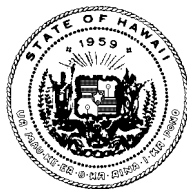


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



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

January 30, 2024

To: The Honorable Representative David A. Tarnas, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

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

Hearing: February 1, 2024, 2:00 p.m.
Conference Room 325, State Capitol & Video Conference

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this administration measure.

PURPOSE: The purpose of this bill is to clarify that a confirmed report of harm or threatened harm, as defined in chapter 587A, or child abuse and neglect, as defined in chapter 350, will result in the perpetrator's name being maintained in the central registry. It clarifies when a confirmed report may be expunged from the central registry and establishes a process for expungement upon request.

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.

The measure also allows the agency to expunge reports at its discretion pursuant to administrative rules. This authority will assist the Department's IT modernization efforts and determine which records to migrate to the new IT system.

The Department requests an extended effective date of July 1, 2025, to give us time to draft and pass administrative rules and to develop and implement a form-based expungement process.

Thank you for the opportunity to provide comments.



**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, RELATING TO THE CHILD ABUSE AND NEGLECT CENTRAL REGISTRY.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Thursday, February 1, 2024 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Lynne M. Youmans, Deputy Attorney General

Chair Tarnas and Members of the Committee:

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

Section 1 of this bill adds a new section to chapter 350, Hawaii Revised Statutes (HRS), to clarify when a person's name should be included in the central registry of people confirmed to be perpetrators of child abuse or neglect as defined in section 350-1, or "harm" or "threatened harm" as defined in section 587A-4, HRS¹, and establishes a process for a person to request that their name be expunged from the central registry.

Section 2 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 in section 1 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 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

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.

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 Attorney General 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 Attorney General 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.

We respectfully request that the Committee pass this bill.

HB-2425

Submitted on: 1/30/2024 3:11:09 PM

Testimony for JHA on 2/1/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Hawaii Coalition for Child Protective Reform	Oppose	Written Testimony Only

Comments:

Representative Tarnas and JHA committee,

The HCCPR stands in opposition to HB2425 because it does not resolve the issues that were brought up in Courtney Bird's lawsuit that was unsuccessful due only to a late filing. However, the court comment on the serious lack of due process exactly defined the shortcomings of current Central Registry law in HRS 350.

First, no entry onto the registry should be issued prior to a parent's first appearance in court to stipulate or contest the allegations. The number of 9th circuit court rulings on lawsuits should be an indicator that a caseworker assessment of abuse or neglect is not set in stone as accurate.

Ms. Bird was taken by surprise when she learned that her name was on the Central Registry many years after a court case was closed. As an advocate, my experience is that most parents have no idea that a Registry exists prior to making a decision to stipulate or contest the allegations. This bill does not satisfy that flaw in the statutes.

This bill creates a method for a parent to have his name expunged, but it is likely that he would have to hire his own attorney at great expense to do so. It is widely known that approximately 90% of families in the system are appointed lawyers due to low income. There is no provision for court-appointed lawyers in this bill.

This bill was sent to the HCCPR in November where we expressed our opinions above. Apparently, our assessment of the bill was disregarded in favor of DHS having all the power to assess and enter names on the Registry without checks and balances.

Hawaii Coalition for Child Protective Reform

HB-2425

Submitted on: 1/31/2024 10:41:37 AM

Testimony for JHA on 2/1/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nonohe Botelho	Hawaii Coalition for Child Protective Reform	Oppose	Remotely Via Zoom

Comments:

The Hawaii Coalition for Child Protective Reform strongly opposes HB2425. The focus of HB2425 is to provide a way for expungement. The Coaliton's entire focus is to NOT put names on the registry until the parent has exercised the right to recourse of an allegation, and not before a complete investigation is conducted. Oftentimes never bring up the Registry, because parents don't know it even exists.

HB-2425

Submitted on: 1/30/2024 10:24:36 PM

Testimony for JHA on 2/1/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments:

Stand in SUPPORT