective bargaining unit (5) collective
15 bargaining agreement who retires or resigns before the
16 completion of any investigation into allegations of sexual
17 assault, sexual harassment, or other physical abuse of a
18 student, including criminal and workplace investigations. The
19 individual shall surrender the individual's Hawaii teaching
20 license. The department shall immediately inform and provide
21 the department's complaints, any relevant information, and



1 investigative reports relating to the individual to the Hawaii
2 teacher standards board, which shall report the surrender to the
3 National Association of State Directors of Teacher Education and
4 Certification.

5 (e) For the purposes of this section, "investigation"
6 shall have the same meaning as "investigation" in section
7 302A-1002."

8 PART III

9 SECTION 8. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect upon its approval.



Report Title:

DOE; State Public Charter School Commission; HTSB; Executive Office on Early Learning; Private Schools; Harm to Students Registry; Employees; License Revocation; Appeal; Qualified Immunity

Description:

Establishes a harm to students registry for all prekindergarten through grade 12 institutions operating in the State to be administered by the Department of Education. Establishes certain exceptions for information shared on the registry. Requires schools to complete any investigation into employees who have pending allegations of harming students, regardless of employment status. Requires schools to consult with the registry before authorizing prospective employees or volunteers to interact with students. Requires schools to share information on ongoing or concluded investigations of infliction of harm to a student when requested by another institution. Establishes an appeal process for individuals who request removal from the Harm to Students Registry. Establishes qualified immunity for employers who provide good faith information or opinions on any current or former employee's employment performance. Requires the surrender of teaching licenses of certain individuals who have resigned or retired during a pending investigation into allegations of sexual assault or sexual harassment. Requires the Hawaii Teacher Standards Board to report surrendered licenses to the National Association of State Directors of Teacher Education and Certification. (SD2)

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