

JAN 19 2024

A BILL FOR AN ACT

RELATING TO THE DISCLOSURE OF PERSONAL INFORMATION OF CERTAIN
PUBLIC SERVANTS.

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

1 SECTION 1. The legislature finds that across the country,
2 elected state and local officials, judges, election officials,
3 school board officials, and others in decision-making positions
4 that directly impact the public or an individual and other high-
5 profile government positions have experienced an alarming
6 increase in acts of violence, or attempts to engage in acts of
7 violence, at their personal residence or the residence of a
8 family member. In the past three years, two government
9 officials and the family member of another were killed at their
10 home. Most recently, in October 2023, Maryland Judge Andrew
11 Wilkinson was shot and killed in his driveway by a litigant in a
12 case pending before him. Earlier in 2023, in February, New
13 Jersey Councilwoman Eunice Dwumfour was shot and killed outside
14 her home. In July 2020, U.S. District Court Judge Esther Salas'
15 son, Daniel Anderl, was shot and killed in their family home in
16 New Jersey by an attorney who had appeared before the judge. In



1 October 2022, Paul Pelosi, Speaker of the House Nancy Pelosi's
2 spouse, was brutally assaulted in the couple's home, resulting
3 in hospitalization and surgery due to a skull fracture received
4 during the altercation. In October 2020, the U.S. Federal
5 Bureau of Investigation thwarted a group that was planning to
6 kidnap the governor of Michigan, Gretchen Whitmer, and
7 ultimately nine individuals were convicted or pled guilty in the
8 prosecution that ensued.

9 The legislature also finds that a 2021 study titled "On the
10 Frontlines of Today's Cities: Trauma, Challenges and Solutions"
11 by the National League of Cities found that eighty-one per cent
12 of local public officials surveyed said they had experienced
13 harassment, threats, or violence in recent years. In addition
14 to having their safety and well-being threatened, the report
15 found that harassment and violent behavior interrupted local
16 officials' ability to do their jobs and led to the loss of
17 institutional knowledge due to resignations. Other public
18 servants, including local election officials, have also
19 experienced increased threats and harassment. According to a
20 Brennan Center for Justice April 2023 of over ten thousand local
21 election officials across the country, thirty per cent reported



1 being threatened, harassed, or abused. More than half reported
2 that the threats were in person. Seventy-three per cent
3 believed that threats against election officials have increased
4 recently.

5 The legislature also finds that data gathered by the
6 federal and state courts illustrates that the trend of threats
7 and inappropriate communications against public officials is
8 increasing. Federal judges and other court personnel were the
9 targets of more than four thousand five hundred threats and
10 other inappropriate communications in 2021, according to the
11 United States Marshals Service. This represents an increase of
12 eighty-one per cent from the number of threats in fiscal year
13 2016, just five years prior, and a two hundred thirty three per
14 cent increase in threats since fiscal year 2008. At the state
15 level, the number of threats and other inappropriate
16 communications to Hawaii judges have increased tenfold since
17 2012. A recent Marshals Service audit found that federal
18 judges' safety is at greater risk when they are away from the
19 courthouse. This statement is borne out by incidents involving
20 attacks against both federal and state judges at their
21 residences, which have resulted in the deaths of or serious



1 injuries to judges and their family members. In multiple cases,
2 the attacker or would-be attacker used the Internet to access
3 judges' personal information. The legislature notes that Act
4 46, Session Laws of Hawaii 2022 (Act 46), which established a
5 judicial security task force, was passed in recognition of the
6 need for additional measures to ensure the safety of judges in
7 Hawaii. The task force recommended that legislation to protect
8 personal information be enacted.

9 Accordingly, the purpose of this Act is twofold. The first
10 purpose is to classify certain personal information held by all
11 state and county government agencies as exempt from disclosure
12 by government under chapter 92F, Hawaii Revised Statutes, the
13 state's Uniform Information Practices Act, including information
14 that identifies the personal residence and other personally
15 identifying information of public servants who are at greater
16 risk of harm due to the high-profile nature of their government
17 jobs, including being charged with important decision-making
18 functions, without affecting the public's right to hold the
19 government accountable by ensuring access to public records.

20 The second purpose of this Act is to create the offense of
21 unlawful publication of personal information that prohibits



1 disclosures of personal information by a person or organization
2 that intends to cause harass, disparage, or harm a public
3 servant. This Act is not intended to restrain a public servant
4 from independently making public their own personal information.

