



The Judiciary, State of Hawai‘i

Testimony to the Senate Committee on Judiciary and Labor

The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair

Monday, March 16, 2015

9:30 a.m.

State Capitol, Conference Room 016

by

Susan Pang Gochros
Chief Staff Attorney and
Department Head, Intergovernmental and Community Relations

Bill No. and Title: House Bill No. 287, H.D. 1, Relating to the Uniform Information Practices Act.

Purpose: Broadens the category of government records in which a person may have a significant privacy interest under the Uniform Information Practices Act (UIPA) to include records, the disclosure of which would create a substantial and demonstrable risk of physical harm for an individual.

Judiciary's Position:

The Judiciary supports this measure which is part of the Judiciary's administrative package. The purpose of this bill is to allow for considerations of physical safety when balancing an individual's privacy interests and the public's right to know.

For purposes of government records disclosure under the UIPA, this bill expands the category of information in which a person has a significant privacy interest to include information, the disclosure of which would create a substantial and demonstrable risk of physical harm for an individual. Under this measure, such records would not have to be disclosed, if a person's privacy interest in the information based on safety considerations outweighs the public interest in disclosure.

Thank you for the opportunity to testify on this measure.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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March 16, 2015

The Honorable Gilbert S. C. Keith-Agaran, Chair
and Members
Committee on Judiciary and Labor
State Senate
Hawaii State Capitol, Room 016
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

SUBJECT: House Bill No. 287, HD1, Relating to the Uniform Information Practices Act

I am Gerald Kaneshiro, Captain of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 287, HD1, Relating to the Uniform Information Practices Act. This bill broadens the government records exemption to include records whose disclosure may result in physical harm, embarrassment, and/or inconvenience to individuals from the unauthorized use of their personal, identifiable information.

The HPD provides copies of police reports to the public upon request in accordance with the law. Personal information is redacted to prevent the unauthorized use of the information given. This provides additional protection to victims as well as persons suspected of committing a crime from possible physical harm, embarrassment, and/or inconvenience.

Thank you for the opportunity to testify.

Sincerely,

G. Kaneshiro For:

Gerald K. Kaneshiro, Captain
Records and Identification Division

APPROVED:

[Signature]
Louis M. Kealoha
Chief of Police



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SENATE COMMITTEE ON JUDICIARY AND LABOR
Hearing Scheduled 9:30 am, Monday, March 16, 2015, Conference Room 016
HB 287, HD1 RELATING TO THE UNIFORM PRACTICES ACT
TESTIMONY
Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Keith-Agaran, Vice-Chair Shimabukuro, and Committee Members:

The League of Women Voters of Hawaii supports HB 287, HD 1, which amends the UIPA to establish a significant privacy interest in government records whose disclosure would create a substantial and demonstrable risk of physical harm to an individual. Although we strongly opposed HB 287, the bill has been appropriately amended to address our concerns.

Thank you for the opportunity to submit testimony.



P.O. Box 3141
Honolulu, HI 96802
March 16, 2015

Senate Judiciary Committee
State Capitol
Honolulu, HI 96813

Re: House Bill 287, HD1

Chairman Keith-Agaran and Committee Members:

My name is Stirling Morita, and I am president of the Hawaii Chapter of the Society of Professional Journalists. I won't be able to join you this day, which happens to be Freedom of Information Day.

We oppose the amendment proposed in HB 287, HD1. We believe it would dramatically undermine the state Uniform Information Practices Act, which was intended to promote transparency and accountability. Looking at the testimony in favor of this bill, I would like to say this approach to resolve the problems that trigger its introduction is like killing a gnat with a ballistic missile.

Why are we inserting into a law that has worked well this broad privacy restriction?: "Information whose disclosure would create a substantial and demonstrable risk of physical harm to an individual."

Why when the issues at hand are home addresses and dates of birth?

There are myriad reasons to show a significant privacy interest in the law, and a balancing test is used to help protect the public interest.

