

JAN 19 2018

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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. The legislature finds that approximately two  
2 million children are home schooled nationwide. Research shows  
3 that in a positive home school environment, parents are able to  
4 create strong bonds with their children and adopt various  
5 teaching methods that best suit their child's learning skills  
6 and needs. As a result, home schooling can have a positive  
7 impact on a child's social, emotional, and psychological  
8 development, including peer interaction, self-esteem, and  
9 leadership skills.

10           However, home schooling can allow abusive parents to  
11 isolate their children and hide evidence of abuse in a way they  
12 could not if their children attended school. As a result, the  
13 lives of abused children who are home schooled are substantively  
14 different from the lives of abused children who attend public  
15 school. The Coalition for Responsible Home Education operates  
16 the Homeschooling's Invisible Children database that catalogs  
17 cases of child abuse and neglect in home school settings to



1 identify themes that may contribute to child abuse. These  
2 themes include children who are:

- 3 (1) Subjected to physical abuse;
- 4 (2) Subjected to verbal and emotional abuse;
- 5 (3) Confined and subjected to food deprivation;
- 6 (4) Isolated and part of a totalistic family environment;
- 7 (5) Adopted or have special needs;
- 8 (6) Subjected to medical neglect and identity abuse; or
- 9 (7) Vulnerable to human trafficking or may go missing.

10 These themes emphasize the need to provide safeguards to curb  
11 the abuse of children in home school settings and protect the  
12 interests of all home schooled children.

13 The legislature further finds that according to the  
14 National Center for Education Statistics, approximately seven  
15 thousand children are home schooled in Hawaii. However,  
16 existing law provides little to prevent abusive parents from  
17 using home school as a means to isolate their children and hide  
18 evidence of maltreatment. Without appropriate safeguards to  
19 protect abused children who are home schooled, the consequences  
20 can be fatal, such as Peter Kema, Jr., also known as "Peter  
21 Boy".



1           When Peter Boy was only a few months old, he and his  
2 siblings were removed from their parents' care after authorities  
3 discovered signs of abuse. After living with their grandparents  
4 for four years, Peter Boy and his siblings were returned to  
5 their parents and the physical abuse resumed. Peter Boy's abuse  
6 included being shot with a pellet gun, locked in a car trunk,  
7 and forced to eat dog feces. Although he was enrolled in  
8 preschool, Peter Boy was withdrawn from school to be home  
9 schooled where the abuse continued until his death in 1997 when  
10 his parents hid his body and lied to the authorities regarding  
11 their son's whereabouts for twenty years. Although Peter Boy's  
12 parents had a history of child abuse and neglect, they were  
13 allowed to home school Peter Boy. As a result, Peter Boy was  
14 isolated and his marks of abuse and neglect were hidden from  
15 those who are required by law to report suspicions of child  
16 abuse and neglect, such as teachers.

17           The purpose of this Act is to:

- 18           (1) Establish procedures for a parent or legal guardian to  
19           obtain authorization to home school a child;
- 20           (2) Upon receipt of a notification of intent to home  
21           school, require the complex area superintendent or the



1 complex area superintendent's authorized  
2 representative to request child welfare services to  
3 conduct a child abuse and neglect history inquiry  
4 regarding the child intended to be home schooled and  
5 any other child residing in the home of the child  
6 intended to be home schooled, and provide information  
7 to the department of education to conduct a background  
8 check of the parent or legal guardian and any other  
9 adult residing in the home of the child intended to be  
10 home schooled;

11 (3) Authorize the complex area superintendent or the  
12 complex area superintendent's authorized  
13 representative to approve or deny a notification of  
14 intent to home school based upon certain conditions;  
15 and

16 (4) Authorize a parent or legal guardian to petition the  
17 family court if the notification of intent to home  
18 school is denied by the complex area superintendent or  
19 the complex area superintendent's authorized  
20 representative.



1 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§302A- Home schooling; notification of intent to home  
5 school; procedures. (a) No child shall be home schooled  
6 unless:

7 (1) The parent or legal guardian has submitted a  
8 notification of intent to home school to the  
9 applicable complex area superintendent or the complex  
10 area superintendent's authorized representative;

11 (2) Upon receipt of the notification of intent to home  
12 school, the applicable complex area superintendent or  
13 the complex area superintendent's authorized  
14 representative has:

15 (A) Requested child welfare services to conduct a  
16 child abuse and neglect history inquiry regarding  
17 the child intended to be home schooled and any  
18 other child residing in the home of the child  
19 intended to be home schooled; and

20 (B) Provided information to the department to conduct  
21 a background check of the parent or legal



1                   guardian and any other adult residing in the home  
2                   of the child intended to be home schooled; and

3           (3) The applicable complex area superintendent or complex  
4           area superintendent's authorized representative has  
5           approved the notification of intent to home school.

