

ACT 47

H.B. NO. 285

A Bill for an Act Relating to Public Safety.

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

PART I

SECTION 1. The legislature finds that public trust in law enforcement is critical to ensuring justice for all under the law. The legislature further finds that the difficult and often dangerous job of law enforcement is safer, easier, and more effectively executed when citizens trust those empowered to serve and protect them.

The purpose of this Act is to enhance the public's trust in law enforcement and standardize best practices for the use of force between the counties by:

- (1) Requiring the chief of police of each county police department to disclose to the legislature the identity of a police officer upon suspension or discharge of the officer;
- (2) Amending the Uniform Information Practices Act to allow for the disclosure of information related to the suspension or discharge of a police officer;
- (3) Empowering the law enforcement standards board to establish uniform statewide standards for law enforcement and the use of force; and
- (4) Explicitly allowing the law enforcement standards board to revoke the certification of law enforcement officers for misconduct or failure to meet qualifying standards as warranted.

PART II

SECTION 2. Section 52D-3.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:  
“(b) The report shall:
  - (1) Summarize the facts and the nature of the misconduct for each incident;
  - (2) Specify the disciplinary action imposed for each incident;

- (3) Identify any other incident in the annual report committed by the same police officer; ~~and~~
- (4) State whether the highest nonjudicial grievance adjustment procedure timely invoked by the police officer or the police officer's representative has concluded:
  - (A) If the highest nonjudicial 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 nonjudicial grievance adjustment procedure has not concluded, the report shall 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 suspension 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 3. 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 nonjudicial 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 decision or, for decisions involving county police department officers, ninety days have elapsed following the issuance of the decision;

~~[provided that 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;
- (9) Social security numbers; and
- (10) Information that if disclosed would create a substantial and demonstrable risk of physical harm to an individual."

### PART III

SECTION 4. Section 139-3, Hawaii Revised Statutes, is amended to read as follows:

**“~~§~~§139-3~~§~~ Powers and duties of the board.** The board shall:

- (1) Adopt rules in accordance with chapter 91 to implement this chapter;
- (2) Establish minimum standards for employment as a law enforcement officer and to certify persons to be qualified as law enforcement officers;
- (3) Establish criteria and standards in which a person who has been denied certification, whose certification has been revoked by the board, or whose certification has lapsed may reapply for certification;
- (4) Establish minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for schools operated by or for the State or a county for the specific purpose of training law enforcement officers;
- (5) Consult and cooperate with the counties, agencies of the State, other governmental agencies, universities, colleges, and other institutions concerning the development of law enforcement officer training schools and programs of criminal justice instruction;
- (6) Employ, subject to chapter 76, an administrator and other persons necessary to carry out its duties under this chapter;
- (7) Investigate when there is reason to believe that a law enforcement officer does not meet the minimum standards for employment, and in so doing, may:
  - (A) Subpoena persons, books, records, or documents;
  - (B) Require answers in writing under oath to questions asked by the board; and
  - (C) Take or cause to be taken depositions as needed in investigations, hearings, and other proceedings, related to the investigation;

- (8) Establish and require participation in continuing education programs for law enforcement officers;
- (9) Have the authority to charge and collect fees for applications for certification as a law enforcement officer; ~~[and]~~
- (10) Establish procedures and criteria for the revocation of certification issued by the board~~[-];~~
- (11) Have the authority to revoke certifications; and
- (12) Review and recommend statewide policies and procedures relating to law enforcement, including the use of force.”

SECTION 5. Act 220, Session Laws of Hawaii 2018, is amended by amending section 6 to read as follows:

“SECTION 6. This Act shall take effect on July 1, 2018; provided that the law enforcement standards board established under this Act shall finalize its standards and certification process by ~~[July 1, 2019;]~~ December 31, 2021.”

#### PART IV

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

SECTION 7. This Act shall take effect upon its approval.

(Approved September 15, 2020.)