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# A BILL FOR AN ACT

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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 county police department,  
3             the director of public safety, the chairperson of the  
4             board of land and natural resources, and the director  
5             of 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 of certain information, including the  
10            identity of a county police officer, after an  
11            officer's second suspension in a five-year period.

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

15       "PART . REPORTS ON STATE LAW ENFORCEMENT MISCONDUCT

16       §27- Reports. (a) The chairperson of the board of land  
17 and natural resources, director of public safety, and director



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

8 (b) Each report shall:

9 (1) Summarize the facts and the nature of the misconduct  
10 for each incident;

11 (2) Specify the disciplinary action imposed for each  
12 incident;

13 (3) Identify any other incident in the annual report  
14 committed by the same law enforcement officer;

15 (4) State whether the highest nonjudicial grievance  
16 adjustment procedure timely invoked by the law  
17 enforcement officer or the law enforcement officer's  
18 representative has concluded and:

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



1 (i) Whether the incident concerns conduct  
2 punishable as a crime, and if so, describe  
3 the department of land and natural  
4 resources, department of public safety, or  
5 department of transportation findings of  
6 fact and conclusions of law concerning the  
7 criminal conduct; and

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

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

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



1 (c) Each report shall tabulate the number of law  
2 enforcement officers suspended and discharged under the  
3 following categories, or similar category as to be determined by  
4 the chairperson of the board of land and natural resources,  
5 director of public safety, or director of transportation,  
6 respectively:

7 (1) Malicious use of physical force;

8 (2) Mistreatment of prisoners;

9 (3) Use of drugs and narcotics; and

10 (4) Cowardice.

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

15 (e) For any misconduct incident reported pursuant to this  
16 section and subject to subsection (b)(4)(B), the chairperson of  
17 the board of land and natural resources, director of public  
18 safety, and director of transportation shall each provide  
19 updated information in each successive annual report, until the  
20 highest nonjudicial grievance adjustment procedure timely  
21 invoked by the law enforcement officer has concluded. In each



1 successive annual report, the updated information shall  
2 reference where the incident appeared in the prior annual  
3 report. For any incident resolved without disciplinary action  
4 after the conclusion of the nonjudicial grievance adjustment  
5 procedure, the chairperson of the board of land and natural  
6 resources, director of public safety, or director of  
7 transportation shall each summarize the basis for not imposing  
8 disciplinary action.

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

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

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

19 "(b) The report shall:

20 (1) Summarize the facts and the nature of the misconduct  
21 for each incident;



- 1 (2) Specify the disciplinary action imposed for each  
2 incident;
- 3 (3) Identify any other incident in the annual report  
4 committed by the same police officer; [and]
- 5 (4) State whether the highest nonjudicial grievance  
6 adjustment procedure timely invoked by the police  
7 officer or the police officer's representative has  
8 concluded:
- 9 (A) If the highest nonjudicial grievance adjustment  
10 procedure has concluded, the report shall state:
- 11 (i) Whether the incident concerns conduct  
12 punishable as a crime, and if so, describe  
13 the county police department's findings of  
14 fact and conclusions of law concerning the  
15 criminal conduct; and
- 16 (ii) Whether the county police department  
17 notified the respective county prosecuting  
18 attorney of the incident; or
- 19 (B) If the highest nonjudicial grievance adjustment  
20 procedure has not concluded, the report shall  
21 state the current stage of the nonjudicial



grievance adjustment procedure as of the end of  
the reporting period[-]; and

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

2. By amending subsection (d) to read:

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

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

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

- (1) Information relating to medical, psychiatric, or  
psychological history, diagnosis, condition,  
treatment, or evaluation, other than directory  
information while an individual is present at such  
facility;
- (2) Information identifiable as part of an investigation  
into a possible violation of criminal law, except to



1 the extent that disclosure is necessary to prosecute  
2 the violation or to continue the investigation;

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

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

10 (A) Information disclosed under section 92F-  
11 12(a)(14); and

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

15 (i) The name of the employee;

16 (ii) The nature of the employment related  
17 misconduct;

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

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

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



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



(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 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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



**Report Title:**

Public Records; Disclosure; Disciplinary Action

**Description:**

Requires county police departments, the department of public safety, department of land and natural resources, and department of transportation 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 a police officer's 2nd suspension in a 5-year period. (SD1)

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

