

JAN 22 2016

S.B. NO. 2364

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# A BILL FOR AN ACT

RELATING TO POLICE DEPARTMENTS.

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

1           SECTION 1. The legislature finds that domestic violence is  
2 an epidemic affecting individuals in every community, regardless  
3 of age, economic status, race, religion, nationality, or  
4 educational background. According to the National Coalition  
5 Against Domestic Violence, one in every four women will  
6 experience domestic violence in her lifetime. Between 2008 and  
7 2012, there was an eighteen per cent increase statewide in  
8 arrests relating to abuse of family or household members.  
9 During this same time period, there was also an increase in the  
10 number of persons served by various statewide agencies who  
11 provide services to victims of domestic violence.

12           The legislature further finds that the Honolulu police  
13 department has been heavily criticized by lawmakers and the  
14 public in the wake of a high-profile incident involving an off-  
15 duty Honolulu police department sergeant. In September 2014,  
16 the off-duty sergeant was captured on surveillance video  
17 punching his then-girlfriend in a Waipahu restaurant. However,



1 the sergeant was not arrested at the scene and responding  
2 officers failed to file a report. According to news reports, it  
3 was only on the following day, after a citizen provided the  
4 Honolulu police department and the press with the surveillance  
5 video, that the department took action to remove the sergeant of  
6 his police powers and began an internal investigation into the  
7 incident. An Oahu grand jury later determined there was not  
8 enough evidence to indict the sergeant for his actions, even  
9 while the internal investigation into the sergeant and the  
10 responding officers was still ongoing.

11 The sergeant's actions sparked concern about the way police  
12 handle domestic violence cases and triggered an informational  
13 briefing at the state capitol, where Honolulu's police chief and  
14 two of his deputies were intensively questioned about the  
15 Honolulu police department's policies regarding domestic  
16 violence investigations.

17 Service providers who assist domestic violence victims were  
18 also at the informational briefing. Some of these providers  
19 expressed concern that the incident involving the Honolulu  
20 police department sergeant reflects a larger problem within the  
21 department. Between May 2013 and September 2014, the Hawaii



1 state commission on the status of women received approximately  
2 thirty-eight separate complaints from women who said officers  
3 with the Honolulu police department did not respond  
4 appropriately to allegations of abuse. According to the  
5 commission, approximately one-third of these instances involved  
6 a police officer or a relative of a police officer as the  
7 alleged abuser. The commission believes that the September 2014  
8 incident involving the off-duty sergeant was not an isolated  
9 incident, but rather a pattern of inappropriate handling by some  
10 police officers in response to allegations of domestic violence.

11 The Honolulu police chief and his deputies told lawmakers  
12 at the informational briefing that the Honolulu police  
13 department has a zero tolerance policy when it comes to domestic  
14 violence and other serious offenses. However, the department's  
15 record on disciplining officers for domestic violence-related  
16 misconduct was called into question by lawmakers at the  
17 briefing.

18 Pursuant to section 52D-3.5, Hawaii Revised Statutes, the  
19 chief of each county police department is required to submit an  
20 annual report to the legislature that includes, among other  
21 things, a summary of the facts and the nature of the misconduct



1 for incidents which resulted in the suspension or discharge of a  
2 police officer and the disciplinary action imposed for each  
3 incident. The Honolulu police department's 2013 report to the  
4 legislature indicates thirty incidents which resulted in  
5 discipline against an officer. Of these, three specifically  
6 involved domestic-related incidents, including an officer who  
7 was involved in a domestic dispute that escalated into a  
8 physical altercation causing pain to the complainant, an officer  
9 repeatedly contacting an ex-girlfriend after being told the  
10 contact was unwanted, and an officer repeatedly contacting an  
11 estranged spouse after being told the contact was unwanted.  
12 Each of these three incidents resulted in a one-day suspension.

13 In comparison, other non-domestic related incidents in the  
14 2013 report resulted in much harsher disciplinary action. For  
15 instance, an officer arrested for possession of marijuana and  
16 driving under the influence received a twenty-day suspension.  
17 Another officer conspired with other officers relating to  
18 special duty assignments and received a ten-day suspension.  
19 Another officer was discharged for failing a drug urinalysis  
20 test. Furthermore, a *Honolulu Civil Beat* analysis of annual  
21 Honolulu police department misconduct summaries turned up



1 twenty-five incidents of domestic violence from 2000 through  
2 2012. Three officers were discharged but their dismissals were  
3 not upheld, according to information provided to *Honolulu Civil*  
4 *Beat* by the Honolulu police department.

5 This disciplinary disparity leads the legislature to  
6 question whether the Honolulu police department is minimizing  
7 the problem of domestic violence, particularly when incidents  
8 involve a police officer. The legislature also questions  
9 whether any potential minimization of alleged incidents of  
10 domestic violence involving police officers is based on concern  
11 over the Lautenberg Amendment, a federal law that forbids  
12 anyone, including a police officer, with a misdemeanor domestic  
13 violence conviction from owning or possessing a firearm.

14 The legislature additionally finds that as part of the  
15 police union's collective bargaining agreement, all external  
16 complaints against a police officer must be in writing and sworn  
17 to by the complainant. The legislature is concerned that this  
18 requirement may discourage individuals involved in a domestic  
19 dispute with a police officer from reporting the abuse. The  
20 legislature is also concerned that this requirement



1 re-victimizes a complainant, by forcing the complainant to swear  
2 to something in writing.

3 The legislature acknowledges that the majority of police  
4 officers enforce the law and act appropriately toward members of  
5 the public. However, there are also police officers who do not  
6 respond to domestic violence situations appropriately when the  
7 perpetrator is a fellow police officer. Such actions lessen the  
8 public's trust in the police and bring down the reputation of  
9 police departments as a whole.

10 The purpose of this Act is to avoid the re-victimization of  
11 officer-involved domestic violence victims by ensuring that  
12 individuals who wish to report allegations of officer-involved  
13 domestic abuse against a family or household member do not have  
14 to do so in writing or by notarized statement.

15 SECTION 2. Chapter 52D, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18 "§52D- Citizen complaints; officer-involved domestic  
19 violence. Citizen complaints against a police officer that  
20 involve allegations of domestic abuse by the police officer



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1 against a family or household member shall not be required to be  
2 in writing or sworn to by the complainant.

3 For purposes of this section, "family or household member"  
4 has the same meaning as defined in section 709-906."

5 SECTION 3. New statutory material is underscored.

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

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INTRODUCED BY:

*[Signature]*

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**Report Title:**

County Police Departments; Police Officers; Citizen Complaints;  
Officer-involved Domestic Violence

**Description:**

Specifies that citizen complaints against a police officer that involve allegations of domestic abuse against a family or household member on the part of the police officer shall not be required to be in writing or sworn to by the complainant.

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

