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# A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 PART I

2 SECTION 1. The purpose of this part is to:

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

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

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

13 1. By amending subsection (b) to read:

14 "(b) The report shall:

15 (1) Summarize the facts and the nature of the misconduct  
16 for each incident;

- 1 (2) Specify the disciplinary action imposed for each  
2 incident;
- 3 (3) Identify any other incident in the annual report  
4 committed by the same police officer; ~~and~~
- 5 (4) State whether the highest nonjudicial grievance  
6 adjustment procedure timely invoked by the police  
7 officer or the police officer's representative has  
8 concluded:
- 9 (A) If the highest nonjudicial grievance adjustment  
10 procedure has concluded, the report shall state:
- 11 (i) Whether the incident concerns conduct  
12 punishable as a crime, and if so, describe  
13 the county police department's findings of  
14 fact and conclusions of law concerning the  
15 criminal conduct; and
- 16 (ii) Whether the county police department  
17 notified the respective county prosecuting  
18 attorney of the incident; or
- 19 (B) If the highest nonjudicial grievance adjustment  
20 procedure has not concluded, the report shall  
21 state the current stage of the nonjudicial

1 grievance adjustment procedure as of the end of  
2 the reporting period[~~-~~]; and

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

5 2. By amending subsection (d) to read:

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

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

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

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

19 (2) Information identifiable as part of an investigation  
20 into a possible violation of criminal law, except to

1 the extent that disclosure is necessary to prosecute  
2 the violation or to continue the investigation;

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

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

10 (A) Information disclosed under section  
11 92F-12(a)(14); and

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

15 (i) The name of the employee;

16 (ii) The nature of the employment related  
17 misconduct;

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

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

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

1 when the following has occurred: the highest  
2 nonjudicial grievance adjustment procedure timely  
3 invoked by the employee or the employee's  
4 representative has concluded; a written decision  
5 sustaining the suspension or discharge has been issued  
6 after this procedure; and thirty calendar days have  
7 elapsed following the issuance of the decision or, for  
8 decisions involving county police department officers,  
9 ninety days have elapsed following the issuance of the  
10 decision; provided that subparagraph (B) shall not  
11 apply to a county police department officer except in  
12 a case which results in the discharge or suspension of  
13 the officer;

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

18 (6) Information describing an individual's finances,  
19 income, assets, liabilities, net worth, bank balances,  
20 financial history or activities, or creditworthiness;

- 1 (7) Information compiled as part of an inquiry into an
- 2 individual's fitness to be granted or to retain a
- 3 license, except:
- 4 (A) The record of any proceeding resulting in the
- 5 discipline of a licensee and the grounds for
- 6 discipline;
- 7 (B) Information on the current place of employment
- 8 and required insurance coverages of licensees;
- 9 and
- 10 (C) The record of complaints including all
- 11 dispositions;
- 12 (8) Information comprising a personal recommendation or
- 13 evaluation;
- 14 (9) Social security numbers; and
- 15 (10) Information that if disclosed would create a
- 16 substantial and demonstrable risk of physical harm to
- 17 an individual."

PART II

18 SECTION 4. The legislature, by Act 220, Session Laws of  
19 Hawaii 2018, enacted chapter 139, Hawaii Revised Statutes, to  
20 create a law enforcement standards board for the certification  
21

1 of law enforcement officers, including county police officers;  
2 state public safety officers; and employees with police powers  
3 at the department of transportation, department of land and  
4 natural resources, department of the attorney general, and  
5 department of taxation.

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

18 These are important and substantial duties that require  
19 evaluation to ensure that existing legal obligations are not  
20 compromised. Before imposing new standards impacting the  
21 employment of law enforcement officers, the board must consider

1 collective bargaining and other employment requirements. At a  
2 minimum, the board must evaluate how probationary periods;  
3 training requirements, including the types of training, the  
4 number of hours of training, and the availability of training  
5 facilities; and the issuance, suspension, and revocation of  
6 certification will impact obligations already established by  
7 law.

8       Such evaluation should include consideration of the study  
9 conducted by the legislative reference bureau pursuant to Act  
10 124, Session Laws of Hawaii 2018, and any additional study  
11 necessary to determine the impact of uniform standards,  
12 certification, and training for all law enforcement. The board  
13 has determined that it will need significantly more time and  
14 funds to accomplish its mission.

15       The purpose of this part is to:

- 16       (1) Clarify board membership requirements and increase the  
17 membership of the board to facilitate participation  
18 and representation;
- 19       (2) Enable the board to research the impact of uniform  
20 standards, certification, and training on existing  
21 legal requirements;



1 (3) Require the board to make recommendations to the  
2 legislature on statewide policies and procedures  
3 relating to law enforcement officers; and

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

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

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

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

19 (A) Attorney general~~[-]~~ or the attorney general's  
20 designee;

