

**ACT 187**

H.B. NO. 1916

A Bill for an Act Relating to the Disclosure of Personal Information Associated with Certain Public Servants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that across the country, elected state and local officials, judges, election officials, school board officials, and other public servants in decision-making positions that directly impact the public or an individual have experienced an alarming increase in acts of violence, or attempts to engage in acts of violence, at their personal residence or the residence

of a family member. In the past three years, two government officials and the family member of another were killed at their home. Most recently, in October 2023, Maryland Judge Andrew Wilkinson was shot and killed in his driveway by a litigant in a case pending before him. Earlier that year, in February 2023, New Jersey Councilwoman Eunice Dwumfour was shot and killed outside her home. In July 2020, United States District Court Judge Esther Salas' son, Daniel Anderl, was shot and killed in their family home in New Jersey by an attorney who had appeared before the judge. In October 2022, Paul Pelosi, Speaker of the United States House of Representatives Nancy Pelosi's spouse, was brutally assaulted in the couple's home, resulting in hospitalization and surgery due to a skull fracture received during the altercation. In October 2020, the United States Federal Bureau of Investigation thwarted a group that was planning to kidnap the governor of Michigan, Gretchen Whitmer, and ultimately nine individuals were convicted or pled guilty in the prosecution that ensued.

The legislature also finds that a 2021 study titled "On the Frontlines of Today's Cities: Trauma, Challenges and Solutions" by the National League of Cities found that eighty-one per cent of local public officials surveyed said they had experienced harassment, threats, or violence in recent years. In addition to having their safety and well-being threatened, the report found that harassment and violent behavior interrupted local officials' ability to do their jobs and led to the loss of institutional knowledge due to resignations. Other public servants, including local election officials, have also experienced increased threats and harassment. According to a Brennan Center for Justice April 2023 survey of over ten thousand local election officials across the country, thirty per cent reported being threatened, harassed, or abused. More than half reported that the threats were in person. Seventy-three per cent believed that threats against election officials have increased recently.

The legislature also finds that data gathered by the federal and state courts illustrates that the trend of threats and inappropriate communications against public officials is increasing. Federal judges and other court personnel were the targets of more than four thousand five hundred threats and other inappropriate communications in 2021, according to the United States Marshals Service. This represents an increase of eighty-one per cent from the number of threats in fiscal year 2016, just five years prior, and a two hundred thirty-three per cent increase in threats since fiscal year 2008. At the state level, the number of threats and other inappropriate communications to Hawai'i judges have increased tenfold since 2012. A recent Marshals Service audit found that federal judges' safety is at greater risk when they are away from the courthouse. This statement is borne out by incidents involving attacks against both federal and state judges at their residences, which have resulted in the deaths of or serious injuries to judges and their family members. In multiple cases, the attacker or would-be attacker used the Internet to access judges' personal information. The legislature notes that Act 46, Session Laws of Hawaii 2022, which established a judicial security task force, was passed in recognition of the need for additional measures to ensure the safety of judges in Hawai'i. The task force recommended that legislation to protect personal information be enacted.

Accordingly, the purpose of this Act is to prohibit government agencies, persons, and organizations from making publicly available on the Internet the protected personal information of certain public servants, upon written request from the public servant or their representative. This Act is not intended to restrict public access to government records upon request as provided by chapter 92F, Hawaii Revised Statutes, or as otherwise provided by law, so long as the means of access does not involve making protected personal information publicly avail-

able on the Internet. In addition, this Act is not intended to restrain a public servant from independently making public their own personal information.

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

**“CHAPTER  
RESTRICTIONS ON PUBLICATION OF CERTAIN PUBLIC SERVANTS’  
PERSONAL INFORMATION**

**§ -1 Definitions.** For purposes of this chapter:

“Covered public servant” means:

- (1) The governor;
- (2) The lieutenant governor;
- (3) The administrative director appointed pursuant to section 26-3;
- (4) Any head of a department established under section 26-4;
- (5) Any member of the legislature;
- (6) Any active, formerly active, or retired:
  - (A) Justice of the Hawaii supreme court;
  - (B) Judge of the Hawaii intermediate appellate court;
  - (C) Judge of a Hawaii circuit court or circuit family court;
  - (D) Judge of a Hawaii district court or district family court; or
  - (E) Per diem judge of a Hawaii district court or district family court;
- (7) Any active, formerly active, or retired:
  - (A) Justice of the United States Supreme Court;
  - (B) Judge of the United States Court of Appeals;
  - (C) Judge or magistrate judge of the United States District Court; or
  - (D) Judge of the United States Bankruptcy Court, who resides in the State, formerly resided in the State while serving as a federal judge, or owns real property in the State;
- (8) The administrative director of the courts;
- (9) The deputy administrative director of the courts;
- (10) Any employee or volunteer of the office of elections; or
- (11) Any person designated for good cause by the governor, president of the senate, speaker of the house of representatives, chief justice, chief judge of the United States District Court for the District of Hawaii, or chairperson of the office of Hawaiian affairs in the designator’s respective body.

“Family” means spouses or reciprocal beneficiaries, former spouses or former reciprocal beneficiaries, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.

“Government agency” means any:

- (1) Unit of government in the State, any county, or any combination of counties;
- (2) Department;
- (3) Institution;
- (4) Board;
- (5) Commission;
- (6) District;
- (7) Council;
- (8) Bureau;

- (9) Office;
- (10) Governing authority;
- (11) Instrumentality of state or county government; or
- (12) Corporation or other establishment,

owned, operated, or managed by or on behalf of the State or any county, but does not include the nonadministrative functions of the courts of the State.

“Home” means a permanent residence and any secondary residences affirmatively identified by the covered public servant but does not include a work address or investment property.

