

JAN 18 1995

A BILL FOR AN ACT

RELATING TO UNIFORM INFORMATION PRACTICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII

RECEIVED
DEC INFO PRACTICES

'95 JAN 24 A8:40

1 SECTION 1. The Legislature finds that the public has a
2 legitimate interest in knowing whether governmental bodies such
3 as the Police Department and the Police Commission are
4 investigating and enforcing disciplinary processes.

5 The Legislature finds that the names of police officers
6 charged with a crime and sued civilly are disclosed.

7 The Legislature finds that adequate public disclosure
8 already exists from both the Police Department and the Police
9 Commission in order for the public to assess the role of its
10 governmental bodies and to spur public debate about whether the
11 Police Department's actions are sufficiently forceful.

12 The Legislature finds that identifying the individual names
13 of police officers who are disciplined has historically been
14 private and confidential.

15 The Legislature finds that personnel actions against police
16 officers are confidential as negotiated and made part of the
17 Collective Bargaining Agreement between the State of Hawaii, City

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2 and County of Honolulu, the Counties of Hawaii, Kauai, and Maui,
3 and the State of Hawaii Organization of Police Officers.

4 The Legislature finds that police officers have an
5 expectation of privacy in the disciplinary information contained
6 in their personnel records, and the disclosure of names and any
7 related identifying information of police officers who are
8 disciplined for job-related activity would be a clearly
9 unwarranted invasion of a police officer's right to privacy.

10 The Legislature finds that police officers, their families
11 and friends may face retaliation and physical and verbal threats
12 if their names are publicly disclosed for job-related
13 disciplinary actions that may be relatively minor infractions,
14 such as tardiness or weight gain.

15 The Legislature finds that police officers are highly
16 regulated and routinely disciplined and, as a result, may become
17 unfair media targets and that the safety of these officers may be
18 compromised by public erosion of confidence in their abilities to
19 perform their duties.

20 The purpose of this Act is to amend Section 92-14(b)(4) of
21 the Hawaii Revised Statutes to afford police personnel with the
22 protections they are entitled to under Article I, Section 6, of

1 the Hawaii State Constitution and to prevent the disclosure of
2 the names of administratively disciplined police officers and any
3 identifying information which clearly intrudes into the privacy
4 interests of police officers.

5 SECTION 2. Section 92F-14, Hawaii Revised Statutes, is
6 amended to read as follows:

7 §92F-14 Clearly unwarranted invasion of personal privacy.

8 (a) Disclosure of a government record shall not constitute a
9 clearly unwarranted invasion of personal privacy if the public
10 interest in disclosure outweighs the privacy interests of the
11 individual.

12 (b) The following are examples of information in which the
13 individual has a significant privacy interest:

14 (1) Information relating to medical, psychiatric, or
15 psychological history, diagnosis, condition, treatment,
16 or evaluation, other than directory information while
17 an individual is present at such facility;

18 (2) Information identifiable as part of an investigation
19 into a possible violation of criminal law, except to
20 the extent that disclosure is necessary to prosecute
21 the violation or to continue the investigation;

22 (3) Information relating to eligibility for social services

1 or welfare benefits or to the determination of benefit
2 levels;

3 (4) Information in an agency's personnel file, or
4 applications, nominations, recommendations, or
5 proposals for public employment or appointment to a
6 governmental position, except:

7 (A) Information disclosed under section 92F-12(a)(14);
8 and

9 (B) The following information related to employment
10 misconduct that results in an employee's
11 suspension or discharge:

12 (i) The name of the employee;

13 (ii) The nature of the employment related
14 misconduct;

15 (iii) The agency's summary of the allegations of
16 misconduct;

17 (iv) Findings of fact and conclusions of law; and

18 (v) The disciplinary action taken by the agency;

19 when the following has occurred: the highest non-

20 judicial grievance adjustment procedure timely

21 invoked by the employee or the employee's

22 representative has concluded; a written decision

1 sustaining the suspension or discharge has been
2 issued after this procedure; and thirty calendar
3 days have elapsed following the issuance of the
4 decision; provided that this subparagraph shall
5 not apply to [a] county police department
6 personnel [officer with respect to misconduct that
7 occurs while the officer is not acting in the
8 capacity of a police officer];

9 (5) Information relating to an individual's nongovernmental
10 employment history except as necessary to demonstrate
11 compliance with requirements for a particular
12 government position;

13 (6) Information describing an individual's finances,
14 income, assets, liabilities, net worth, bank balances,
15 financial history or activities, or credit worthiness;

16 (7) Information compiled as part of an inquiry into an
17 individual's fitness to be granted or to retain a
18 license, except:

19 (A) The record of any proceeding resulting in the
20 discipline of a licensee and the grounds for
21 discipline;

22 (B) Information on the current place of employment and

1 required insurance coverages of licensees; and
2 (C) The record of complaints including all
3 dispositions; and
4 (8) Information comprising a personal recommendation or
5 evaluation.

6 SECTION 3. Statutory material to be repealed is bracketed.
7 New statutory material is underscored.

8 SECTION 4. This Act shall take effect upon approval.

9 INTRODUCED BY: Ken Mauter

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