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# A BILL FOR AN ACT

RELATING TO RECORDINGS OF LAW ENFORCEMENT ACTIVITIES.

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

1       SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                               **"CHAPTER**

5                               **RECORDING LAW ENFORCEMENT ACTIVITIES**

6       **§ -1 Definitions.** As used in this chapter:

7       "Law enforcement activity" means any activity by a law  
8 enforcement officer acting under the color of law.

9       "Law enforcement officer" means any public servant, whether  
10 employed by the State or subdivisions thereof or by the United  
11 States, vested by law with a duty to maintain public order, to  
12 make arrests for offenses, or to enforce the criminal laws,  
13 whether that duty extends to all offenses or is limited to a  
14 specific class of offenses.

15       "Record" means to capture or attempt to capture any moving  
16 or still image, sound, or impression through the use of any  
17 recording device, camera, or other device capable of capturing



1 audio, moving images, or still images, or by way of written  
2 notes or observations.

3       **§ -2 Right to record law enforcement activities.** A  
4 person neither under arrest nor in the custody of a law  
5 enforcement officer shall have the right to record law  
6 enforcement activity and to maintain custody and control of that  
7 recording and of any property or instruments used by that person  
8 to record law enforcement activities; provided that a person  
9 under arrest or in custody of a law enforcement officer does  
10 not, by that status alone, forfeit the right to have any  
11 recordings taken before the arrest or before being taken into  
12 custody or the right to have any property and instruments used  
13 for the recording to be maintained and returned to the person  
14 under arrest or in custody. Nothing in this chapter shall be  
15 construed to permit a person to engage in actions that  
16 physically interfere with law enforcement activity or otherwise  
17 constitute a crime under chapter 710.

18       **§ -3 Private right of action.** (a) A claim of unlawful  
19 interference with recording a law enforcement activity shall be  
20 established under this section when a person demonstrates that  
21 the person exercised or attempted to exercise the right to



1 record law enforcement activities pursuant to section -2 and  
2 a law enforcement officer acted to interfere with that person's  
3 recording of a law enforcement activity, including by:

4 (1) Intentionally preventing or attempting to prevent that  
5 person from recording law enforcement activity;

6 (2) Threatening that person for recording law enforcement  
7 activity;

8 (3) Commanding that the person cease recording law  
9 enforcement activity when the person was otherwise  
10 authorized by law to do so;

11 (4) Stopping, seizing, searching, ticketing, or arresting  
12 that person because that person recorded law  
13 enforcement activity;

14 (5) Unlawfully seizing property or instruments used by  
15 that person to record law enforcement activity;

16 (6) Unlawfully destroying or seizing a recorded image or  
17 recorded images of law enforcement activity; or

18 (7) Copying a recording of law enforcement activity  
19 without the consent of the person who recorded it or  
20 approval from a court of competent jurisdiction.



1 (b) It shall be an affirmative defense to a civil action  
2 under this section that, at the time of the law enforcement  
3 officer's conduct, the law enforcement officer had probable  
4 cause to arrest the person recording the law enforcement  
5 activity for a crime under chapter 710.

6 (c) A person subject to unlawful interference with  
7 recording law enforcement activities under this section may  
8 bring an action for any violation of this section in any court  
9 of competent jurisdiction for damages, including:

10 (1) Punitive damages;

11 (2) Declaratory and injunctive relief; and

12 (3) Other remedies as the court may deem appropriate.

13 (d) In any action or proceeding brought pursuant to this  
14 section, the court may award a prevailing plaintiff reasonable  
15 attorneys' and expert witness fees.

16 (e) Any action or proceeding brought pursuant to this  
17 section shall be commenced no later than three years after the  
18 date on which the violation of this section was committed.

19 **§ -4 Preservation of rights.** The rights under this  
20 chapter shall be in addition to all other rights and remedies  
21 available pursuant to law."



1           SECTION 2. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7           SECTION 3. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10          SECTION 4. This Act shall take effect on July 1, 3000.



**Report Title:**

Law Enforcement Activities; Recordings; Private Right of Action

**Description:**

Establishes the right of a person to record law enforcement activities. Establishes a private right of action for any violation of the right to record law enforcement activities. Effective 7/1/3000. (HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

