
A BILL FOR AN ACT

RELATING TO RECORDINGS OF LAW ENFORCEMENT ACTIVITIES.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **RECORDING LAW ENFORCEMENT ACTIVITIES**

6 § -1 **Definitions.** As used in this chapter:

7 "Law enforcement activity" means any activity by a law
8 enforcement officer acting under the color of law.

9 "Law enforcement officer" means any public servant, whether
10 employed by the State or subdivisions thereof or by the United
11 States, vested by law with a duty to maintain public order or,
12 to make arrests for offenses or to enforce the criminal laws,
13 whether that duty extends to all offenses or is limited to a
14 specific class of offenses.

15 "Record" means to capture or attempt to capture any moving
16 or still image, sound, or impression through the use of any
17 recording device, camera, or any other device capable of



1 capturing audio, moving images, or still images, or by way of
2 written notes or observations.

3 § -2 **Right to record law enforcement activities.** A
4 person neither under arrest nor in the custody of a law
5 enforcement officer shall have the right to record law
6 enforcement activity and to maintain custody and control of that
7 recording and of any property or instruments used by that person
8 to record law enforcement activities; provided that a person
9 under arrest or in custody of a law enforcement officer does
10 not, by that status alone, forfeit the right to have any such
11 recordings taken prior to the arrest or prior to being taken
12 into custody or the right to have such property and equipment
13 used for the recording to be maintained and returned to that
14 person. Nothing in this chapter shall be construed to permit a
15 person to engage in actions that physically interfere with law
16 enforcement activity or otherwise constitute a crime under
17 chapter 710.

18 § -3 **Private right of action.** (a) A claim of unlawful
19 interference with recording a law enforcement activity shall be
20 established under this section when a person demonstrates that
21 the person exercised or attempted to exercise the right to



1 record law enforcement activities pursuant to section -2 and
2 a law enforcement officer acted to interfere with that person's
3 recording of a law enforcement activity, including by:

4 (1) Intentionally preventing or attempting to prevent that
5 person from recording law enforcement activity;

6 (2) Threatening that person for recording law enforcement
7 activity;

8 (3) Commanding that the person cease recording law
9 enforcement activity when the person was otherwise
10 authorized by law to do so;

11 (4) Stopping, seizing, searching, ticketing, or arresting
12 that person because that person recorded law
13 enforcement activity;

14 (5) Unlawfully seizing property or instruments used by
15 that person to record law enforcement activity;

16 (6) Unlawfully destroying or seizing a recorded image or
17 recorded images of law enforcement activity; or

18 (7) Copying such a recording of law enforcement activity
19 without the consent of the person who recorded it or
20 approval from a court of competent jurisdiction.



1 (b) It shall be an affirmative defense to a civil action
2 under this section that at the time of such conduct by a law
3 enforcement officer, the law enforcement officer had probable
4 cause to arrest the person recording such law enforcement
5 activity for a crime under chapter 710.

6 (c) A person subject to unlawful interference with
7 recording law enforcement activities under this section may
8 bring an action for any violation of this section in any court
9 of competent jurisdiction for damages, including:

10 (1) Punitive damages;

11 (2) Declaratory and injunctive relief; and

12 (3) Other remedies as the court may deem appropriate.

13 (d) In any action or proceeding brought pursuant to this
14 section, the court may award a prevailing plaintiff reasonable
15 attorney's and expert's fees.

16 (e) Any action or proceeding brought pursuant to this
17 section shall be commenced no later than three years after the
18 date on which the violation of this section was committed.

19 **§ -4 Preservation of rights.** The rights under this
20 chapter shall be in addition to all other rights and remedies
21 available pursuant to law."



1 SECTION 2. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 3. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

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



Report Title:

Law Enforcement Activities; Recordings; Private Right of Action

Description:

Establishes the right of persons to record law enforcement activities. Establishes a private right of action for violations of the right. (SD1)

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

