

(c) Against a public servant, including but not limited to an educational worker...." (emphasis added)

The phrase "including but not limited to" indicates that the provision is intended to be inclusive and not exclusive. The intent of that provision is to protect public servants, of which public school personnel is a subcategory. Therefore, your Committee amended the bill by deleting all references in the current statute to educational workers, since public school personnel are already included within the definition of "public servant."

Your Committee also amended the bill to clarify that the enhanced penalty only applies when a person commits the offense against a public servant, as defined in section 710-1000, Hawaii Revised Statutes, in response to acts or refusals to act which were within the scope of employment or official duties of the public servant. Thus, if the conduct of the defendant had no relationship to the public servant's employment or duties, the enhanced penalty would not apply even if the defendant's conduct occurred during normal business hours and on the premises of the public servant's workplace or over a public servant's telephone. By the same logic, if there was a relationship to the public servant's employment or duties, the enhanced penalty would apply even if the conduct occurred after normal business hours and away from the public servant's workplace.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 1250, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1250, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Grauly, Solomon and Reed.

SCRep. 1361 Judiciary on H.B. No. 1594

The purpose of this bill is to clarify the circumstances under which an agency may disclose, to another government agency, government records that are protected from public disclosure; to clarify that criminal history record information is not exempt from access by the individual to whom it pertains; and to clarify that the exceptions set forth in section 92F-13, Hawaii Revised Statutes, apply only to requests under part II of chapter 92F, and that the exemptions set forth in section 92F-22, apply only to requests under part III of chapter 92F.

Testimony in support of the bill was received by your Committee from representatives of the Office of Information Practices, the Department of Personnel Services, and the Prosecuting Attorney and the Department of Personnel of the City and County of Honolulu.

Your Committee finds that under current law, section 92F-19(a)(3) permits disclosure of a wide range of inter-agency confidential information when the disclosure is not in fact proper for the performance of the requesting agency's duties, is completely incompatible with the original purposes for which the information was collected, or is completely inconsistent with the conditions or reasonable expectations of use under which the individual provided the information to an agency. The bill, therefore, requires, as one of the several specified conditions authorizing inter-agency disclosure, that the disclosure be (1) reasonably proper for the performance of the requesting agency's duties and functions; and also (2) either (a) compatible with the purpose for which the information was collected or (b) consistent with the conditions or reasonable expectations of use under which the information was provided.

Further, the bill appropriately adds a provision to the current law authorizing an agency to disclose information to other agencies, other states, or the federal government for purposes of a civil or criminal law enforcement activity authorized by law when disclosure is pursuant to an agreement or a written request. The bill further authorizes, under appropriate restrictions and under certain circumstances, the disclosure of otherwise confidential information to a foreign government pursuant to an executive agreement, compact, treaty, or statute, and to the various county councils, or any committee or subcommittee thereof which has a legitimate need for the information.

Your Committee also finds that chapter 92F does not require an agency to disclose criminal history record information to the individual to whom it pertains. This appears to be in conflict with section 846-13, Hawaii Revised Statutes, which does permit an individual to review the individual's criminal history record information. Your Committee finds that the conflict should be eliminated so that individuals be permitted to review criminal history record information that pertains to them for the purpose of determining its accuracy and completeness.

Your Committee has amended the bill to include foreign law enforcement agencies as authorized to receive records and that requests for records may be made verbally under specified conditions. Your Committee has further amended the bill to authorize disclosure of records to the Department of Personnel Services or a County Personnel Department for designated purposes. Other nonsubstantive technical changes have been made for the purpose of clarity and style, including changing the ambiguous word "proper" to "necessary" on page 2, line 14.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1594 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1594, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Grauly, Solomon and Reed.

SCRep. 1362 (Majority) Ways and Means on H.B. No. 625

The purpose of this bill is to create the Aloha hall of merit for persons who have achieved national or international recognition for prominence in the inductee's field, or who have devoted themselves to the betterment of the State, embodied the concept of the Aloha spirit, provided extraordinary services to the State, and brought honor to the State.

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