
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 recent high-profile incident involving
15 an off-duty Honolulu police department sergeant. In September
16 2014, the off-duty sergeant was captured on surveillance video
17 punching his then-girlfriend in a Waipahu restaurant. However,
18 the sergeant was not arrested at the scene and responding



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

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

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



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

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

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



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

11 Each of these three incidents resulted in a one-day suspension.

12 In comparison, other non-domestic related incidents in the
13 2013 report resulted in much harsher disciplinary action. For
14 instance, an officer arrested for possession of marijuana and
15 driving under the influence received a twenty-day suspension.
16 Another officer conspired with other officers relating to
17 special duty assignments and received a ten-day suspension.
18 Another officer was discharged for failing a drug urinalysis
19 test. Furthermore, a *Honolulu Civil Beat* analysis of annual
20 Honolulu police department misconduct summaries turned up
21 twenty-five incidents of domestic violence from 2000 through



1 2012. Three officers were discharged but their dismissals were
2 not upheld, according to information provided to *Honolulu Civil*
3 *Beat* by the Honolulu police department.

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

13 The legislature additionally finds that whatever the
14 outcome of the Honolulu police department's internal
15 investigation into the sergeant and responding officers
16 connected to the September 2014 incident, additional public
17 disclosure is needed about the discipline taken in this high-
18 profile case and in other cases involving police officer
19 misconduct. The legislature also finds that while all other
20 government employees' misconduct information becomes public if
21 the misconduct results in suspension or termination, existing



1 law gives police officers special treatment in the form of an
2 exemption under section 92F-14, Hawaii Revised Statutes, even
3 misconduct information that results in suspension.

4 The legislature notes that, consistent with the Hawaii
5 Supreme Court's opinion in *State of Hawai'i Org. of Police*
6 *Officers (SHOPO) v. Soc'y of Prof'l Journalists-Univ. of Hawai'i*
7 *Chapter*, 927 P.2d 386 (Haw. 1996) (*SHOPO v. SPJ*), the removal of
8 the exemption under section 92F-14, Hawaii Revised Statutes,
9 will not violate the privacy rights of individual police
10 officers. The Hawaii Supreme Court held in *SHOPO v. SPJ* that,
11 "[t]he information that must be disclosed pursuant HRS §
12 92F-14(b)(4)(B) regarding a public employee's employment-related
13 misconduct and resulting discipline, is not "highly personal and
14 intimate information" and is, therefore, not within the scope of
15 Hawai'i's constitutional right to privacy."

16 Accordingly, the purpose of this Act is to increase public
17 accountability for police officers whose misconduct results in
18 suspension or termination and ensure police officers are held to
19 the same standards as other government employees by repealing
20 the privacy exemption within the Uniform Information Practices
21 Act for county police department officers.



1 SECTION 2. Section 92F-14, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

5 (1) Information relating to medical, psychiatric, or
6 psychological history, diagnosis, condition,
7 treatment, or evaluation, other than directory
8 information while an individual is present at such
9 facility;

10 (2) Information identifiable as part of an investigation
11 into a possible violation of criminal law, except to
12 the extent that disclosure is necessary to prosecute
13 the violation or to continue the investigation;

14 (3) Information relating to eligibility for social
15 services or welfare benefits or to the determination
16 of benefit levels;

17 (4) Information in an agency's personnel file, or
18 applications, nominations, recommendations, or
19 proposals for public employment or appointment to a
20 governmental position, except:



- 1 (A) Information disclosed under section
- 2 92F-12(a)(14); and
- 3 (B) The following information related to employment
- 4 misconduct that results in an employee's
- 5 suspension or discharge:
- 6 (i) The name of the employee;
- 7 (ii) The nature of the employment related
- 8 misconduct;
- 9 (iii) The agency's summary of the allegations of
- 10 misconduct;
- 11 (iv) Findings of fact and conclusions of law; and
- 12 (v) The disciplinary action taken by the agency;
- 13 when the following has occurred: the highest
- 14 nonjudicial grievance adjustment procedure timely
- 15 invoked by the employee or the employee's
- 16 representative has concluded; a written decision
- 17 sustaining the suspension or discharge has been issued
- 18 after this procedure; and thirty calendar days have
- 19 elapsed following the issuance of the decision or, for
- 20 decisions involving county police department officers,
- 21 ninety days have elapsed following the issuance of the



1 decision; [~~provided that subparagraph (B) shall not~~
2 ~~apply to a county police department officer except in~~
3 ~~a case which results in the discharge of the officer;]~~

4 (5) Information relating to an individual's
5 nongovernmental employment history except as necessary
6 to demonstrate compliance with requirements for a
7 particular government position;

8 (6) Information describing an individual's finances,
9 income, assets, liabilities, net worth, bank balances,
10 financial history or activities, or creditworthiness;

11 (7) Information compiled as part of an inquiry into an
12 individual's fitness to be granted or to retain a
13 license, except:

14 (A) The record of any proceeding resulting in the
15 discipline of a licensee and the grounds for
16 discipline;

17 (B) Information on the current place of employment
18 and required insurance coverages of licensees;
19 and

20 (C) The record of complaints including all
21 dispositions;



1 (8) Information comprising a personal recommendation or
2 evaluation; and

3 (9) Social security numbers."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken.

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



Report Title:

County Police Departments; Police Officer; Uniform Information Practices Act; Privacy Interests; Disclosure; Misconduct

Description:

Repeals the privacy exemption within the Uniform Information Practices Act for county police department officers. (SD1)

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