

JAN 27 2016

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# A BILL FOR AN ACT

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RELATING TO THE UNIFORM INFORMATION PRACTICES ACT.

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

1       SECTION 1. The legislature finds that section 92F-14,  
2       Hawaii Revised Statutes, relating to significant privacy  
3       interests in the public proceedings law, exempts a county police  
4       department officer's disciplinary action from being made public,  
5       unless disciplinary action results in the discharge of the  
6       officer.

7       The legislature further finds that the exemption  
8       compromises full and fair public disclosure of police  
9       misconduct. The Honolulu Police Department's annual *Legislative*  
10      *Disciplinary Report*, presents an alarming number and severity of  
11      acts of criminal conduct, including assault, harassment, theft,  
12      and tampering with government records. The disciplinary action  
13      as a result of this misconduct has been negligible. For  
14      example, in 2014, there were forty-seven misconduct findings, of  
15      which twenty-three were determined to be criminal conduct,  
16      however only two officers were suspended and two were  
17      discharged. In 2013, there were thirty-five misconduct



1 findings, for which one officer was discharged. In 2012, there  
2 were thirty-five misconduct findings, which resulted in one  
3 suspension. Conduct such as this, for which an average citizen  
4 would be considered criminal, evince a lack of transparency  
5 surrounding police officer misconduct which erodes the public  
6 trust.

7 Recent media reports by the *Honolulu Star Advertiser* and  
8 *Honolulu Civil Beat* detail a former Honolulu police officer who  
9 was discharged by the Honolulu police department for criminal  
10 acts, then hired by the department of land and natural  
11 resources. That officer continued to commit criminal acts while  
12 on duty with the department of land and natural resources. Full  
13 public disclosure of his record while at the Honolulu police  
14 department could have prevented his employment at department of  
15 land and natural resources.

16 Police officers are public servants who are entrusted with  
17 the grave responsibility of protecting the public. Available  
18 options for public recourse against the Honolulu police  
19 department lie solely with the Honolulu police commission, who  
20 is charged with receiving, considering, and investigating  
21 charges brought by the public against the conduct of any member



1 of the Honolulu police department. Annual reports by the  
2 Commission present a large number of complaints reported versus  
3 a small number of complaints sustained. For example, in 2014,  
4 out of a total of one hundred seventy-four total complaints,  
5 twenty-nine complaints were sustained; in 2013, out of a total  
6 of one hundred thirty-three total complaints, twelve were  
7 sustained complaints; and in 2012, out of a total of one hundred  
8 ninety-three complaints, thirteen complaints were sustained.  
9 This lack of accountability for the public on police officer  
10 misconduct further erodes the public trust.

11 The purpose of this Act is to repeal the confidentiality  
12 protection afforded disciplined or discharged police officers.

13 SECTION 2. Section 92F-14, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15 "(b) The following are examples of information in which  
16 the individual has a significant privacy interest:

- 17 (1) Information relating to medical, psychiatric, or  
18 psychological history, diagnosis, condition,  
19 treatment, or evaluation, other than directory  
20 information while an individual is present at such  
21 facility;



(2) Information identifiable as part of an investigation into a possible violation of criminal law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

(3) Information relating to eligibility for social services or welfare benefits or to the determination of benefit levels;

(4) Information in an agency's personnel file, or applications, nominations, recommendations, or proposals for public employment or appointment to a governmental position, except:

(A) Information disclosed under section 92F-12(a)(14); and

(B) The following information related to employment misconduct that results in an employee's suspension or discharge:

(i) The name of the employee;

(ii) The nature of the employment related misconduct;

(iii) The agency's summary of the allegations of misconduct;



1 (iv) Findings of fact and conclusions of law; and

2 (v) The disciplinary action taken by the agency;

3 when the following has occurred: the highest

4 nonjudicial grievance adjustment procedure timely

5 invoked by the employee or the employee's

6 representative has concluded; a written decision

7 sustaining the suspension or discharge has been issued

8 after this procedure; and thirty calendar days have

9 elapsed following the issuance of the decision or, for

10 decisions involving county police department officers,

11 ninety days have elapsed following the issuance of the

12 decision[~~; provided that subparagraph (B) shall not~~

13 ~~apply to a county police department officer except in~~

14 ~~a case which results in the discharge of the officer];~~

15 (5) Information relating to an individual's

16 nongovernmental employment history except as necessary

17 to demonstrate compliance with requirements for a

18 particular government position;

19 (6) Information describing an individual's finances,

20 income, assets, liabilities, net worth, bank balances,

21 financial history or activities, or creditworthiness;



(7) Information compiled as part of an inquiry into an individual's fitness to be granted or to retain a license, except:

(A) The record of any proceeding resulting in the discipline of a licensee and the grounds for discipline;

(B) Information on the current place of employment and required insurance coverages of licensees; and

(C) The record of complaints including all dispositions;

(8) Information comprising a personal recommendation or evaluation;

(9) Social security numbers; and

(10) Information that if disclosed would create a substantial and demonstrable risk of physical harm to an individual."

SECTION 3. Statutory material to be repealed is bracketed and stricken.



# S.B. NO. 3016

1 SECTION 4. This Act shall take effect upon its approval.

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# S.B. NO. **3016**

**Report Title:**

Public Records; Disclosure; Disciplinary Action

**Description:**

Allows disclosure of government records in cases where a police officer has been suspended or discharged in a disciplinary action.

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

