



House of Representatives

General Assembly

File No. 78

February Session, 2014

House Bill No. 5062

House of Representatives, March 25, 2014

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the 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 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2014*):

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 and records
102 relating to family assessment cases shall remain sealed, except that
103 such records shall be made available to department employees in the
104 proper discharge of their duties and shall be expunged by the
105 commissioner five years from the completion date of the investigation
106 or the closure of the family assessment case, whichever is later, if no
107 further report is made about the individual subject to the investigation
108 or the family subject to the assessment, except that if the department
109 receives more than one report on an individual subject to investigation
110 or a family subject to assessment and each report is unsubstantiated,

111 all reports and information pertaining to the individual or family shall
112 be expunged by the commissioner five years from the completion date
113 of the most recent investigation.

114 (i) (1) Any individual whose name has been placed on the state child
115 abuse and neglect registry pursuant to this section may file an
116 application with the Department of Children and Families, on such
117 form as the department prescribes, for removal of such individual's
118 name from the registry, except that no individual may file such
119 application if such individual is required to register as a sexual
120 offender with the Commissioner of Emergency Services and Public
121 Protection. The department shall include in such application form a
122 provision that allows the applicant to indicate good cause for
123 removing the applicant's name from the registry and a provision under
124 which the applicant shall indicate, under penalty of false statement,
125 whether the applicant is required to register as a sexual offender with
126 the Commissioner of Emergency Services and Public Protection. Such
127 good cause for removing the applicant's name from the registry shall
128 include, but need not be limited to:

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

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

143 (C) A bona fide need for removal of the applicant's name from the

144 registry, such as the applicant's need to obtain or retain employment or
145 licensure or engage in activities involving direct contact with children;
146 and

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

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

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

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

170 (5) Upon the request of the Commissioner of Children and Families,
171 the Commissioner of Emergency Services and Public Protection shall
172 provide such information to the Commissioner of Children and
173 Families as the Commissioner of Children and Families requires to
174 verify whether an applicant is required to register as a sexual offender
175 with the Commissioner of Emergency Services and Public Protection.

176 (6) Any applicant whose application is denied after a final decision,
 177 as defined in section 4-166, may file a new application in accordance
 178 with subdivisions (1), (2) and (4) of this subsection not earlier than two
 179 years after the date of such final decision, provided such application
 180 indicates good cause that has occurred since the date of the final
 181 decision and such person is not required to register as a sexual
 182 offender with the Commissioner of Emergency Services and Public
 183 Protection.

184 [(i) Not later than July 1, 2006, the] (j) The Commissioner of
 185 Children and Families shall adopt regulations, in accordance with the
 186 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	July 1, 2014	17a-101k

JUD *Joint Favorable*

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 for individuals, who are not registered sexual offenders, to remove their names from the state child abuse and neglect registry after five years have elapsed and with good cause. DCF received five requests for removal from this registry in 2012 and three requests in 2013.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 5062*****AN ACT CONCERNING THE REMOVAL OF INDIVIDUALS FROM THE STATE CHILD ABUSE AND NEGLECT REGISTRY.*****SUMMARY:**

This bill establishes a good-cause procedure that people, other than currently registered sex offenders, 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.

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

When the commissioner approves an application, which must be filed on a form she prescribes, she must accurately reflect in the registry the information concerning her approval. 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.

EFFECTIVE DATE: July 1, 2014

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 place for the applicant to indicate, under penalty of false statement (see BACKGROUND), 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 DCF commissioner to verify the information with the DESPP commissioner.

The application also must indicate:

1. evidence of the applicant's rehabilitation, as shown by (a) his or her personal conduct, (b) no criminal conviction related to a family member or a child during the previous five years, (c) no criminal conviction for cruelty to animals or violent conduct related to anyone who is not a family member during the previous five years, and (d) 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 acceptance of 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 allows someone previously required to register as a sex offender to file an application to be removed from the child abuse registry if that person is no longer required to be registered as a sex offender 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 does not place a name on the registry until the individual exhausts or waives all appeal opportunities. These include 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.

False Statement

A person is guilty of false statement in the second degree when he or she intentionally makes a false written statement (1) under oath or (2) on a form that legally indicates that making false statements not believed to be true and intended to mislead a public servant in the performance of his or her official function is punishable. False statement in the second degree is a class A misdemeanor punishable by imprisonment for up to one year, a fine of up to \$2,000, or both.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 27 Nay 15 (03/10/2014)