



Senate

General Assembly

File No. 423

February Session, 2012

Substitute Senate Bill No. 310

Senate, April 16, 2012

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE REMOVAL OF INDIVIDUALS FROM THE STATE CHILD ABUSE AND NEGLECT REGISTRY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17a-101k of the 2012 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2012*):

4 (a) The Commissioner of Children and Families shall maintain a
5 registry of the commissioner's findings of abuse or neglect of children
6 pursuant to section 17a-101g that conforms to the requirements of this
7 section. The regulations adopted pursuant to subsection [(i)] (j) of this
8 section shall provide for the use of the registry on a twenty-four-hour
9 daily basis to prevent or discover abuse of children and the
10 establishment of a hearing process for any appeal by a person of the
11 commissioner's determination that such person is responsible for the
12 abuse or neglect of a child pursuant to subsection (b) of section 17a-
13 101g. The information contained in the registry and any other
14 information relative to child abuse, wherever located, shall be

15 confidential, subject to such statutes and regulations governing their
16 use and access as shall conform to the requirements of federal law or
17 regulations. Any violation of this section or the regulations adopted by
18 the commissioner under this section shall be punishable by a fine of
19 not more than one thousand dollars or imprisonment for not more
20 than one year.

21 (b) Upon the issuance of a recommended finding that an individual
22 is responsible for abuse or neglect of a child pursuant to subsection (b)
23 of section 17a-101g, the commissioner shall provide notice of the
24 finding, by first class mail, not later than five business days after the
25 issuance of such finding, to the individual who is alleged to be
26 responsible for the abuse or neglect. The notice shall:

27 (1) Contain a short and plain description of the finding that the
28 individual is responsible for the abuse or neglect of a child;

29 (2) Inform the individual of the existence of the registry and of the
30 commissioner's intention to place the individual's name on the registry
31 unless such individual exercises his or her right to appeal the
32 recommended finding as provided in this section;

33 (3) Inform the individual of the potential adverse consequences of
34 being listed on the registry, including, but not limited to, the potential
35 effect on the individual obtaining or retaining employment, licensure
36 or engaging in activities involving direct contact with children and
37 inform the individual of the individual's right to administrative
38 procedures as provided in this section to appeal the finding; and

39 (4) Include a written form for the individual to sign and return,
40 indicating if the individual will invoke the appeal procedures
41 provided in this section.

42 (c) (1) Following a request for appeal, the commissioner or the
43 commissioner's designee shall conduct an internal review of the
44 recommended finding to be completed no later than thirty days after
45 the request for appeal is received by the department. The

46 commissioner or the commissioner's designee shall review all relevant
47 information relating to the recommended finding, to determine
48 whether the recommended finding is factually or legally deficient and
49 ought to be reversed. Prior to the review, the commissioner shall
50 provide the individual access to all relevant documents in the
51 possession of the commissioner regarding the finding of responsibility
52 for abuse or neglect of a child, as provided in section 17a-28.

53 (2) The individual or the individual's representative may submit any
54 documentation that is relevant to a determination of the issue and
55 may, at the discretion of the commissioner or the commissioner's
56 designee, participate in a telephone conference or face-to-face meeting
57 to be conducted for the purpose of gathering additional information
58 that may be relevant to determining whether the recommended
59 finding is factually or legally deficient.

60 (3) If the commissioner or the commissioner's designee, as a result of
61 the prehearing review, determines that the recommended finding of
62 abuse or neglect is factually or legally deficient, the commissioner or
63 the commissioner's designee shall so indicate, in writing, and shall
64 reverse the recommended finding. The commissioner shall send notice
65 to the individual by certified mail of the commissioner's decision to
66 reverse or maintain the finding not later than five business days after
67 the decision is made. If the finding is upheld, the notice shall be made
68 in accordance with section 4-177 and shall notify the individual of the
69 right to request a hearing. The individual may request a hearing not
70 later than thirty days after receipt of the notice. The hearing shall be
71 scheduled not later than thirty days after receipt by the commissioner
72 of the request for a hearing, except for good cause shown by either
73 party.

74 (d) (1) The hearing procedure shall be conducted in accordance with
75 the procedures for contested cases pursuant to sections 4-177 to 4-181a,
76 inclusive.

77 (2) At the hearing, the individual may be represented by legal
78 counsel. The burden of proof shall be on the commissioner to prove

79 that the finding is supported by a fair preponderance of the evidence
80 submitted at the hearing.

81 (3) Not later than thirty days after the conclusion of the hearing, the
82 hearing officer shall issue a written decision to either reverse or uphold
83 the finding. The decision shall contain findings of fact and a conclusion
84 of law on each issue raised at the hearing.

85 (e) Any individual aggrieved by the decision of the hearing officer
86 may appeal the decision in accordance with section 4-183. Such
87 individual may also seek a stay of the adverse decision of the hearing
88 officer in accordance with subsection (f) of section 4-183.

