S.B. NO. 783

JAN 22 2021

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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 RIGHT OF ACTION FOR DEPRIVATION OF CONSTITUTIONAL RIGHTS 6 Short title. This Act may be cited as the Police S -1 7 Integrity and Accountability Act of 2021. 8 -2 Right of action. (a) A law enforcement officer, S 9 as defined in section 28-151, who subjects or causes to be 10 subjected, including by failing to intervene, any other person 11 to the deprivation of any individual rights arising under the 12 Constitution of the State of Hawaii, is liable to the injured 13 party for legal or equitable relief or any other appropriate 14 relief.

(b) Sovereign immunity, statutory immunities, and
statutory limitations on liability, damages, or attorney fees
shall not apply to claims brought pursuant to this chapter.

2021-0555 SB SMA-1.doc

1

S.B. NO. 783

Chapter 662 shall not apply to claims brought pursuant to this
 chapter.

3 (c) Qualified immunity is not a defense to liability4 pursuant to this section.

5 In any action brought pursuant to this section, a (d) 6 court shall award reasonable attorney fees and costs to the 7 plaintiff, including expert witness fees and other litigation 8 expenses, if they are a prevailing party. In actions for 9 injunctive relief, a court shall deem a plaintiff to have 10 prevailed if the plaintiff's suit was a substantial factor or 11 significant catalyst in obtaining the results sought by the 12 litigation. When a judgment is entered in favor of a defendant, 13 the court may award reasonable costs and attorney fees to the 14 defendant for defending claims the court finds frivolous.

(e) A civil action pursuant to this section shall becommenced within six years after the cause of action accrues.

(f) Notwithstanding any other provision of law, the law enforcement officer shall be personally liable and shall not be indemnified by a public entity for at least five per cent or \$100,000 of the judgment or settlement, whichever is less, unless the law enforcement officer acted upon a good faith and



2

Page 3

S.B. NO. 783

1 reasonable belief that the action was lawful. If the judgment 2 or any portion of the judgment is uncollectible from the law 3 enforcement officer, the law enforcement officer's employer 4 shall satisfy the full amount of the judgment or settlement; 5 provided that the employer shall have a right of contribution 6 against the law enforcement officer for any amount not subject 7 to indemnification. A public entity shall not indemnify the 8 officer if the officer was convicted of a crime related to 9 conduct from which the claim arises. Nothing in this section 10 shall be construed to require indemnification for law 11 enforcement officers.

12 § -3 Reporting of judgments and settlements. (a) Any 13 political subdivision of the State that employs a law 14 enforcement officer who incurs liability under this chapter, 15 whether in the form of judgment or settlement entered against 16 the law enforcement officer for claims arising pursuant to this 17 chapter, shall publicly disclose:

18 (1) The name of any law enforcement officer or officers
19 whose actions or conduct led to the judgment or
20 settlement;



3

Page 4

S.B. NO. 783

1	(2)	The amount of the judgment or settlement and the
2		portion of the judgment or settlement, if any,
3		indemnified by the political subdivision of the State;
4	(3)	Any internal disciplinary actions taken against the
5		law enforcement officer or officers whose action or
6		conduct led to the judgment or settlement; and
7	(4)	Any criminal charges brought against the law
8		enforcement officer or officers for the actions or
9		conduct that led to the judgment or settlement.
10	(b)	The political subdivision of the State shall not
11	disclose	the address, social security number, or other unique,
12	non-public personal identifying information of any individual	
13	who brings a claim under this chapter."	
14	SECTION 2. This Act shall take effect upon its approval.	
15		

INTRODUCED BY: me



S.B. NO. 783

Report Title: Law Enforcement Officers; Constitutional Rights; Deprivation; Private Cause of Action; Disclosure

Description:

Establishes a private cause of action for persons injured by the deprivation of rights under the United States Constitution or the Hawaii Constitution by law enforcement officers. Requires that employers of law enforcement officers indemnify officers for judgments or settlements arising from that cause of action over a certain amount. Requires political subdivisions of the State who employ law enforcement officers to publicly disclose a list of officers against whom a judgment or settlement is entered as well as the amount of the judgment or settlement and any disciplinary actions or criminal charges brought against the officer.

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