6           (b) Prior to the start of home schooling, a parent or  
7 legal guardian shall submit a notification of intent to home  
8 school to the complex area superintendent or complex area  
9 superintendent's authorized representative of the public school  
10 that the child would otherwise be required to attend. The  
11 notification of intent to home school shall include, but not be  
12 limited to the following:

13           (1) Name of the child intended to be home schooled;

14           (2) Name of any other child residing in the home of the  
15           child intended to be home schooled;

16           (3) Name of the parent or legal guardian of the child  
17           intended to be home schooled;

18           (4) Name of any other adult residing in the home of the  
19           child intended to be home schooled;

20           (5) Acknowledgement that the child intended to be home  
21           schooled and any other child residing in the home of



1           the child intended to be home schooled shall be  
2           subject to a child abuse or neglect history inquiry  
3           conducted by child welfare services and consent to the  
4           inquiry;

5           (6) Acknowledgement that the parent or legal guardian and  
6           all other adults residing in the home of the child  
7           intended to be home schooled shall be subject to a  
8           background check conducted by the department or its  
9           designee and consent to the background check; and

10          (7) Any other information that the department deems  
11          necessary.

12          (c) Upon receipt of the notification of intent to home  
13          school, the applicable complex area superintendent or the  
14          complex area superintendent's authorized representative shall:

15          (1) Request child welfare services to conduct an inquiry  
16          to determine whether there is any history of child  
17          abuse or neglect involving the child intended to be  
18          home schooled or any other child residing in the home  
19          of the child intended to be home schooled; and

20          (2) Provide the necessary information to the department to  
21          perform a background check of the parent or legal



1           guardian and any other adult residing in the home of  
2           the child intended to be home schooled.  
3 Child welfare services and the department shall have no more  
4 than five business days to complete a child abuse or neglect  
5 history inquiry required under paragraph (1) or background check  
6 required under paragraph (2) and provide the information to the  
7 requesting complex area superintendent or the complex area  
8 superintendent's authorized representative.

9           (d) The complex area superintendent or the complex area  
10 superintendent's authorized representative may approve a  
11 notification of intent to home school if none of the conditions  
12 under subsection (e) exist or pursuant to a family court order  
13 that finds home schooling is appropriate for the child. Upon  
14 approval of the notification of intent to home school, the  
15 parent or legal guardian shall be authorized to home school the  
16 child in accordance with rules adopted by the department to  
17 implement home schooling.

18           (e) The complex area superintendent or the complex area  
19 superintendent's authorized representative may deny a  
20 notification of intent to home school if:





- 1        (1) The parent or legal guardian refuses to authorize  
2        child welfare services to conduct a child abuse or  
3        neglect history inquiry in accordance with subsection  
4        (c) (1);
- 5        (2) As a result of its inquiry in accordance with  
6        subsection (c) (1), child welfare services finds a  
7        history of child abuse or neglect involving the child  
8        intended to be home schooled or any other child  
9        residing in the home of the child intended to be home  
10       schooled;
- 11       (3) The parent or legal guardian, or any other adult  
12       residing in the home of the child intended to be home  
13       schooled refuses to authorize the department or its  
14       designee to conduct a background check in accordance  
15       with subsection (c) (2);
- 16       (4) The parent or legal guardian, or any other adult  
17       residing in the home of the child intended to be home  
18       schooled fails to submit to the department or its  
19       designee information required to perform a background  
20       check in accordance with subsection (c) (2);



1       (5) The parent or legal guardian, or any other adult  
2       residing in the home of the child intended to be home  
3       schooled has any disqualifying information; or

4       (6) The parent or legal guardian, or any other adult  
5       residing in the home of the child intended to be home  
6       schooled has any background check information that the  
7       department finds may pose a risk to the health,  
8       safety, or welfare of the child intended to be home  
9       schooled.

10      The complex area superintendent or the complex area  
11      superintendent's authorized representative shall notify the  
12      parent or legal guardian that the notification of intent to home  
13      school is denied and the child shall not engage in home  
14      schooling.

15      (f) The complex area superintendent or the complex area  
16      superintendent's authorized representative, in obtaining and  
17      relying upon the information of the child abuse and neglect  
18      history inquiry in accordance with subsection (c)(1) and  
19      background check conducted in accordance with subsection (c)(2),  
20      is presumed to be acting in good faith and shall be immune from  
21      civil liability for taking or recommending action based upon



1 such information. The presumption of good faith may be rebutted  
2 upon a showing of proof by a preponderance of the evidence that  
3 the complex area superintendent or the complex area  
4 superintendent's authorized representative relied upon  
5 information or opinion that the complex area superintendent or  
6 the complex area superintendent's authorized representative knew  
7 was false or misleading of that such reliance was not  
8 reasonable.

