A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

PART I

SECTION 1. The purpose of this part is to:

(1) Require the chief of each county police department to disclose to the legislature the identity of a police officer upon the suspension or discharge of the officer; and

(2) Amend the Uniform Information Practices Act to allow for the disclosure of employment misconduct information that results in the suspension of a county police officer.

SECTION 2. Section 52D-3.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) The report shall:

(1) Summarize the facts and the nature of the misconduct for each incident;"
Specify the disciplinary action imposed for each incident;

Identify any other incident in the annual report committed by the same police officer; [and]

State whether the highest nonjudicial grievance adjustment procedure timely invoked by the police officer or the police officer's representative has concluded:

(A) If the highest nonjudicial grievance adjustment procedure has concluded, the report shall state:

(i) Whether the incident concerns conduct punishable as a crime, and if so, describe the county police department's findings of fact and conclusions of law concerning the criminal conduct; and

(ii) Whether the county police department notified the respective county prosecuting attorney of the incident; or

(B) If the highest nonjudicial grievance adjustment procedure has not concluded, the report shall state the current stage of the nonjudicial
grievance adjustment procedure as of the end of
the reporting period[\textendash]; and

(5) Disclose the identity of the police officer upon the
police officer's suspension or discharge."

2. By amending subsection (d) to read:

"(d) The summary of facts provided in accordance with
subsection (b)(1) shall not be of such a nature so as to
disclose the identity of the individuals involved[\textendash], except as
required under subsection (b)(5)."

SECTION 3. Section 92F-14, Hawaii Revised Statutes, is
amended by amending subsection (b) to read as follows:

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

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

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

(3) Information relating to eligibility for social services or welfare benefits or to the determination of benefit levels;

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

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

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

(i) The name of the employee;

(ii) The nature of the employment related misconduct;

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

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

(v) The disciplinary action taken by the agency;
when the following has occurred: the highest nonjudicial grievance adjustment procedure timely invoked by the employee or the employee's representative has concluded; a written decision sustaining the suspension or discharge has been issued after this procedure; and thirty calendar days have elapsed following the issuance of the decision or, for decisions involving county police department officers, ninety days have elapsed following the issuance of the decision; provided that subparagraph (B) shall not apply to a county police department officer except in a case which results in the discharge or suspension of the officer;

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

(6) Information describing an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
(7) Information compiled as part of an inquiry into an individual's fitness to be granted or to retain a license, except:

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

(B) Information on the current place of employment and required insurance coverages of licensees; and

(C) The record of complaints including all dispositions;

(8) Information comprising a personal recommendation or evaluation;

(9) Social security numbers; and

(10) Information that if disclosed would create a substantial and demonstrable risk of physical harm to an individual."

PART II

SECTION 4. The legislature, by Act 220, Session Laws of Hawaii 2018, enacted chapter 139, Hawaii Revised Statutes, to create a law enforcement standards board for the certification
of law enforcement officers, including county police officers; state public safety officers; and employees with police powers at the department of transportation, department of land and natural resources, department of the attorney general, and department of taxation.

The board is responsible for establishing minimum standards for employment as a law enforcement officer and certifying persons qualified as law enforcement officers. It is also responsible for establishing minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for the training of law enforcement officers. It must consult and cooperate with the counties, state agencies, other governmental agencies, universities and colleges, and other institutions, concerning the development of law enforcement officer training schools and programs. The board is also responsible for regulating and enforcing the certification requirements of law enforcement officers.

These are important and substantial duties that require evaluation to ensure that existing legal obligations are not compromised. Before imposing new standards impacting the employment of law enforcement officers, the board must consider
collective bargaining and other employment requirements. At a minimum, the board must evaluate how probationary periods; training requirements, including the types of training, the number of hours of training, and the availability of training facilities; and the issuance, suspension, and revocation of certification will impact obligations already established by law.

Such evaluation should include consideration of the study conducted by the legislative reference bureau pursuant to Act 124, Session Laws of Hawaii 2018, and any additional study necessary to determine the impact of uniform standards, certification, and training for all law enforcement. The board has determined that it will need significantly more time and funds to accomplish its mission.

The purpose of this part is to:

(1) Clarify board membership requirements and increase the membership of the board to facilitate participation and representation;

(2) Enable the board to research the impact of uniform standards, certification, and training on existing legal requirements;
(3) Require the board to make recommendations to the legislature on statewide policies and procedures relating to law enforcement officers; and

(4) Establish new deadlines for the completion of the board's significant responsibilities.

SECTION 5. Section 139-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) There is established the law enforcement standards board within the department of the attorney general for administrative purposes only. The purpose of the board shall be to provide programs and standards for training and certification of law enforcement officers. The law enforcement standards board shall consist of [the following voting members:] nine ex officio non-voting individuals[, two] or their designees, five voting law enforcement officers, and four voting members of the public[.]; provided that:

(1) The nine ex officio members of the board shall consist of the:

(A) Attorney general[,] or the attorney general's designee;
(B) Director of public safety[†] or the director's
designee;

(C) Director of transportation or the director's
designee;

(D) Chairperson of the board of land and natural
resources or the chairperson's designee;

(E) Director of taxation or the director's designee;

and

(F) Chiefs of police of the four counties[†] or the
designees of each of the chiefs of police;

(2) The [two] five law enforcement officers shall [each]
be persons other than the chiefs of police or
designees described in paragraph (1)(F) and shall
consist of:

(A) One county law enforcement officer from each of
the four counties; and

(B) One state law enforcement officer.

