

# S.B. NO. 2745

JAN 24 2018

## A BILL FOR AN ACT

RELATING TO CONFIDENTIAL PERSONAL INFORMATION.

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

1       SECTION 1. The purpose of this bill is to amend the  
2 definition of "confidential personal information," in section  
3 708-800, Hawaii Revised Statutes (HRS), to conform the  
4 definition to the judicially imposed amendments set out by the  
5 Hawaii Supreme Court, in its decision of *State v. Pacquing*, 139  
6 Haw. 302 (2016). In *Pacquing*, the Court excised portions of the  
7 definition to eliminate unconstitutionally vague provisions in  
8 the law as it impacted the offense of unauthorized possession of  
9 a confidential personal information, in section 708-839.55, HRS.

10       SECTION 2. Section 708-800 , Hawaii Revised Statutes, is  
11 amended by amending the definition of "confidential personal  
12 information" to read as follows:

13       "Confidential personal information" means information in  
14 which an individual has a significant privacy interest,  
15 including ~~[but not limited to]~~ a driver's license number, a  
16 social security number, an identifying number of a depository  
17 account, or a bank account number~~[, a password or other~~  
18 ~~information that is used for accessing information, or any other~~

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1 ~~name, number, or code that is used, alone or in conjunction with~~  
2 ~~other information, to confirm the identity of a person]."~~

3 SECTION 3. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun, before the effective date of this Act.

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 

11

BY REQUEST

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**Report Title:**

CONFIDENTIAL PERSONAL INFORMATION

**Description:**

Amends the definition of "confidential personal information," in section 708-800, Hawaii Revised Statutes (HRS), to eliminate unconstitutionally vague provisions in the law as determined by the Hawaii Supreme Court, in its decision of *State v. Pacquing*, 139 Haw. 302 (2016).

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

JUSTIFICATION SHEET

**SB. NO. 2745**

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO CONFIDENTIAL PERSONAL INFORMATION.

PURPOSE: To amend the definition of "confidential personal information," in section 708-800, Hawaii Revised Statutes (HRS), to eliminate unconstitutionally vague provisions in the law as determined by the Hawaii Supreme Court, in its decision of *State v. Pacquing*, 139 Haw. 302 (2016).

MEANS: Amend section 708-800, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Hawaii Supreme Court, in its decision of *State v. Pacquing*, 139 Haw. 302 (2016), found that part of the definition of "confidential personal information" in section 708-800, HRS, was unconstitutionally vague as it relates to the offense of unauthorized possession of a confidential personal information, in section 708-839.55, HRS. The Court stated:

In conclusion, given the uncertainty in meaning and scope of HRS § 708-800 and the indefinite and varying standards it provides for adjudging guilt, the UPCPI statutes are inordinately vague.

The Court went on to conclude:

To eliminate the unconstitutional aspects of the UPCPI statutes, portions of the HRS § 708-800 definition of "confidential personal information" must be excised. . . .

The Court specified exactly how the definition should be amended. This bill adopts the Court's specified amendments.

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Impact on the public: A person will have a better understanding of the offense of unauthorized possession of confidential information and will know how to conform the person's conduct to the law.

Impact on the department and other agencies: This bill will allow for more effective and less subjective enforcement of the law regarding the unauthorized possession of confidential information by law enforcement officers.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.