

JAN 24 2018

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# A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. The purpose of this Act is to:

2 (1) Require the chief of each country police department,  
3 the director of public safety, the chair of the board  
4 of land and natural resources, and the director of  
5 transportation to disclose to the legislature the  
6 identity of a police officer upon the officer's second  
7 suspension in a five-year period or discharge; and

8 (2) Require disclosure under the Uniform Information  
9 Practices Act after a police officer's second  
10 suspension in a five-year period.

11 SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended  
12 by adding a new part to be appropriately designated and to read  
13 as follows:

14 "PART . REPORTS ON STATE LAW ENFORCEMENT MISCONDUCT

15 §27-1 Reports. (a) The chair of the board of land and  
16 natural resources, the director of public safety, and the  
17 director of transportation shall each submit to the legislature



1 no later than January 31 of each year an annual report of  
2 misconduct incidents that resulted in suspension or discharge of  
3 a law enforcement officer in their respective departments. The  
4 reporting period of each report shall be from January 1 to  
5 December 31 of the year immediately prior to the year of the  
6 report submission.

7 (b) Each report shall:

- 8 (1) Summarize the facts and the nature of the misconduct  
9 for each incident;
- 10 (2) Specify the disciplinary action imposed for each  
11 incident;
- 12 (3) Identify any other incident in the annual report  
13 committed by the same law enforcement officer;
- 14 (4) State whether the highest nonjudicial grievance  
15 adjustment procedure timely invoked by the law  
16 enforcement officer or the law enforcement officer's  
17 representative has concluded:
- 18 (A) If the highest nonjudicial grievance adjustment  
19 procedure has concluded, the report shall state:
- 20 (i) Whether the incident concerns conduct  
21 punishable as a crime, and if so, describe



1 the department of land and natural  
2 resources, department of public safety, or  
3 department of transportation findings of  
4 fact and conclusions of law concerning the  
5 criminal conduct; and

6 (ii) Whether the department of land and natural  
7 resources, department of public safety, or  
8 department of transportation notified the  
9 requisite prosecuting attorney of the  
10 incident; or

11 (B) If the highest nonjudicial grievance adjustment  
12 procedure has not concluded, the report shall  
13 state the current stage of the nonjudicial  
14 grievance adjustment procedure as of the end of  
15 the reporting period; and

16 (5) Disclose the identity of the law enforcement officer  
17 upon the law enforcement officer's second suspension  
18 in a five-year period or discharge.

19 (c) Each report shall tabulate the number of law  
20 enforcement officers suspended and discharged under the  
21 following categories, or similar category as to be determined by



1 the chair of the board of land and natural resources, director  
2 of public safety, or director of transportation, respectively:

- 3 (1) Malicious use of physical force;
- 4 (2) Mistreatment of prisoners;
- 5 (3) Use of drugs and narcotics; and
- 6 (4) Cowardice.

7 (d) The summary of facts provided in accordance with  
8 subsection (b)(1) shall not be of such a nature so as to  
9 disclose the identity of the individuals involved, except as  
10 required under subsection (b)(5).

11 (e) For any misconduct incident reported pursuant to this  
12 section and subject to subsection (b)(4)(B), the chair of the  
13 board of land and natural resources, director of public safety,  
14 and director of transportation shall each provide updated  
15 information in each successive annual report, until the highest  
16 nonjudicial grievance adjustment procedure timely invoked by the  
17 law enforcement officer has concluded. In each successive  
18 annual report, the updated information shall reference where the  
19 incident appeared in the prior annual report. For any incident  
20 resolved without disciplinary action after the conclusion of the  
21 nonjudicial grievance adjustment procedure, the chair of the



1 board of land and natural resources, director of public safety,  
2 or director of transportation shall each summarize the basis for  
3 not imposing disciplinary action.

4 (f) For each misconduct incident reported in an annual  
5 report, the chair of the board of land and natural resources,  
6 director of public safety, or director of transportation shall  
7 each retain the disciplinary records in accordance with the  
8 department's record retention policy or for at least eighteen  
9 months after the final annual report concerning that incident,  
10 whichever period is longer."

