

**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2425, H.D. 2, S.D. 1, RELATING TO THE CHILD ABUSE AND NEGLECT CENTRAL REGISTRY.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, April 4, 2024 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 016 and Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Lynne M. Youmans,
Deputy Attorney General, at 808-587-3050)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) supports this bill in the interest of greater government transparency and efficiency.

Section 1 of this bill adds definitions of "aggravated circumstances," "harm," and "threatened harm" to section 350-1, Hawaii Revised Statutes (HRS), to have the same meanings as those terms are defined in section 587A-4, HRS.

Section 2 of this bill adds a new section to chapter 350, HRS, to clarify when a person's name should be included in the central registry of people confirmed to be perpetrators of child abuse¹, and establishes a process for a person to request that their name be expunged from the central registry.

Section 3 of this bill eliminates the brief description of the central registry expungement process currently in section 350-2(d), HRS, in favor of the new section.

The new section added to chapter 350, HRS, in section 2 of the bill does five things. First, it clarifies that a person cannot be placed on the central registry unless the Department of Human Services (DHS), after investigation, confirms by a preponderance of evidence that the person has perpetrated abuse to a child. Second, it details the

¹ For brevity, we use the term "abuse" in this testimony to be inclusive of "child abuse or neglect" as defined in section 350-1, HRS, as well as "harm" or "threatened harm" as defined in section 587A-4, HRS.

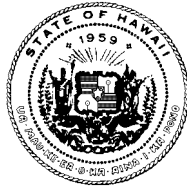
methods for challenging the initial confirmation by DHS through the administrative appeal process or through Family Court. Third, it creates a mechanism for people who were added to the central registry to have their names removed from the registry, or expunged, upon a showing of certain criteria that suggest that the behavior that led them to be placed on the registry is unlikely to reoccur. Fourth, it clarifies the details of the process for review of requests for expungement. Fifth, it authorizes DHS to review its records and expunge names from the registry on its own, without a request, based on criteria established by rules.

Being listed on the central registry can have serious consequences, including being barred from employment, volunteer opportunities, and adoption. Despite the seriousness of the consequences, the details of the process for people's names being added to the registry, and how that addition to the registry can be challenged, are not commonly understood. The Department supports this bill because it will clarify the process and better inform people about the existence of the registry and the process to challenge the results of a DHS investigation.

Additionally, the Department supports adding the new process that allows the expungement from the central registry based on positive changes people were able to make to their life and family relationships. The current central registry keeps people listed indefinitely in most cases. Although this may be appropriate for very serious abuse cases, including sexual abuse, it may not be appropriate for all cases of confirmed abuse. This amendment recognizes that people can mature and grow and, through hard work, perseverance, and dedication, change things in their lives that were at one time harming themselves and their families.

The Department respectfully requests that the Committee pass this bill, and we thank you for the opportunity to submit testimony.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

April 2, 2024

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Cathy Betts, Director

SUBJECT: **HB 2425 HD2 SD1 – RELATING TO THE CHILD ABUSE AND NEGLECT CENTRAL
REGISTRY.**

Hearing: April 4, 2024, 10:00 a.m.
Conference Room 016, State Capitol & Video Conference

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this administration measure and appreciates the Committee on Health and Human Services SD1 amendments, inserting a definition of "aggravated circumstances" and effectuating the effective date of July 1, 2025. The extended effective date will give DHS time to adopt administrative rules, make system changes, and conduct training to implement these changes.

PURPOSE: This bill clarifies that a confirmed report of child abuse or neglect, harm, or threatened harm will result in the perpetrator's name being maintained in the central registry. Clarifies when a person's name may be expunged from the central registry and establishes a process for expungement upon request. Takes effect 7/1/2025. (SD1)

The Committee on Judiciary & Hawaiian Affairs (HD1) amended this measure by making technical, non-substantive amendments for the purposes of clarity, consistency, and style.

The Committee on Finance (HD2) amended this measure by changing the effective date to July 1, 3000, to encourage further discussion.

The Committee on Health and Human Services (SD1) amended this measure by

- (1) Inserting a definition for the term "aggravated circumstances";
- (2) Inserting an effective date of July 1, 2025; and
- (3) Making a technical, non-substantive amendment for the purposes of clarity and consistency.

This bill provides an administrative process for identified perpetrators of confirmed reports of harm or threatened harm other than those involving "aggravated circumstances," as defined in section 587A-4, HRS, to request that a record, five years or older, be expunged from the central registry. The Department will review the request for expungement based on factors such as the age of the report, the age of the child at the time the confirmed harm occurred, and the severity of the harm, among other things.

This amendment recognizes that an individual can make positive changes in their circumstances and supports an individual to be successful by allowing them to pursue employment, educational opportunities, licensures, or other personal matters. Without this amendment, there is no opportunity to request expungement of confirmed abuse or neglect allegations and the person's name remains in the registry indefinitely.

The measure also allows DHS the discretion to expunge names of individuals who have been on the registry for decades and no longer pose a threat to children's safety, pursuant to administrative rules and DHS procedures.

The measure will require additional resources from DHS and the Department of the Attorney General to respond to requests for expungements of central registry information and possible appeals of those decisions.

In response to questions in previous hearings on the issue of notice provided to individuals that their name has been added to the central registry, CWS sends a written Notice of Disposition to parents/caregivers who are identified as potential perpetrators upon completion of the CWS assessment of allegations of child abuse or neglect. The notice informs the person that:

- (1) The Department's investigation has confirmed or did not confirm child abuse or neglect, or harm or threatened harm, and
- (2) If the allegations are confirmed,
 - a. The person's name is being added to the central registry;

- b. The potential impact of being added to the central registry may limit the person's ability to be employed in work involving children or vulnerable adults or the person's ability to adopt minor children; and
- c. The person has the right to challenge the results of the Department's investigation either through the Family Court or a DHS administrative process.

The Notice of Disposition also includes a form to request a DHS administrative hearing. Currently, court-appointed counsel is only available when a child welfare case is in the Family Court pursuant to chapter 587A, HRS, and if a parent meets the Judiciary's eligibility requirements. For the administrative appeals process, parents can seek legal representation from legal services agencies or retain counsel.

The Department notes that the addition of "harm" to section 350-1, HRS, in Section 1 of this measure may not be necessary if SB 2245 SD1 HD1 Relating to The Child Protective Act (scheduled for hearing before JHA on April 3, 2024) also passes. SB 2245 SD1 HD1, amongst other things, amends the definition of "harm" in 587A-4 to be the same as "child abuse and neglect" per section 350-1, HRS. If both measures pass as currently drafted, DHS respectfully prefers that section 350-1, HRS, be the primary reference.

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