5 SECTION 2. Section 92F-12, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Any other provision in this chapter to the contrary
8 notwithstanding, each agency shall make available for public
9 inspection and duplication during regular business hours:

10 (1) Rules of procedure, substantive rules of general
11 applicability, statements of general policy, and
12 interpretations of general applicability adopted by
13 the agency;

14 (2) Final opinions, including concurring and dissenting
15 opinions, as well as orders made in the adjudication
16 of cases, except to the extent protected by section
17 ~~[92F-13(1)-]~~ 92F-13(a)(1);

18 (3) Government purchasing information, including all bid
19 results, except to the extent prohibited by section
20 92F-13;



- 1 (4) Pardons and commutations, as well as directory
- 2 information concerning an individual's presence at any
- 3 correctional facility;
- 4 (5) Land ownership, transfer, and lien records, including
- 5 real property tax information and leases of state
- 6 land;
- 7 (6) Results of environmental tests;
- 8 (7) Minutes of all agency meetings required by law to be
- 9 public;
- 10 (8) Name, address, and occupation of any person borrowing
- 11 funds from a state or county loan program, and the
- 12 amount, purpose, and current status of the loan;
- 13 (9) Certified payroll records on public works contracts
- 14 except social security numbers and home addresses;
- 15 (10) Regarding contract hires and consultants employed by
- 16 agencies:
- 17 (A) The contract itself, the amount of compensation;
- 18 (B) The duration of the contract; and
- 19 (C) The objectives of the contract,
- 20 except social security numbers and home addresses;



- 1 (11) Building permit information within the control of the
- 2 agency;
- 3 (12) Water service consumption data maintained by the
- 4 boards of water supply;
- 5 (13) Rosters of persons holding licenses or permits granted
- 6 by an agency that may include name, business address,
- 7 type of license held, and status of the license;
- 8 (14) The name, compensation (but only the salary range for
- 9 employees covered by or included in chapter 76, and
- 10 sections 302A-602 to 302A-639, and 302A-701, or
- 11 bargaining unit (8)), job title, business address,
- 12 business telephone number, job description, education
- 13 and training background, previous work experience,
- 14 dates of first and last employment, position number,
- 15 type of appointment, service computation date,
- 16 occupational group or class code, bargaining unit
- 17 code, employing agency name and code, department,
- 18 division, branch, office, section, unit, and island of
- 19 employment, of present or former officers or employees
- 20 of the agency; provided that this paragraph shall not
- 21 require the creation of a roster of employees; and



1 provided further that this paragraph shall not apply
2 to information regarding present or former employees
3 involved in an undercover capacity in a law
4 enforcement agency;

5 (15) Information collected and maintained for the purpose
6 of making information available to the general public;
7 and

8 (16) Information contained in or compiled from a
9 transcript, minutes, report, or summary of a
10 proceeding open to the public."

11 SECTION 3. Section 92F-13, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§92F-13 Government records; exceptions to general rule.**

14 (a) This part shall not require disclosure of:

15 (1) Government records which, if disclosed, would
16 constitute a clearly unwarranted invasion of personal
17 privacy;

18 (2) Government records pertaining to the prosecution or
19 defense of any judicial or quasi-judicial action to
20 which the State or any county is or may be a party, to



- 1 the extent that [~~such~~] the records would not be
2 discoverable;
- 3 (3) Government records that, by their nature, must be
4 confidential in order for the government to avoid the
5 frustration of a legitimate government function;
- 6 (4) Government records which, pursuant to state or federal
7 law including an order of any state or federal court,
8 are protected from disclosure; and
- 9 (5) Inchoate and draft working papers of legislative
10 committees including budget worksheets and unfiled
11 committee reports; work product; records or
12 transcripts of an investigating committee of the
13 legislature which are closed by rules adopted pursuant
14 to section 21-4 and the personal files of members of
15 the legislature.

16 (b) Notwithstanding subsection (a), no government
17 information including but not limited to protected personal
18 information, which if disclosed would expose a public servant or
19 any family member or household member of a public servant to
20 harassment threats, or violence, shall be disclosed."



1 SECTION 4. Chapter 801G, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§801G- Publication and disclosure of public servants'

5 personal information; restrictions. (a) Except as otherwise

6 provided in subsection (d), upon receipt of a written request

7 from a covered public servant, a person or organization shall

8 not disclose or make publicly available content that includes

9 the protected personal information of the covered public servant

10 and their family. After a person or organization has received a

11 written request, the person or organization shall:

12 (1) Remove the protected personal information from the

13 Internet within seventy-two hours;

14 (2) Ensure that the protected personal information is not

15 made available on any website or subsidiary website

16 controlled by that person or organization; and

17 (3) Not distribute, give, or transfer the protected

18 personal information to any other person or

19 organization through any medium.

20 (b) A written request pursuant to this section shall be

21 valid if the covered public servant or a representative of the



1 covered public servant's employer submits a request in writing
2 directly to a person or organization; provided that the covered
3 public servant has given written consent to the representative.
4 A written request shall specify what protected personal
5 information shall be maintained as private. A written request
6 is valid until the covered public servant provides the person or
7 organization with written permission to release the protected
8 personal information, or until the covered public servant's
9 death.

10 (c) If a person or organization violates this section, the
11 covered public servant or family member whose protected personal
12 information is made public as a result of the violation may
13 bring an action seeking damages as well as injunctive or
14 declaratory relief in any court of competent jurisdiction. If
15 the court finds in the plaintiff's favor and or grants
16 injunctive or declaratory relief, the person or organization
17 responsible for the violation shall be required to pay the costs
18 and reasonable attorney's fees of the covered public servant or
19 their family.

