



# House of Representatives

**File No. 822**

General Assembly

January Session, 2013

**(Reprint of File No. 659)**

House Bill No. 5516  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 17, 2013

**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 Section 17a-101k of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective July 1, 2013*):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

110 (i) (1) Any individual whose name has been placed on the state child  
111 abuse and neglect registry pursuant to this section may file an  
112 application with the Department of Children and Families, on such  
113 form as the department prescribes, for removal of such individual's  
114 name from the registry, unless such person is required to register as a  
115 sexual offender with the Commissioner of Emergency Services and  
116 Public Protection. The department shall include in such application  
117 form a provision that allows the applicant to indicate good cause for  
118 removing the applicant's name from the registry and a provision under  
119 which the applicant shall indicate, under penalty of false statement,  
120 whether the applicant is required to register as a sexual offender with  
121 the Commissioner of Emergency Services and Public Protection. Such  
122 good cause for removing the applicant's name from the registry shall  
123 include, but need not be limited to:

124 (A) The rehabilitation of the applicant, as demonstrated by: (i) The  
125 applicant's personal conduct, (ii) the absence of a criminal conviction  
126 for any conduct related to a family member of the applicant or a child  
127 during the five-year period prior to the date of the application, (iii) the  
128 absence of a criminal conviction for violent conduct, as determined by  
129 the commissioner, related to any person other than a family member of  
130 the applicant or a child during the five-year period prior to the date of  
131 the application, (iv) the absence of a conviction under section 53-247  
132 during the five-year period prior to the date of the application, and (v)  
133 the letters in support of the application that are required under  
134 subparagraph (D) of this subdivision;

135 (B) The applicant's acceptance of personal responsibility for actions  
136 and omissions that resulted in the applicant's name being placed on  
137 the registry;

138 (C) A bona fide need for removal of the applicant's name from the  
139 registry, such as the applicant's need to obtain or retain employment,  
140 licensure or engage in activities involving direct contact with children;  
141 and

142 (D) At least two letters in support of the application, each from a  
143 person with knowledge of the applicant's successful rehabilitation,  
144 such as a licensed physician or mental health professional.

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

148 (3) The Commissioner of Children and Families may approve such  
149 application upon finding (A) good cause, and (B) the applicant is not  
150 required to register as a sexual offender with the Commissioner of  
151 Emergency Services and Public Protection. Upon approving such  
152 application, the commissioner shall accurately reflect the information  
153 concerning the finding in the child abuse and neglect registry  
154 maintained pursuant to subsection (a) of this section. If the  
155 commissioner denies such application, the applicant shall be entitled to  
156 a hearing and appeal therefrom in accordance with subsections (d) and  
157 (e) of this section.

158 (4) Nothing in this subsection shall prevent a person from filing an  
159 application under this subsection, or prevent the commissioner from  
160 approving an application filed under this subsection, if such person  
161 has at any time been required to register as a sexual offender with the  
162 Commissioner of Emergency Services and Public Protection, but is no  
163 longer required to register as a sexual offender on the date of  
164 application.

165 (5) Upon the request of the Commissioner of Children and Families,  
166 the Commissioner of Emergency Services and Public Protection shall  
167 provide such information to the Commissioner of Children and  
168 Families as the Commissioner of Children and Families requires to  
169 verify whether an applicant is required to register as a sexual offender  
170 with the Commissioner of Emergency Services and Public Protection.

171 (6) Any applicant whose application is denied after a final decision,  
172 as defined in section 4-166, may file a new application in accordance  
173 with subdivisions (1), (2) and (4) of this subsection, without limitation,

174 not earlier than two years after the date of such final decision,  
175 provided such application indicates good cause that has occurred since  
176 the date of the final decision and such person is not required to register  
177 as a sexual offender with the Commissioner of Emergency Services  
178 and Public Protection.

179 [(i)] (j) Not later than July 1, 2006, the Commissioner of Children  
180 and Families shall adopt regulations, in accordance with the provisions  
181 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	July 1, 2013	17a-101k

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.