“Organization” means an association or entity including a charitable, religious, or nonprofit organization; for-profit organization; or business entity, formed for a specific purpose.

“Protected personal information” includes:

- (1) A home address, directions to a home, photograph of a home that legibly displays the address or otherwise identifies the location, and any property ownership information;
- (2) Contact information, including but not limited to a home telephone number, cellular phone number, direct work telephone number, and personal electronic mail address;
- (3) A photograph of a vehicle that legibly displays the vehicle license plate number;
- (4) The names and locations of schools and day care facilities attended by the children of the covered public servant;
- (5) The identity of children of the covered public servant that are under the age of eighteen;
- (6) Voter registration information;
- (7) The contents of any application for absentee voter ballots;
- (8) The covered public servant’s name and residential address contained in property tax records; and
- (9) The name and address of the employer of a covered public servant’s family member.

**§ -2 Publication of public servants’ personal information; restrictions.**

Except as otherwise provided in section -6, upon receipt of a written request from a covered public servant, a government agency, person, or organization shall not make publicly available on the Internet the protected personal information of the covered public servant and their family. After receiving a written request, the government agency, person, or organization shall remove the protected personal information from the Internet within three business days by ensuring that the protected personal information is not made publicly available on any website, social media, or social network controlled by that government agency, person, or organization.

**§ -3 Written requests.** (a) Except as provided in subsection (b), a

written request pursuant to this chapter shall be valid if the covered public servant or representative of the covered public servant’s employer submits a request in writing directly to a person or organization; provided that the covered public servant has given written consent to the representative.

(b) A written request to a government agency shall only be valid if the request:

- (1) Is made by the executive or administrative head of the department where the covered public servant is or was employed; provided that in the case of the judiciary, the written request under this section shall be made by the administrative director of the courts, and in the

case of federal courts, the written request under this section shall be made by the clerk of court for the United States District Court for the District of Hawaii;

- (2) Expressly identifies the specific government record with the protected personal information that is publicly available on the Internet and includes, where applicable, the government agency's indexed document number;
  - (3) Requests the government agency to remove the record with the protected personal information from being publicly available on the Internet; and
  - (4) For any new or previously identified government record subject to this chapter, is made no more than once a month, and includes all the covered public servants of the subject department in a single request; provided that a written request may be submitted at any time under exigent circumstances based on a threat to the covered public servant or the covered public servant's family as determined by the subject department executive or administrative head submitting the request.
- (c) A written request shall be valid until:
- (1) The covered public servant provides the government agency, person, or organization with written permission to release the protected personal information; or
  - (2) The covered public servant's death.

**§ -4 Extension of time to respond to written request.** A government agency, person, or organization that receives a valid written request and requires additional time to comply with the written request may extend the deadline to comply with the written request. The extension shall be made by providing a written acknowledgement to the requestor within three business days. The extension of time to comply with the written request may be extended for up to an additional ten business days from the date the written acknowledgement is transmitted.

**§ -5 Civil remedies.** (a) If a person or organization violates this chapter, the covered public servant or their family member whose protected personal information is made public as a result of the violation may bring an action seeking injunctive or declaratory relief in the circuit court. If the court grants injunctive or declaratory relief, the person or organization responsible for the violation shall be required to pay the costs and reasonable attorney's fees of the covered public servant or their family member.

(b) If a government agency violates this chapter, the covered public servant or their family member whose protected personal information is made public as a result of the violation may bring an action seeking injunctive or declaratory relief in the circuit court. No costs or fees shall be awarded.

**§ -6 Exceptions.** This chapter shall not apply to:

- (1) Protected personal information that the covered public servant or their family member voluntarily publishes on the Internet after the effective date of this chapter;
- (2) Records pertaining to property presumed abandoned pursuant to chapter 523A, the Uniform Unclaimed Property Act;
- (3) Information subject to disclosure pursuant to a court order;
- (4) Filings made pursuant to chapter 490, the Uniform Commercial Code, and recorded judgments;

- (5) Copies of recorded instruments affecting title to real property or property tax records that contain protected personal information that are provided by the bureau of conveyances or another government agency to a title insurer as defined in section 431:20-102, underwritten title company as defined in section 431:20-102, licensed title insurance producer under article 9A of chapter 431, or title plant company that has requested to access the record in its ordinary course of business, or are provided by such organization to a government agency for government purposes;
- (6) Records a government agency provides to any other government entity; provided that the record shall not be made publicly available on the Internet;
- (7) Information that is relevant to and displayed as part of a news story, commentary, editorial, or other speech on a matter of public concern;
- (8) The furnishing of consumer reports by a consumer reporting agency protected by and subject to the Fair Credit Reporting Act, title 15 United States Code section 1681 et seq.;
- (9) The disclosure of nonpublic personal information protected by and subject to the Gramm-Leach-Bliley Act, title 15 United States Code section 6801 et seq. (Public Law 106-102);
- (10) The disclosure of information regulated by the Health Insurance Portability and Accountability Act, title 42 United States Code section 1320d et seq.;
- (11) The disclosure of information subject to the Driver's Privacy Protection Act, title 18 United States Code section 2721 et seq.; and
- (12) The publication of a notice, including a notice of an administrative hearing or appeal, that is required by law.

§ -7 **Rules.** Any government agency may adopt, amend, or repeal rules pursuant to chapter 91 as the agency deems necessary to implement this chapter.

§ -8 **Government records.** This chapter shall not be construed to alter rights to access government records under chapter 92F or as otherwise provided by law; provided that a government agency that receives a valid written request under this chapter shall not make protected personal information publicly available on the Internet when disclosing the government records.”

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

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. This Act shall take effect on October 1, 2024.

(Approved July 3, 2024.)