Each law enforcement officer described in this
paragraph shall have at least ten years of experience
as a law enforcement officer [and] shall be appointed
by the governor[†], and, notwithstanding section 26-
34, shall serve without the advice and consent of the senate; and

(3) The four public members shall consist of one member from each of the four counties, each of whom shall be appointed by the governor, and, notwithstanding section 26-34, shall serve without the advice and consent of the senate. At least two of the four members of the public holding a position on the board at any given time shall:

(A) Possess a master's or doctorate degree related to criminal justice;

(B) Possess a law degree and have experience:

   (i) Practicing in Hawaii as a deputy attorney general, a deputy prosecutor, a deputy public defender, or a private criminal defense attorney; or

   (ii) Litigating constitutional law issues in Hawaii;

(C) Be a recognized expert in the field of criminal justice, policing, or security; or
(D) Have work experience in a law enforcement capacity[,] provided that experience in a county police department shall not itself be sufficient to qualify under this paragraph].

(b) The law enforcement officers and the members of the public on the board shall serve for a term of [three] four years, provided that the initial terms shall be staggered, as determined by the governor."

SECTION 6. Section 139-3, Hawaii Revised Statutes, is amended to read as follows:

"[§139-3[¶] Powers and duties of the board. The board shall:

(1) Adopt rules in accordance with chapter 91 to implement this chapter;

(2) Establish minimum standards for employment as a law enforcement officer and to certify persons to be qualified as law enforcement officers;

(3) Establish criteria and standards in which a person who has been denied certification, whose certification has been revoked by the board, or whose certification has lapsed may reapply for certification;"
(4) Establish minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for schools operated by or for the State or a county for the specific purpose of training law enforcement officers;

(5) Consult and cooperate with the counties, agencies of the State, other governmental agencies, universities, colleges, and other institutions concerning the development of law enforcement officer training schools and programs of criminal justice instruction;

(6) Employ, subject to chapter 76, an administrator and other persons necessary to carry out its duties under this chapter;

(7) Investigate when there is reason to believe that a law enforcement officer does not meet the minimum standards for employment, and in so doing, may:

(A) Subpoena persons, books, records, or documents;

(B) Require answers in writing under oath to questions asked by the board; and
(C) Take or cause to be taken depositions as needed in investigations, hearings, and other proceedings, related to the investigation;

(8) Establish and require participation in continuing education programs for law enforcement officers;

(9) Have the authority to charge and collect fees for applications for certification as a law enforcement officer; [and]

(10) Establish procedures and criteria for the revocation of certification issued by the board[;]

(11) Make recommendations to the legislature on statewide policies and procedures relating to law enforcement officers;

(12) Consider studies relevant to the board's objectives, including the study that examines consolidating the law enforcement activities and responsibilities of various state divisions and agencies under a single, centralized state enforcement division or agency, conducted pursuant to Act 124, Session Laws of Hawaii 2018; and
(13) Conduct its own study to evaluate how to efficiently and effectively satisfy its duties in accordance with law."

SECTION 7. Section 139-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows: "(a) No person may be appointed as a law enforcement officer after June 30, 2023, unless the person:

(1) Has satisfactorily completed a basic program of law enforcement training approved by the board; and

(2) Possesses other qualifications as prescribed by the board for the employment of law enforcement officers, including minimum age, education, physical and mental standards, citizenship, good conduct, moral character, and experience.

(b) Beginning on July 1, 2023, the board shall issue a certification to an applicant who meets the requirements of subsection (a) or who has satisfactorily completed a program or course of instruction in another jurisdiction that the board deems to be equivalent in content and quality to the requirements of subsection (a)."
SECTION 8. Section 139-7, Hawaii Revised Statutes, is amended to read as follows:

"[§139-7] Employment of law enforcement officers. (a) No person shall be appointed or employed as a law enforcement officer by any county police department, the department of public safety, the department of transportation, the department of land and natural resources, the department of taxation, or the department of the attorney general, after June 30, 2023, unless the person possesses a valid certification issued by the board pursuant to section 139-6(b).

(b) This section shall not apply to a person [employed]:

(1) Employed on a probationary basis, except that employment on a probationary basis may not exceed the period authorized for probationary employment as determined by the board[; or]

(2) Who entered into employment with the applicable county police department or state department before July 1, 2023, and whose termination of employment would violate any valid collective bargaining agreement."

SECTION 9. Act 220, Session Laws of Hawaii 2018, is amended by amending section 6 to read as follows:
"SECTION 6. This Act shall take effect on July 1, 2018[† provided that the law enforcement standards board established under this Act shall finalize its standards and certification process by July 1, 2019]."

PART III

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.
Report Title:
Police Officers; Disciplinary Action; Public Records; Disclosure; Law Enforcement Standards Board

Description:
Requires county police departments to disclose to the Legislature the identity of an officer upon an officer's suspension or discharge. Amends the Uniform Information Practices Act to allow for public access to information about suspended officers. Clarifies and increases the membership and certain powers and duties of the law enforcement standards board. Establishes deadlines for the completion of board responsibilities. (Proposed CD1)

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