

JAN 24 2018

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. The purpose of this Act is to:

- 2 (1) Require the chief of each country police department,
3 the director of public safety, the chair of the board
4 of land and natural resources, and the director of
5 transportation to disclose to the legislature the
6 identity of a police officer upon the officer's second
7 suspension in a five-year period or discharge; and
8 (2) Require disclosure under the Uniform Information
9 Practices Act after a police officer's second
10 suspension in a five-year period.

11 SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended
12 by adding a new part to be appropriately designated and to read
13 as follows:

14 "PART . REPORTS ON STATE LAW ENFORCEMENT MISCONDUCT

15 §27-1 Reports. (a) The chair of the board of land and
16 natural resources, the director of public safety, and the
17 director of transportation shall each submit to the legislature



1 no later than January 31 of each year an annual report of
2 misconduct incidents that resulted in suspension or discharge of
3 a law enforcement officer in their respective departments. The
4 reporting period of each report shall be from January 1 to
5 December 31 of the year immediately prior to the year of the
6 report submission.

7 (b) Each report shall:

8 (1) Summarize the facts and the nature of the misconduct
9 for each incident;

10 (2) Specify the disciplinary action imposed for each
11 incident;

12 (3) Identify any other incident in the annual report
13 committed by the same law enforcement officer;

14 (4) State whether the highest nonjudicial grievance
15 adjustment procedure timely invoked by the law
16 enforcement officer or the law enforcement officer's
17 representative has concluded:

18 (A) If the highest nonjudicial grievance adjustment
19 procedure has concluded, the report shall state:

20 (i) Whether the incident concerns conduct
21 punishable as a crime, and if so, describe



1 the department of land and natural
2 resources, department of public safety, or
3 department of transportation findings of
4 fact and conclusions of law concerning the
5 criminal conduct; and

6 (ii) Whether the department of land and natural
7 resources, department of public safety, or
8 department of transportation notified the
9 requisite prosecuting attorney of the
10 incident; or

11 (B) If the highest nonjudicial grievance adjustment
12 procedure has not concluded, the report shall
13 state the current stage of the nonjudicial
14 grievance adjustment procedure as of the end of
15 the reporting period; and

16 (5) Disclose the identity of the law enforcement officer
17 upon the law enforcement officer's second suspension
18 in a five-year period or discharge.

19 (c) Each report shall tabulate the number of law
20 enforcement officers suspended and discharged under the
21 following categories, or similar category as to be determined by



1 the chair of the board of land and natural resources, director
2 of public safety, or director of transportation, respectively:

3 (1) Malicious use of physical force;

4 (2) Mistreatment of prisoners;

5 (3) Use of drugs and narcotics; and

6 (4) Cowardice.

7 (d) The summary of facts provided in accordance with
8 subsection (b)(1) shall not be of such a nature so as to
9 disclose the identity of the individuals involved, except as
10 required under subsection (b)(5).

11 (e) For any misconduct incident reported pursuant to this
12 section and subject to subsection (b)(4)(B), the chair of the
13 board of land and natural resources, director of public safety,
14 and director of transportation shall each provide updated
15 information in each successive annual report, until the highest
16 nonjudicial grievance adjustment procedure timely invoked by the
17 law enforcement officer has concluded. In each successive
18 annual report, the updated information shall reference where the
19 incident appeared in the prior annual report. For any incident
20 resolved without disciplinary action after the conclusion of the
21 nonjudicial grievance adjustment procedure, the chair of the



1 board of land and natural resources, director of public safety,
2 or director of transportation shall each summarize the basis for
3 not imposing disciplinary action.

4 (f) For each misconduct incident reported in an annual
5 report, the chair of the board of land and natural resources,
6 director of public safety, or director of transportation shall
7 each retain the disciplinary records in accordance with the
8 department's record retention policy or for at least eighteen
9 months after the final annual report concerning that incident,
10 whichever period is longer."

11 SECTION 3. Section 52D-3.5, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (b) to read:

14 "(b) The report shall:

15 (1) Summarize the facts and the nature of the misconduct
16 for each incident;

17 (2) Specify the disciplinary action imposed for each
18 incident;

19 (3) Identify any other incident in the annual report
20 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



1 (5) Disclose the identity of the police officer upon the
2 police officer's second suspension in a five-year
3 period or discharge."

4 2. By amending subsection (d) to read:

5 "(d) The summary of facts provided in accordance with
6 subsection (b) (1) shall not be of such a nature so as to
7 disclose the identity of the individuals involved[~~-~~], except as
8 required under subsection (b) (5) ."

9 SECTION 4. Section 92F-14, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

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

13 (1) Information relating to medical, psychiatric, or
14 psychological history, diagnosis, condition,
15 treatment, or evaluation, other than directory
16 information while an individual is present at such
17 facility;

18 (2) Information identifiable as part of an investigation
19 into a possible violation of criminal law, except to
20 the extent that disclosure is necessary to prosecute
21 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



1 invoked by the employee or the employee's
2 representative has concluded; a written decision
3 sustaining the suspension or discharge has been issued
4 after this procedure; and thirty calendar days have
5 elapsed following the issuance of the decision or, for
6 decisions involving county police department
7 officers[7] or state law enforcement officers, ninety
8 days have elapsed following the issuance of the
9 decision; provided that subparagraph (B) shall not
10 apply to a county police department officer or state
11 law enforcement officer except in a case which results
12 in the discharge or the second suspension in a five-
13 year period of the officer;

14 (5) Information relating to an individual's
15 nongovernmental employment history except as necessary
16 to demonstrate compliance with requirements for a
17 particular government position;

18 (6) Information describing an individual's finances,
19 income, assets, liabilities, net worth, bank balances,
20 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."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.



S.B. NO. 2947

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

2

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S.B. NO. 2947

Report Title:

Public Records; Disclosure; Disciplinary Action

Description:

Requires law enforcement agencies to disclose to the legislature the identity of an officer upon the officer's 2nd suspension in a 5-year period or discharge. Requires disclosure under the Uniform Information Practices Act after an officer's 2nd suspension in a 5-year period.

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