

JAN 20 2017

A BILL FOR AN ACT

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. In 2014,
14 there were forty-seven misconduct findings, however only two
15 officers were suspended and two were discharged for violating
16 the department's standards of conduct. In 2013, there were
17 thirty-five misconduct findings, for which one officer was



1 discharged for a serious offense. In 2012, there were thirty-
2 five misconduct findings, which resulted in one suspension for
3 violating the department's standards of conduct. Conduct such
4 as this, for which an average citizen would be considered
5 criminal, evince a lack of transparency surrounding police
6 officer misconduct which erodes the public 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 former police officer continued to commit
12 criminal acts while on duty with the department of land and
13 natural resources. If full public disclosure of the officer's
14 record while at the Honolulu police department was made
15 available it could have prevented any subsequent employment at
16 the department of land and natural resources.

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



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

12 The purpose of this Act is to:

- 13 (1) Repeal the confidentiality protection afforded under
14 the Uniform Information Practices Act for certain
15 information regarding misconduct of police officers
16 that results in suspension; and
- 17 (2) Require the annual reports to the legislature to
18 identify the officers suspended or discharged due to
19 misconduct.

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



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

3 (1) Information relating to medical, psychiatric, or
4 psychological history, diagnosis, condition,
5 treatment, or evaluation, other than directory
6 information while an individual is present at such
7 facility;

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

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

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

19 (A) Information disclosed under section
20 92F-12(a)(14); and



1 (B) The following information related to employment
2 misconduct that results in an employee's
3 suspension or discharge:
4 (i) The name of the employee;
5 (ii) The nature of the employment related
6 misconduct;
7 (iii) The agency's summary of the allegations of
8 misconduct;
9 (iv) Findings of fact and conclusions of law; and
10 (v) The disciplinary action taken by the agency;
11 when the following has occurred: the highest
12 nonjudicial grievance adjustment procedure timely
13 invoked by the employee or the employee's
14 representative has concluded; a written decision
15 sustaining the suspension or discharge has been issued
16 after this procedure; and thirty calendar days have
17 elapsed following the issuance of the decision or, for
18 decisions involving county police department officers,
19 ninety days have elapsed following the issuance of the
20 decision[; ~~provided that subparagraph (B) shall not~~



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~~apply to a county police department officer except in
a case which results in the discharge of the officer];~~

(5) Information relating to an individual's
nongovernmental employment history except as necessary
to demonstrate compliance with requirements for a
particular government position;

(6) Information describing an individual's finances,
income, assets, liabilities, net worth, bank balances,
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;



- 1 (8) Information comprising a personal recommendation or
- 2 evaluation;
- 3 (9) Social security numbers; and
- 4 (10) Information that if disclosed would create a
- 5 substantial and demonstrable risk of physical harm to
- 6 an individual."

7 SECTION 3. Act 242, Session Laws of Hawaii 1995, is
8 amended by amending section 3 to read as follows:

9 "SECTION 3. The chief of each county police department
10 shall submit an annual report to the legislature twenty days
11 prior to the convening of the regular session in each year. The
12 report shall include the name of each police officer, a summary
13 of the facts and the nature of the misconduct for each incident
14 which resulted in the suspension or discharge of [a] the police
15 officer, the disciplinary action imposed for each incident [7]
16 involving the police officer, and the number of police officers
17 suspended and discharged during the previous year under the
18 following categories of the department's Standards of Conduct:

- 19 (1) Malicious use of physical force;
- 20 (2) Mistreatment of prisoners;
- 21 (3) Use of drugs and narcotics; and



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1 (4) Cowardice.

2 ~~[The summary of facts shall not be of such a nature so as to~~
3 ~~disclose the identity of the individuals involved.]"~~

4 SECTION 4. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun, before its effective date.

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval.

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Report Title:

Public Records; Disclosure; Disciplinary Action; Police Officers

Description:

Repeals the confidentiality protection afforded under the Uniform Information Practices Act for certain information regarding misconduct of police officers that results in discharge. Requires that names of discharged or suspended police officers be disclosed in the annual report submitted by each county's police chief to the legislature.

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