20 (d) This section shall not apply to:



- 1 (1) Protected personal information that the covered public
- 2 servant or family member voluntarily publishes on the
- 3 Internet after the effective date of this chapter;
- 4 (2) Records pertaining to property presumed abandoned
- 5 pursuant to chapter 523A, the Uniform Unclaimed
- 6 Property Act;
- 7 (3) Information subject to disclosure pursuant to a court
- 8 order;
- 9 (4) Filings made pursuant to chapter 490, the Uniform
- 10 Commercial Code, and recorded judgments;
- 11 (5) Copies of recorded instruments affecting title to real
- 12 property that contain protected personal information
- 13 that are provided by the bureau of conveyances to a
- 14 title insurance company that has requested to access
- 15 the record in its ordinary course of business; and
- 16 (6) Records a government agency provides to any other
- 17 government entity pursuant to this chapter; provided
- 18 that this paragraph shall not provide an exemption for
- 19 persons or organization to disclosure information.
- 20 (e) For purposes of this section:
- 21 "Covered public servant" means:



- 1 (1) Any person employed or retired, appointed, or
2 volunteering for the State or any of its political
3 subdivisions or agencies;
- 4 (2) Members of boards and commissions who are appointed
5 and confirmed pursuant to section 26-34, and other
6 individuals including volunteers who are responsible
7 for or assisting with government responsibilities;
- 8 (3) Any active, formerly active, or retired justice of the
9 United States Supreme Court, judge of the United
10 States Court of Appeals, or judge or magistrate judge
11 of the United States District Court or United States
12 Bankruptcy Court, provided the person resides in the
13 State.

14 "Disclose" means to sell, manufacture, give, provide, lend,
15 trade, mail, deliver, transfer, post, publish, distribute,
16 circulate, disseminate, present, exhibit, advertise, or offer by
17 any means including but not limited to electronic transmission
18 and on any medium including but not limited to the Internet.

19 "Family" means spouses or reciprocal beneficiaries, former
20 spouses or former reciprocal beneficiaries, persons who have a
21 child in common, parents, children, persons related by



1 consanguinity, persons jointly residing or formerly residing in
2 the same dwelling unit, and persons who have or have had a
3 dating relationship.

4 "Government agency" means any department, division, board,
5 commission, public corporation, or other agency or
6 instrumentality of the State or any county.

7 "Home" means a permanent residence and any secondary
8 residences affirmatively identified by the covered public
9 servant but does not include a work address or investment
10 property.

11 "Organization" means an association or entity including a
12 charitable, religious, or nonprofit organization; for-profit
13 organization; or business entity, formed for a specific purpose.

14 "Protected personal information" includes a home address
15 and any property ownership information; contact information
16 including but not limited to a home telephone number, cellular
17 phone number, and direct telephone number to a covered person's
18 private office or chambers; personal email address; directions
19 to the covered public servant's or a family members' home;
20 photograph of a covered public servant's or a family members'
21 home that legibly displays the address or otherwise identifies



1 the location; photograph of a covered public servant's or family
2 member's vehicle that legibly displays the vehicle license plate
3 number; the names and locations of schools and day care
4 facilities attended by the children of the covered public
5 servant; identity of children of the covered public servant that
6 are under the age of eighteen; voter registration information;
7 the contents of any application for absentee voter's ballots;
8 property tax records; and the name and address of the employer
9 of any family member.

10 "Publicly available content" means any written, printed, or
11 electronic document or record that provides information or that
12 serves as a document or record maintained, controlled, or in the
13 possession of a government agency that may be obtained by any
14 person or entity, from the Internet, from the government agency
15 upon request either free of charge or for a fee, or in response
16 to a request pursuant to chapter 92F.

17 "Post or display" means to communicate to another or to
18 otherwise make available to the general public."

19 SECTION 5. Chapter 711, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§711- Unlawful publication of personal information.

2 (a) No person or organization shall knowingly disclose or post
3 protected personal information including but not limited to the
4 home address or telephone number of any public official with the
5 intent to cause reputational harm, emotional injury, or bodily
6 injury that is likely to occur, or threatening to cause bodily
7 injury to that individual.

8 (b) A violation of this section is a misdemeanor; provided
9 that a violation of this section that results in the actual
10 reputational harm, emotional injury, or bodily injury of the
11 public official or the public official's spouse or child, is a
12 class C felony."

13 SECTION 6. If any provision of this Act, or the
14 application thereof to any person or circumstance, is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act that can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 7. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on September 1,
4 2024.

5

INTRODUCED BY: _____

Kel Ahn



S.B. NO. 2086

Report Title:

Public Servants; Public Officials; Government Records; Public Records; Personal Information; Disclosure; Prohibition; Criminal Offense; Unlawful Publication of Personal Information

Description:

Exempts certain personal information of public servants from government records that are subject to disclosure under the State's Uniform Information Practices Act. Establishes within the State's Address Confidentiality Program protection for public servants that prohibits upon written request from the public servant or representative any person or organization from disclosing certain personal information. Establishes the offense of unlawful publication of personal information that prohibits any person or organization from knowingly disclosing protected personal information of public officials with the intent to cause reputational harm, emotional injury, or bodily injury. Takes effect 9/1/2024.

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