

A Bill for an Act Relating to the Child Abuse and Neglect Central Registry.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Section 350-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:
“Aggravated circumstances” means the same as defined in section 587A-4.

“Harm” means the same as defined in section 587A-4.

“Threatened harm” means the same as defined in section 587A-4.”

PART II

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

§350- Central registry; expungement. (a) The department shall maintain a central registry of reported child abuse or neglect cases. When the department confirms a report by a preponderance of the evidence that a person is the perpetrator of child abuse or neglect, harm, or threatened harm, the person’s name shall be included in the central registry.

(b) The department shall promptly expunge a person’s name from the central registry if:

- (1) The report is determined not confirmed by the department, including after administrative proceedings conducted pursuant to chapter 91; provided that in an administrative appeal hearing, the department shall have the burden of proving by a preponderance of the evidence that the confirmation was correct; or
- (2) The family court determines that the report is not confirmed after:
 - (A) A petition arising from the report filed pursuant to section 587A-12 has been dismissed by order of the family court because the court did not find sufficient evidence based upon a preponderance of the evidence to assume jurisdiction pursuant to section 587A-5; or
 - (B) A written report with the disposition is submitted to the family court pursuant to a referral under section 586-10.5, and the family court finds that the facts supporting the confirmation were not proven by a preponderance of the evidence.

The family court shall retain exclusive jurisdiction for purposes of determining that a report was correctly confirmed under this paragraph as long as the family court matter is pending. The person whose name is included in the central registry shall not request an administrative appeal hearing to contest the confirmation unless the family court dismisses or closes the related matter without making findings as to the facts supporting the confirmation.

(c) A person who has been confirmed as the perpetrator of abuse or neglect, harm, or threatened harm, whose name has not been expunged from the central registry pursuant to subsection (b), may submit a request for expungement to the department; provided that:

- (1) The confirmation is more than five years old;

- (2) The record does not involve aggravated circumstances or conduct described in paragraph (1)(B) of the definition of child abuse or neglect in section 350-1; and
- (3) There are no other reports of abuse or neglect subsequent to the confirmation.

Requests submitted that do not meet these minimum requirements shall be denied.

(d) A person seeking to have the person's own name expunged pursuant to subsection (c) shall submit a request for expungement to the department on a form prescribed by the department. The request for expungement shall be reviewed in accordance with rules adopted by the department pursuant to chapter 91 that shall consider, at minimum, the following criteria:

- (1) Length of time since the report was confirmed;
- (2) Severity of the abuse or neglect, harm, or threatened harm;
- (3) Age of the child at the time of the report;
- (4) Age of the confirmed perpetrator at the time of the report;
- (5) Evidence of the confirmed perpetrator's rehabilitation; and
- (6) Any other relevant information received and deemed credible by the department.

(e) Upon review of a request for expungement, the department may grant the request for expungement based on a finding of good cause shown that the expungement would serve the interests of justice. A person whose request for expungement is denied shall not submit another request for expungement for a period of five years from the date of the denial or five years from the date the denial is affirmed on appeal, whichever is later.

(f) Notwithstanding any other provision of law to the contrary, the department may review reports on its own action and, in its discretion, may expunge a person's name from the central registry based on criteria established in rules adopted pursuant to chapter 91.

(g) Records and information contained in a report for which a person's name is expunged from the central registry shall be retained by the department solely for future risk and safety assessment purposes."

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

"(d) The department shall maintain a central registry of reported child abuse or neglect cases [~~and shall promptly expunge the reports in cases if:~~

- (1) ~~The report is determined not confirmed by the department, an administrative hearing officer, or a Hawaii state court on appeal; or~~
- (2) ~~The petition arising from the report has been dismissed by order of the family court after an adjudicatory hearing on the merits pursuant to chapter 587A.~~

~~Records and information contained in a report that is expunged may be retained by the department solely for future risk and safety assessment purposes.] in accordance with section 350-."~~

PART III

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2025.

(Approved July 1, 2024.)

Note

1. Edited pursuant to HRS §23G-16.5.