Our fear is that there are many ramifications that could result if you pass this bill as is. There are probably untold public disclosure problems that could result.

For example, we could foresee the police department – given its stance on this bill and despite the fact that the law already designates significant privacy interest in criminal investigations – withholding any information about a victim. I could see the news media having to write and air stories that say the victim is a person (No mention of age, sex, what area they're from, what they were doing when they became the victim and other details essential for the public to know.) The names and addresses of victims aren't released by the police department to the news media.

The language in this bill is taken from a federal recordkeeping law and is not contained in the federal Freedom of Information Act. There are times that taking a portion of some other law without a counterbalancing effect can cripple public disclosure.

Chapter 92-F2 says: "This chapter shall be applied and construed to promote its underlying purposes and policies, which are to: (1) Promote the public interest in disclosure; (2) Provide for accurate, relevant, timely, and complete government records; (3) Enhance governmental accountability through a general policy of access to government records; (4) Make government accountable to individuals in the collection, use, and dissemination of information relating to them; and **(5) Balance the individual privacy interest and the public access interest, allowing access unless it would constitute a clearly unwarranted invasion of personal privacy.**

As a member of the committee that helped provide the foundation for the Uniform Information Practices Act, I believe HB 287, HD1, would cause problems for public disclosure.

We suggest to you that there is no need for such a broad exception to the Uniform Information Practices Act. But if you do find a need to address the so-called problems, we would suggest you be specific and not broad-based as in this bill.

Thank you for your time and attention.

A handwritten signature in black ink, appearing to read "Stirling Morita". The signature is fluid and cursive, with a large initial "S" and "M".

Stirling Morita
President
Hawaii Chapter SPJ

I would like to support this bill because of actions taken during the past 7 yrs, and the results there of. Where not only was my place of residence disclosed to clients, but also people I once called friends and personnel of my former employer ended up on my street to disclose/party over information about my life dating back to my teenage years. (Some accurate, some what appears to be here say/gossip) Where shouts of my spending habits, dating life, friends, etc. were items of commentary for all those who participated. With commentary of how they obtained the information dating back to inviting former friends, to going through the trash receptacle at work, where I had thrown my receipts in, and a former co-worker had pulled the items from, etc. (Something, I had complained about to the upper management of another manager doing, as he even followed me out, to show me the transactions/mini statement of the employee. And why they were going to “recreate” every item I had ever reported another party for. That this was their payback to me, and that because I valued my privacy, they were going to ensure that everyone knew where to come to vent at me. As mentioned during another bill for employers liability, where even a male who had entered my former employer’s establishment brandishing a machete, was heard on my street, to discuss the incident. Which while I am fairly positive he would never actually harm me, was brought to my neighborhood/street to recount the incident for the “police investigation” as to how “tough” I am. Which led to commentary from their side of “wait till she’s 70” or “I’ll hold her down while you punch her”.) Even recently, while I was out in my yard, a male shouted that the shirt I was wearing, was given to me by a former co-worker. (the male used the person’s full name)

I also hope that while looking at the laws in place to enforce the privacy and protection of every citizens rights, that you will also look into the means of enforcing those rights. For me specifically:

1. Also, while “Information whose disclosure would create a substantial and demonstrable risk of physical harm to an individual” I hope will change to “Information whose disclosure would create a substantial and demonstrable risk of physical and/or emotional harm to an individual. As we’re talking about “information” – which would have the potential to not only be physically harming – like in my case my physical residence disclosed to people, but also of an “emotional” harm. As information about my life is disclosed to people I don’t know, along with commentary of a purposely hurtful nature. (In my case, how everyone hated me, and for that reason wanted me to “move”/“quit”/etc.)
2. I was recently sent an email with the definition used by the police department when looking into “terroristic threatening” charges, and was informed that the party needs to be terrorized in order to press charges. (The second part was shouted out in my neighborhood, not directly from a police officer in uniform. Along with other commentary/shouts related to emails that I had sent to the police department only. Enforcing the “police family”/“co-op” parties that have been ongoing for 7+ yrs. With even shouts of “tell them you’re terrified, and they have to do something”, along with comments of “we damaged her once, we can do it again”)

