



1           (b) Sovereign immunity, statutory immunities, and  
2 statutory limitations on liability, damages, or attorney fees  
3 shall not apply to claims brought pursuant to this chapter.  
4 Chapter 662 shall not apply to claims brought pursuant to this  
5 chapter.

6           (c) Qualified immunity is not a defense to liability  
7 pursuant to this section.

8           (d) In any action brought pursuant to this section, a  
9 court shall award reasonable attorney fees and costs to the  
10 plaintiff, including expert witness fees and other litigation  
11 expenses, if they are a prevailing party. In actions for  
12 injunctive relief, a court shall deem a plaintiff to have  
13 prevailed if the plaintiff's suit was a substantial factor or  
14 significant catalyst in obtaining the results sought by the  
15 litigation. When a judgment is entered in favor of a defendant,  
16 the court may award reasonable costs and attorney fees to the  
17 defendant for defending claims the court finds frivolous.

18           (e) A civil action pursuant to this section shall be  
19 commenced within six years after the cause of action accrues.

20           (f) Notwithstanding any other provision of law, the law  
21 enforcement officer shall be personally liable and shall not be



1 indemnified by a public entity for at least five per cent of the  
2 judgment or settlement, or \$100,000, whichever is less, unless  
3 the law enforcement officer acted upon a good faith and  
4 reasonable belief that the action was lawful. If the judgment  
5 or any portion of the judgment is uncollectible from the law  
6 enforcement officer, the law enforcement officer's employer  
7 shall satisfy the full amount of the judgment or settlement;  
8 provided that the employer shall have a right of contribution  
9 against the law enforcement officer for any amount not subject  
10 to indemnification. A public entity shall not indemnify the  
11 officer if the officer was convicted of a crime related to  
12 conduct from which the claim arises. Nothing in this section  
13 shall be construed to require indemnification for law  
14 enforcement officers.

15       **§ -3 Notice of Claims.** Any person who claims damages or  
16 other relief arising under this chapter shall provide written  
17 notice to the law enforcement agency, as defined by section 28-  
18 151, that employs the law enforcement officer. This notice  
19 shall be provided within one year after the occurrence giving  
20 rise to the claim, and shall provide the date, location, and  
21 circumstances of the occurrence. The time for giving notice



1 shall not include the time, not exceeding one year, during which  
2 the injured person is unable to provide the notice by reason of  
3 injury. The notice required by this section may be presented  
4 by, or on behalf of, the personal representative of an  
5 incapacitated or deceased person or any person claiming benefits  
6 of the proceeds of an action brought under this chapter. No  
7 suit shall be commenced under this chapter unless notice has  
8 been given pursuant to this section or the law enforcement  
9 agency that employs the law enforcement officer had actual  
10 notice of the occurrence giving rise to the claim.

11       **§ -4 Reporting of judgments and settlements.** (a) Any  
12 political subdivision of the State that employs a law  
13 enforcement officer who incurs liability under this chapter,  
14 whether in the form of judgment or settlement entered against  
15 the law enforcement officer for claims arising pursuant to this  
16 chapter, shall publicly disclose:

- 17           (1) The name of any law enforcement officer or officers  
18               whose actions or conduct led to the judgment or  
19               settlement;



1           (2) The amount of the judgment or settlement and the  
2           portion of the judgment or settlement, if any,  
3           indemnified by the political subdivision of the State;

4           (3) Any internal disciplinary actions taken against the  
5           law enforcement officer or officers whose action or  
6           conduct led to the judgment or settlement; and

7           (4) Any criminal charges brought against the law  
8           enforcement officer or officers for the actions or  
9           conduct that led to the judgment or settlement.

10          (b) The political subdivision of the State shall not  
11       disclose the address, social security number, or other unique,  
12       non-public personal identifying information of any individual  
13       who brings a claim under this chapter.

14          § -5 **Disciplinary action.** In addition to any criminal  
15       and civil penalties provided by law, if a court or internal  
16       investigation finds that a law enforcement officer subjected or  
17       caused to be subjected, including by failing to intervene, any  
18       person to the deprivation of any individual right arising under  
19       the Hawaii State Constitution, then the law enforcement agency  
20       that employs the law enforcement officer shall subject the law  
21       enforcement officer to disciplinary measures, up to and



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1 including termination of employment, to the extent permitted by  
2 law. The disciplinary measures imposed by the law enforcement  
3 agency shall not be overturned or otherwise disturbed unless the  
4 law enforcement officer is exonerated by a court."

5 SECTION 2. This Act shall take effect upon its approval.

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INTRODUCED BY:  \_\_\_\_\_



# S.B. NO. 2487

**Report Title:**

Law Enforcement Officers; Constitutional Rights; Deprivation;  
Private Cause of Action; Disclosure

**Description:**

Establishes a private cause of action for persons injured by the deprivation of rights under the Hawaii Constitution by law enforcement officers. Imposes personal liability on law enforcement officers for judgments or settlements arising from that cause of action up to a certain amount and under certain circumstances. Requires political subdivisions of the State who employ law enforcement officers to publicly disclose a list of officers against whom a judgment or settlement is entered and other proscribed information. Requires employers of law enforcement officers to discipline officers under certain circumstances.

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