

ACT 121

S.B. NO. 2591

A Bill for an Act Relating to Law Enforcement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 52D-3.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§52D-3.5 Reports to legislature.] (a) The chief of each county police department shall submit to the legislature no later than January 31 of each year an annual report [to the legislature twenty days prior to the convening of the regular session in each year.] of misconduct incidents that resulted in suspension or discharge of a police officer. The reporting period of each report shall be from January 1 to December 31 of the year immediately prior to the year of the report submission.~~

(b) The report shall ~~[include a summary of]:~~

(1) ~~Summarize~~ the facts and the nature of the misconduct for each incident ~~[which resulted in the suspension or discharge of a police officer];~~

(2) ~~Specify~~ the disciplinary action imposed for each incident~~[- and];~~

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

(4) ~~State whether the highest non-judicial grievance adjustment procedure timely invoked by the police officer or the police officer's representative has concluded:~~

~~(A) If the highest non-judicial grievance adjustment procedure has concluded, the report shall state:~~

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

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

~~(B) If the highest non-judicial grievance adjustment procedure has not concluded, the report shall state the current stage of the non-judicial grievance adjustment procedure as of the end of the reporting period.~~

(c) The report shall tabulate the number of police officers suspended and discharged ~~[during the previous year]~~ under the following categories of the department's Standards of Conduct:

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

(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.

(e) For any misconduct incident reported pursuant to this section and subject to subsection (b)(4)(B), the chief of each county police department shall provide updated information in each successive annual report, until the highest non-judicial grievance adjustment procedure timely invoked by the police officer has concluded. In each successive annual report, the updated information shall reference where the incident appeared in the prior annual report. For any incident resolved without disciplinary action after the conclusion of the non-judicial grievance adjustment procedure, the chief of each county police department shall summarize the basis for not imposing disciplinary action.

(f) For each misconduct incident reported in an annual report, the chief of each county police department shall retain the disciplinary records in accordance with the department's record retention policy or for at least eighteen months after the final annual report concerning that incident, whichever period is longer."

SECTION 2. 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 the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- (3) Information relating to eligibility for social services or welfare benefits or to the determination of benefit levels;
- (4) Information in an agency's personnel file, or applications, nominations, recommendations, or proposals for public employment or appointment to a governmental position, except:
 - (A) Information disclosed under section 92F-12(a)(14); and
 - (B) The following information related to employment misconduct that results in an employee's suspension or discharge:
 - (i) The name of the employee;
 - (ii) The nature of the employment related misconduct;
 - (iii) The agency's summary of the allegations of misconduct;
 - (iv) Findings of fact and conclusions of law; and
 - (v) The disciplinary action taken by the agency;

when the following has occurred: the highest non-judicial grievance adjustment procedure timely invoked by the employee or the employee's representative has concluded; a written decision sustaining the suspension or discharge has been issued after this procedure; and thirty calendar days have elapsed following the issuance of the decision¹ or, for decisions involving county police department offi-

cers, ninety days have elapsed following the issuance of the decision; provided that ~~[this]~~ subparagraph (B) shall not 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;
- (8) Information comprising a personal recommendation or evaluation; and
- (9) Social security numbers."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 20, 2014.)

Note

- 1. Prior to amendment a semicolon appeared here.