Here is the definition of threat hope this helps:

§707-715 Terroristic threatening, defined. A person commits the offense of terroristic threatening if the person threatens, by word or conduct, to cause bodily injury to another person

or serious damage or harm to property, including the pets or livestock, of another or to commit a felony:

(1) With the intent to terrorize, or in reckless disregard of the risk of terrorizing, another person; or

(2) With intent to cause, or in reckless disregard of the risk of causing evacuation of a building, place of assembly, or facility of public transportation. [L 1972, c 9, pt of §1; am L 1979, c 184, §1(1); gen ch 1993; am L 2012, c 214, §1]

I hope to see this with 'annoyance' as being a form of terroristic threatening as well – as comments like “you can hear her bathing from here”, “that’s why you’re fat”, each time I open the refrigerator, “we’re counting” (each time you go to the restroom) or “I like your mom’s body”, etc. Are forms of harassment & to me, should be part of the terroristic threatening definition, especially when conducted daily, with mention of bringing more people over to “hear” you, yet nearly unenforceable even though combined with threats, like “damaged her once, we can do it again”, “we said if we want your dog dead, he’d be dead”, etc.

And just to file a police report, took 4 months for me –which while I filed it in person at the police department still have no police report number, as while I had made an appointment to speak with a Captain or higher, met with a Major, and he told me he didn’t have time to sit with me or go over the paperwork, and by the time I had completed the document was in another meeting and had to leave it with another officer. Not to mention, listen to comments of how they had spoken to a few people, and that they are denying it. (Which, to me is a given, who would admit to stomping on the roof at midnight, or any of the other absurd items done over the past 7 yrs. where they came here to say that “you’re hearing things”, “I wasn’t here, but now I am”, “we brought everybody”, etc. Which is why I provided date/time etc.)

3. The agency’s that are in the express business of enforcing the laws and regulations, and therefore in a position of power. As when I mentioned that my former employer conducted party’s and actions, which has encompassed my life there since, have been reenacted by other agency’s thereafter. For example, coming to my neighborhood to enact mock investigations or commentary of what I had submitted. (Usually bringing someone who has been here previously to harass me & conducted at odd hours – usually midnight to 3am. The last really unusual comment being “*my name*, I’m a federal police officer, and as such the state police have no jurisdiction” along with further commentary of “how long have you lived here”, followed by the night after I went to the police station to submit my report, had a male in my neighborhood mention “she came to file a police report today”. Other comments made directly to the police department have also found it’s way here...which, has fixed a few comments from ever being repeated again – so beneficial. Yet in other cases, comments from a female of “why isn’t she complaining about us doing it” – this being the mimic or “copy cat” style of each time I report an item to an office/agency, the “mock interview” in my neighborhood being conducted – which is supposed to prove, that I am delusional or mentally unstable, and that I’m actually suffering from some psychological issue where I’m paranoid or some such nonsense. Which seems they are trying to enforce by saying that my emails are incoherent and comments to my mental health have arisen, along with, “we thought you were lying” or “not serious” about wanting “justice”.)

Or in some cases told that they are currently understaffed and unable to take on any new cases due to “cut backs”. (I actually still have the email for the last one – and it was in regards to protecting privacy rights.)

I have to deal with this even to this day. (And according to them, for the rest of my life, because they will never have to go to jail as the jails and court rooms are over flooded – which considering the actions and results so far, seem to be accurate.) So, while this may be a change in only one sentence, I hope you will enforce it. And also, if possible broaden the law to include “emotional harm”. As in my case, the “harm” was conducted long term, and ongoing.