9 (g) Upon notification that the notification of intent to  
10 home school is denied, the parent or legal guardian may petition  
11 the family court of the circuit in which the child resides. If  
12 the family court finds by clear and convincing evidence that  
13 home schooling is appropriate for the child, the parent or legal  
14 guardian shall submit the family court order to the applicable  
15 complex area superintendent or the complex area superintendent's  
16 authorized representative for approval of the notification of  
17 intent to home school. The family court order finding that home  
18 schooling is appropriate for the child may impose conditions  
19 upon the parent or legal guardian that are necessary to ensure  
20 the health, safety, and welfare of the child intended to be home  
21 schooled. If the family court finds by clear and convincing



1 evidence that the home schooling is not appropriate for the  
2 child, the family court shall send written notice of its  
3 findings to the applicable complex area superintendent or the  
4 complex area superintendent's authorized representative. The  
5 family court order finding that home schooling is not  
6 appropriate for the child may order the parent or legal  
7 guardian, or any other adult residing in the home of child  
8 intended to be home schooled to undergo available domestic  
9 violence intervention or parenting programs and set a date for a  
10 status hearing to determine the appropriateness of home  
11 schooling for the child.

12 (h) The department shall adopt rules pursuant to chapter  
13 91 to carry out the purposes of this section and develop the  
14 appropriate prescribed forms to provide authorization and  
15 consent to a child abuse and neglect history inquiry and  
16 background check pursuant to this section.

17 (i) As used in this section, "background check" means a  
18 review of records stored in state or national repositories for  
19 history of abuse, neglect, threatened harm, or other  
20 maltreatment against children and for any criminal history,  
21 including:



- 1        (1) Child abuse and neglect records maintained by child  
2            welfare services;
- 3        (2) Criminal history records maintained by the Hawaii  
4            criminal justice data center;
- 5        (3) Sex offender registry records in accordance with  
6            chapter 846E; and
- 7        (4) Child abuse and neglect records, criminal history  
8            records, and sex offender registry records of another  
9            state previously resided in by the parent or legal  
10           guardian, or any other adult residing in the home of  
11           the child intended to be home schooled."

12        SECTION 3. Section 302A-1132, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14        "(a) Unless excluded from school or excepted from  
15 attendance, all children who will have arrived at the age of at  
16 least five years on or before July 31 of the school year, and  
17 who will not have arrived at the age of eighteen years, by  
18 January 1 of any school year, shall attend either a public or  
19 private school for, and during, the school year, and any parent,  
20 guardian, or other person having the responsibility for, or care  
21 of, a child whose attendance at school is obligatory shall send



1 the child to either a public or private school. Attendance at a  
2 public or private school shall not be compulsory in the  
3 following cases:

4 (1) Where the child is physically or mentally unable to  
5 attend school (deafness and blindness excepted), of  
6 which fact the certificate of a duly licensed  
7 physician shall be sufficient evidence;

8 (2) Where the child, who has reached the fifteenth  
9 anniversary of birth, is suitably employed and has  
10 been excused from school attendance by the  
11 superintendent or the superintendent's authorized  
12 representative, or by a family court judge;

13 (3) Where, upon investigation by the family court, it has  
14 been shown that for any other reason the child may  
15 properly remain away from school;

16 (4) Where the child has graduated from high school;

17 (5) Where the child is enrolled in an appropriate  
18 alternative educational program as approved by the  
19 superintendent or the superintendent's authorized  
20 representative in accordance with the plans and  
21 policies of the department, or notification of intent



1 to home school has been [~~submitted to the principal~~  
2 approved by the complex area superintendent or the  
3 complex area superintendent's authorized  
4 representative of the public school that the child  
5 would otherwise be required to attend in accordance  
6 with [~~department rules adopted to achieve this~~  
7 ~~result;~~] section 302A- ; or

8 (6) Where:

9 (A) The child has attained the age of sixteen years;

10 (B) The principal has determined that:

11 (i) The child has engaged in behavior which is  
12 disruptive to other students, teachers, or  
13 staff; or

14 (ii) The child's non-attendance is chronic and  
15 has become a significant factor that hinders  
16 the child's learning; and

17 (C) The principal of the child's school, and the  
18 child's teacher or counselor, in consultation  
19 with the child and the child's parent, guardian,  
20 or other adult having legal responsibility for or  
21 care of the child, develops an alternative



1 educational plan for the child. The alternative  
 2 educational plan shall include a process that  
 3 shall permit the child to resume school.

4 The principal of the child's school shall file the  
 5 plan made pursuant to subparagraph (C) with the  
 6 child's school record. If the adult having legal  
 7 responsibility for or care of the child disagrees with  
 8 the plan, then the adult shall be responsible for  
 9 obtaining appropriate educational services for the  
 10 child."

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

13 SECTION 5. This Act shall take effect upon its approval.  
 14

INTRODUCED BY:

Donna Mercedes Kai

Michelle Filani

Ernaine R. Anouye  
Ernaine R. Anouye





# S.B. NO. 2323

**Report Title:**

Education; Home Schooling; Notification of Intent to Home School; Child Abuse or Neglect; Background Check; Child Welfare Services

**Description:**

Establishes procedures for a parent or legal guardian to obtain authorization to home school a child. Requires the complex area superintendent or the complex area superintendent's authorized representative to request child welfare services to conduct a child abuse and neglect history inquiry and provide information to the department of education to conduct a background check before approving or denying a notification of intent to home school. Authorizes a parent or legal guardian to petition the family court if the notification of intent to home school is denied.

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