- 1 (B) Director of public safety[+] or the director's
- 2 designee;
- 3 (C) Director of transportation or the director's
- 4 designee;
- 5 (D) Chairperson of the board of land and natural
- 6 resources or the chairperson's designee;
- 7 (E) Director of taxation or the director's designee;
- 8 and
- 9 (F) Chiefs of police of the four counties[+] or the
- 10 designees of each of the chiefs of police;
- 11 (2) The [~~two~~] five law enforcement officers shall [~~each~~]
- 12 be persons other than the chiefs of police or
- 13 designees described in paragraph (1)(F) and shall
- 14 consist of:
- 15 (A) One county law enforcement officer from each of
- 16 the four counties; and
- 17 (B) One state law enforcement officer.
- 18 Each law enforcement officer described in this
- 19 paragraph shall have at least ten years of experience
- 20 as a law enforcement officer [~~and~~], shall be appointed
- 21 by the governor[+], and, notwithstanding section 26-

1           34, shall serve without the advice and consent of the  
2           senate; and

3           (3) The [~~four~~] public members [~~of the public~~] shall  
4           consist of one member [~~of the public~~] from each of the  
5           four counties [~~and~~], each of whom shall be appointed  
6           by the governor[~~-~~], and, notwithstanding section 26-  
7           34, shall serve without the advice and consent of the  
8           senate. At least two of the four members of the  
9           public holding a position on the board at any given  
10          time shall:

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

13          (B) Possess a law degree and have experience:

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

18               (ii) Litigating constitutional law issues in  
19               Hawaii;

20          (C) Be a recognized expert in the field of criminal  
21          justice, policing, or security; or

1 (D) Have work experience in a law enforcement  
2 capacity[; ~~provided that experience in a county~~  
3 ~~police department shall not itself be sufficient~~  
4 ~~to qualify under this paragraph].~~

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

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

11 "[~~§~~§139-3[~~§~~] **Powers and duties of the board.** The board  
12 shall:

- 13 (1) Adopt rules in accordance with chapter 91 to implement  
14 this chapter;
- 15 (2) Establish minimum standards for employment as a law  
16 enforcement officer and to certify persons to be  
17 qualified as law enforcement officers;
- 18 (3) Establish criteria and standards in which a person who  
19 has been denied certification, whose certification has  
20 been revoked by the board, or whose certification has  
21 lapsed may reapply for certification;

- 1 (4) Establish minimum criminal justice curriculum  
2 requirements for basic, specialized, and in-service  
3 courses and programs for schools operated by or for  
4 the State or a county for the specific purpose of  
5 training law enforcement officers;
- 6 (5) Consult and cooperate with the counties, agencies of  
7 the State, other governmental agencies, universities,  
8 colleges, and other institutions concerning the  
9 development of law enforcement officer training  
10 schools and programs of criminal justice instruction;
- 11 (6) Employ, subject to chapter 76, an administrator and  
12 other persons necessary to carry out its duties under  
13 this chapter;
- 14 (7) Investigate when there is reason to believe that a law  
15 enforcement officer does not meet the minimum  
16 standards for employment, and in so doing, may:
- 17 (A) Subpoena persons, books, records, or documents;  
18 (B) Require answers in writing under oath to  
19 questions asked by the board; and

1 (C) Take or cause to be taken depositions as needed  
2 in investigations, hearings, and other  
3 proceedings,  
4 related to the investigation;

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

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

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

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

15 (12) Consider studies relevant to the board's objectives,  
16 including the study that examines consolidating the  
17 law enforcement activities and responsibilities of  
18 various state divisions and agencies under a single,  
19 centralized state enforcement division or agency,  
20 conducted pursuant to Act 124, Session Laws of Hawaii  
21 2018; and

1        (13) Conduct its own study to evaluate how to efficiently  
2                    and effectively satisfy its duties in accordance with  
3                    law."

4            SECTION 7. Section 139-6, Hawaii Revised Statutes, is  
5 amended by amending subsections (a) and (b) to read as follows:

6            "(a) No person may be appointed as a law enforcement  
7 officer after June 30, 2023, unless the person:

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

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

15           (b) [~~The~~] Beginning on July 1, 2023, the board shall issue  
16 a certification to an applicant who meets the requirements of  
17 subsection (a) or who has satisfactorily completed a program or  
18 course of instruction in another jurisdiction that the board  
19 deems to be equivalent in content and quality to the  
20 requirements of subsection (a)."

1 SECTION 8. Section 139-7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~§~~139-7~~§~~] **Employment of law enforcement officers.** (a)

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

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

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

16 (2) Who entered into employment with the applicable county  
17 police department or state department before July 1,  
18 2023, and whose termination of employment would  
19 violate any valid collective bargaining agreement."

20 SECTION 9. Act 220, Session Laws of Hawaii 2018, is  
21 amended by amending section 6 to read as follows:



1       "SECTION 6. This Act shall take effect on July 1, 2018[~~+~~  
2 ~~provided that the law enforcement standards board established~~  
3 ~~under this Act shall finalize its standards and certification~~  
4 ~~process by July 1, 2019]."~~

5                               PART III

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

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

11       SECTION 12. This Act shall take effect upon its approval.

# H.B. NO.

285  
H.D. 1  
S.D. 2  
C.D. 1  
PROPOSED

**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)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

HB285 CD1 HMS 2020-2090 PROPOSED

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