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### ***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

### ***Explanation***

The bill does not result in a fiscal impact to the Department of Children and Families (DCF). It restricts determinations of good cause for removal from DCF's child abuse and neglect registry to applicants that have filed a request for removal not earlier than five years after being placed on the registry and restricts removal from people required to register as a sexual offender with the Commissioner of Emergency Services and Public Protection. As the annual number of requests for removal from the registry are few (there were five in the past year), there are no savings associated with a minimal reduction in requests anticipated due to the bill.

House "A" added language restricting removal from the state child abuse and neglect registry from people required to register as a sexual offender with the Commissioner of Emergency Services and Public Protection and did not result in a fiscal impact to the state or municipalities.

### ***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

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**OLR Bill Analysis****HB 5516 (as amended by House "A")\******AN ACT CONCERNING THE REMOVAL OF INDIVIDUALS FROM THE STATE CHILD ABUSE AND NEGLECT REGISTRY.*****SUMMARY:**

Except for registered sex offenders, this bill establishes 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 DCF commissioner found to be (1) responsible for committing child abuse or neglect and (2) a risk to children's health, safety, or well-being. Currently, there is no process for someone to have his or her name removed from the registry. Companies that perform background checks, licensing agencies, and potential employers have access to information in the registry.

Under the bill, an applicant may file to have his or her name removed no earlier than five years from the date of the final decision that led to the registration.

When the commissioner approves an application, which is on a form she prescribes, she must accurately reflect in the registry the information concerning her "finding." (Presumably this means she has decided to remove the applicant's name from it.) If she denies the request, the applicant, without limitation, (1) is entitled to both an administrative hearing and subsequent appeal to Superior Court and (2) may re-apply no earlier than two years after the hearing decision if he or she (a) can show good cause since then and (b) is not required to register as a sex offender.

\*House Amendment "A" adds the provisions concerning sex

offenders and makes minor changes.

EFFECTIVE DATE: July 1, 2013

### **GOOD CAUSE**

Under the bill, the DCF commissioner may approve an application to have a name removed from the registry if (1) the applicant can show good cause and (2) the commissioner finds the applicant is not required to register as a sex offender. The application must include a provision for the applicant to indicate, under penalty of false statement, whether he or she is required to register as a sex offender with the Department of Emergency Services and Public Protection (DESPP) commissioner. The bill requires the DESPP commissioner to provide such information when the DCF commissioner requests it for verification purposes.

The application also must indicate:

1. the applicant's rehabilitation, as shown by his or her (a) personal conduct; (b) lack of a criminal conviction related to a family member or a child during the previous five years; (c) not having a criminal conviction for cruelty to animals or violent conduct related to anyone other than a family member during the previous five years; and (d) possessing letters of support from at least two people who know of the applicant's successful rehabilitation, such as a physician or mental health professional;
2. the applicant's accepting personal responsibility for any acts or omissions that caused his or her name to be placed on the registry; and
3. a bona fide need for removing the name, such as finding or keeping a job, licensure, or engaging in activities involving direct contact with children.

### **ABILITY TO APPLY IF SEX OFFENDER STATUS CHANGES**

The bill provides that nothing in it may prevent someone previously

required to register as a sex offender from filing an application, or prevent the commissioner from approving it, if that person is no longer required to be registered as of the application date.

**BACKGROUND**

***Child Abuse Registry***

DCF maintains a child abuse and neglect registry with the names of individuals against whom DCF has investigated and subsequently substantiated child abuse or neglect. With certain exceptions, DCF will not place a name on the registry until the individual exhausts or waives all appeal opportunities. This includes both an internal department review, an administrative review as permitted by the Uniform Administrative Procedure Act, and court challenges.

Access to the registry is limited to duly authorized DCF employees for purposes of obtaining information for child abuse and neglect investigations, background checks, and other uses the law permits. In most cases, the subject of the check must give consent before the information can be released.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable  
Yea 30 Nay 11 (04/12/2013)

Children Committee

Joint Favorable  
Yea 7 Nay 3 (05/14/2013)