89 (f) Following the issuance of a decision to uphold the finding and
90 absent any stay of that decision issued by the commissioner or the
91 court, the commissioner shall accurately reflect the information
92 concerning the finding in the child abuse and neglect registry
93 maintained pursuant to subsection (a) of this section and shall, in
94 accordance with section 17a-101g, forward to any agency or official the
95 information required to be disclosed pursuant to any provision of the
96 general statutes.

97 (g) Any individual against whom a finding of abuse or neglect was
98 substantiated prior to May 1, 2000, and who has not previously
99 appealed such finding, may appeal such finding as provided in this
100 section.

101 (h) Records containing unsubstantiated findings shall remain
102 sealed, except that such records shall be made available to department
103 employees in the proper discharge of their duties and shall be
104 expunged by the commissioner five years from the completion date of
105 the investigation if no further report is made about the individual
106 subject to the investigation, except that if the department receives more
107 than one report on an individual and each report is unsubstantiated,
108 all reports and information pertaining to the individual shall be
109 expunged by the commissioner five years from the completion date of
110 the most recent investigation.

111 (i) (1) Any individual whose name has been placed on the state child
112 abuse and neglect registry pursuant to this section may file an
113 application with the Department of Children and Families, on such
114 form as the department prescribes, for removal of such individual's
115 name from the registry. The department shall include in such
116 application form a provision that allows the applicant to indicate good
117 cause for removing the applicant's name from the registry. Such good
118 cause shall include, but need not be limited to: (A) Rehabilitation of the
119 applicant; (B) the applicant's acceptance of personal responsibility for
120 actions and omissions that resulted in the applicant's name being
121 placed on the registry; (C) a bona fide need for removal of the
122 applicant's name from the registry; and (D) at least two letters in
123 support of the application, each from a person with knowledge of the
124 applicant's successful rehabilitation.

125 (2) Such application may be filed not earlier than five years after the
126 date of the final decision, as defined in section 4-166, that resulted in
127 the placement of the applicant's name on the registry.

128 (3) The Commissioner of Children and Families may approve such
129 application upon finding good cause. Upon approving such
130 application, the commissioner shall accurately reflect the information
131 concerning the finding in the child abuse and neglect registry
132 maintained pursuant to subsection (a) of this section. If the
133 commissioner denies such application, the applicant shall be entitled to
134 a hearing and appeal therefrom in accordance with subsections (d) and
135 (e) of this section.

136 (4) Any applicant whose application is denied after a final decision,
137 as defined in section 4-166, may reapply in accordance with
138 subdivisions (1) and (2) of this subsection, without limitation, not
139 earlier than two years after the date of such final decision, provided
140 such application indicates good cause that has occurred since the date
141 of the final decision.

142 [(i) Not later than July 1, 2006, the] (j) The Commissioner of
143 Children and Families shall adopt regulations, in accordance with the

144 provisions of chapter 54, to implement the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012</i>	17a-101k

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

There is no fiscal impact to the Department of Children and Families (DCF) from the establishment of a procedure to allow certain individuals to apply to remove their names from the child abuse and neglect registry. It is anticipated that the number of individuals that will apply annually will be small.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 310*****AN ACT CONCERNING THE REMOVAL OF INDIVIDUALS FROM THE STATE CHILD ABUSE AND NEGLECT REGISTRY.*****SUMMARY:**

This bill creates a good cause procedure that people can use to have their names removed from the Department of Children and Families' (DCF) child abuse and neglect registry. By law, the registry lists people the commissioner has determined to be responsible for committing child abuse or neglect ("substantiated") and pose a risk to children's health, safety, or well-being. Companies that perform background checks, licensing agencies, and potential employers have access to information in the registry.

Under the bill, abusers must be listed in the registry for at least five years from the date of the final decision in the case that led to their registration. Thereafter, they can reapply for name removal every two years if a new application lists good cause that occurred since the denial of the last application.

The bill directs DCF to (1) design an application with space for the applicant to describe the basis of his or her good cause claim and (2) adopt implementing regulations in conformity with the Uniform Administration Procedures Act (UAPA). Current law required her to do so by July 1, 2006.

EFFECTIVE DATE: July 1, 2012

GOOD CAUSE

Under the bill, the commissioner's decisions are based on an applicant's showing of good cause. Good cause includes (1) the applicant's rehabilitation; (2) his or her acceptance of personal

responsibility for actions and omissions that resulted in his or her name being placed on the registry; (3) a bona fide need for removal; and (4) at least two letters in support of the application, each from a person with knowledge of the applicant's successful rehabilitation.

Commissioner's Action

If the commissioner finds good cause to approve an application, she must accurately reflect the information concerning the finding in the child abuse registry. If she does not find good cause, the applicant is entitled to an administrative hearing and appeal under the UAPA.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 2 (03/26/2012)