11 SECTION 3. Section 52D-3.5, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By amending subsection (b) to read:

14 "(b) The report shall:

15 (1) Summarize the facts and the nature of the misconduct  
16 for each incident;

17 (2) Specify the disciplinary action imposed for each  
18 incident;

19 (3) Identify any other incident in the annual report  
20 committed by the same police officer; ~~and~~



1           (4) State whether the highest nonjudicial grievance  
2 adjustment procedure timely invoked by the police  
3 officer or the police officer's representative has  
4 concluded:

5           (A) If the highest nonjudicial grievance adjustment  
6 procedure has concluded, the report shall state:

7           (i) Whether the incident concerns conduct  
8 punishable as a crime, and if so, describe  
9 the county police department's findings of  
10 fact and conclusions of law concerning the  
11 criminal conduct; and

12           (ii) Whether the county police department  
13 notified the respective county prosecuting  
14 attorney of the incident; or

15           (B) If the highest nonjudicial grievance adjustment  
16 procedure has not concluded, the report shall  
17 state the current stage of the nonjudicial  
18 grievance adjustment procedure as of the end of  
19 the reporting period[-]; and



1        (5) Disclose the identity of the police officer upon the  
2        police officer's second suspension in a five-year  
3        period or discharge."

4        2. By amending subsection (d) to read:

5        "(d) The summary of facts provided in accordance with  
6        subsection (b) (1) shall not be of such a nature so as to  
7        disclose the identity of the individuals involved[-], except as  
8        required under subsection (b) (5)."

9        SECTION 4. Section 92F-14, Hawaii Revised Statutes, is  
10       amended by amending subsection (b) to read as follows:

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

13       (1) Information relating to medical, psychiatric, or  
14       psychological history, diagnosis, condition,  
15       treatment, or evaluation, other than directory  
16       information while an individual is present at such  
17       facility;

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



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

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

8 (A) Information disclosed under section 92F-  
9 12(a)(14); and

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

13 (i) The name of the employee;

14 (ii) The nature of the employment related  
15 misconduct;

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

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

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

20 when the following has occurred: the highest  
21 nonjudicial grievance adjustment procedure timely



1           invoked by the employee or the employee's  
2           representative has concluded; a written decision  
3           sustaining the suspension or discharge has been issued  
4           after this procedure; and thirty calendar days have  
5           elapsed following the issuance of the decision or, for  
6           decisions involving county police department  
7           officers[7] or state law enforcement officers, ninety  
8           days have elapsed following the issuance of the  
9           decision; provided that subparagraph (B) shall not  
10          apply to a county police department officer or state  
11          law enforcement officer except in a case which results  
12          in the discharge or the second suspension in a five-  
13          year period of the officer;

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

18          (6) Information describing an individual's finances,  
19          income, assets, liabilities, net worth, bank balances,  
20          financial history or activities, or creditworthiness;



- 1           (7) Information compiled as part of an inquiry into an  
2           individual's fitness to be granted or to retain a  
3           license, except:
- 4           (A) The record of any proceeding resulting in the  
5           discipline of a licensee and the grounds for  
6           discipline;
- 7           (B) Information on the current place of employment  
8           and required insurance coverages of licensees;  
9           and
- 10          (C) The record of complaints including all  
11          dispositions;
- 12          (8) Information comprising a personal recommendation or  
13          evaluation;
- 14          (9) Social security numbers; and
- 15          (10) Information that if disclosed would create a  
16          substantial and demonstrable risk of physical harm to  
17          an individual."

18          SECTION 4. Statutory material to be repealed is bracketed  
19          and stricken. New statutory material is underscored.



# S.B. NO. 2947

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

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INTRODUCED BY: Clarena W. Sheshiham

Jin  
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# S.B. NO. 2947

**Report Title:**

Public Records; Disclosure; Disciplinary Action

**Description:**

Requires law enforcement agencies to disclose to the legislature the identity of an officer upon the officer's 2nd suspension in a 5-year period or discharge. Requires disclosure under the Uniform Information Practices Act after an officer's 2nd suspension in a 5-year period.

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