

PROPOSED

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1 SECTION 1. The purpose of this Act is to transfer the law
2 enforcement and security functions of the department of public
3 safety to the department of the attorney general.

4 SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended
5 by adding a new section to be appropriately designated and to
6 read as follows:

7 "§28- Law enforcement personnel, powers and authority.

8 (a) The attorney general may appoint employees who shall have
9 all of the powers of police officers; provided that the attorney
10 general may establish and assign the employees to positions or
11 categories of positions that may have differing titles, specific
12 duties, and limitations upon the exercise of police powers.

13 (b) The attorney general may administer a law enforcement
14 program that may include the following:

15 (1) Preserve the public peace, detect and arrest offenders
16 against the law, protect the rights of persons and
17 property, enforce and prevent violations of all laws
18 and administrative rules of the State as the attorney



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1 provided by law, prosecute cases involving violations of state
2 laws and cases involving agreements, uniform laws, or other
3 matters which are enforceable in the courts of the State. The
4 attorney general shall be charged with such other duties and
5 have such authority as heretofore provided by common law or
6 statute.

7 There shall be within the department of the attorney
8 general a commission to be known as the commission to promote
9 uniform legislation which shall sit in an advisory capacity to
10 the attorney general and to the legislature on matters relating
11 to the promotion of uniform legislation. The composition of the
12 commission shall be as heretofore provided for the commission to
13 promote uniform legislation existing immediately prior to
14 November 25, 1959. The members of the commission shall be
15 nominated, and by and with the advice and consent of the Senate,
16 appointed by the governor for terms of four years each, provided
17 that each member shall hold office until the member's successor
18 is appointed and qualified; and provided also that the
19 provisions of section 26-34, limiting the appointment of members
20 of boards and commissions to two terms and the duration of
21 membership to not more than eight consecutive years shall not be
22 applicable.

1 The functions and authority heretofore exercised by the
2 attorney general, high sheriff, and the commission to promote
3 uniform legislation as heretofore constituted are transferred to
4 the department of the attorney general established by this
5 chapter.

6 Effective July 1, 2007, the functions and authority
7 heretofore exercised by the director of public safety and the
8 department of public safety pursuant to section 26-14.6(d)(2)
9 and (3), (e), (f), (g), (j), (k), and (m) relating to law
10 enforcement and security shall be transferred to the department
11 of the attorney general."

12 SECTION 4. Section 26-14.6, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§26-14.6 Department of [~~public safety~~] corrections. (a)
15 The department of [~~public safety~~] corrections shall be headed by
16 a single executive to be known as the director of [~~public~~
17 ~~safety~~] corrections.

18 (b) The department of [~~public safety~~] corrections shall be
19 responsible for the formulation and implementation of state
20 policies and objectives for correctional [~~security, law~~
21 ~~enforcement, and public safety~~] programs and functions, and for
22 the administration and maintenance of all public or private

1 correctional facilities and services [~~for the service of~~
2 ~~process, and for the security of state buildings~~].

3 (c) Effective July 1, 1990, the Hawaii paroling authority
4 and the crime victim compensation commission are placed within
5 the department of public safety for administrative purposes
6 only. Effective July 1, 2006, the Hawaii paroling authority and
7 the crime victims compensation commission are placed within the
8 department of corrections for administrative purposes.

9 (d) Effective July 1, 1990, the functions and authority
10 heretofore exercised by:

- 11 (1) The department of corrections relating to adult
12 corrections and the intake service centers;
- 13 (2) The judiciary relating to the sheriff's office and
14 judiciary security personnel; and
- 15 (3) The department of the attorney general relating to
16 state law enforcement officers and narcotics
17 enforcement investigators with the narcotics
18 enforcement division,

19 shall be transferred to the department of public safety.

20 (e) Effective July 1, 1990, the functions and authority
21 heretofore exercised by the department of health pursuant to
22 chapters 329 and 329C, with the exception of sections 329-2,

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1 329-3, and 329-4(3) to (8), shall be transferred to the
2 department of public safety.

3 (f) Effective July 1, 1990, the functions, authority, and
4 obligations, together with the limitations imposed thereon and
5 the privileges and immunities conferred thereby, exercised by a
6 "sheriff", "sheriffs", a "sheriff's deputy", "sheriff's
7 deputies", a "deputy sheriff", "deputy sheriffs", or a "deputy",
8 under sections 21-8, 47-18, 88-51, 105-4, 134-11, 134-51,
9 183D-11, 187A-14, 201G-55, 201G-74, 231-25, 281-108, 281-111,
10 286-52, 286-52.5, 321-1, 322-6, 325-9, 325-80, 353-11, 383-71,
11 438-5, 445-37, 482E-4, 485-6, 501-42, 501-171, 501-218, 521-78,
12 578-4, 584-6, 587-33, 603-29, 604-6.2, 606-14, 607-2, 607-4,
13 607-8, 633-8, 634-11, 634-12, 634-21, 634-22, 651-33, 651-37,
14 651-51, 654-2, 655-2, 657-13, 660-16, 666-11, 666-21, 803-23,
15 803-34, 803-35, 804-14, 804-18, 804-41, 805-1, 806-71, and
16 832-23 shall be exercised to the same extent by the department
17 of public safety.

18 (g) Effective January 1, 1993, the functions and authority
19 heretofore exercised by the attorney general and the department
20 of the attorney general relating to the executive security
21 officers shall be transferred to the department of public
22 safety.

1 (h) Effective July 1, 1999, the functions and authority
2 heretofore exercised by the director of public safety and the
3 department of public safety relating to after hours security
4 contracts at department of education facilities, except for the
5 security functions being performed by employees of the public
6 library system as well as the contractual security services for
7 the libraries, shall be transferred to the department of
8 education.

9 (i) Effective January 1, 1993, the functions and authority
10 heretofore exercised by the director of health and the
11 department of health relating to uniformed security employees
12 and security contracts at various state hospitals throughout the
13 State shall be transferred to the department of public safety.
14 Effective July 1, 2005, the functions, authority, and employee
15 positions of the department of public safety relating to
16 uniformed security employees and security contracts at health
17 facilities that are under the operation, management, and control
18 of the Hawaii health systems corporation shall be transferred to
19 the Hawaii health systems corporation.

20 (j) Effective January 1, 1993, the functions and authority
21 heretofore exercised by the director of human services and the
22 department of human services relating to contractual security

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1 guard services shall be transferred to the department of public
2 safety.

3 (k) Effective July 1, 1994, the functions and authority
4 heretofore exercised by the adjutant general relating to
5 security for national guard and state civil defense facilities
6 in the Diamond Head complex, for after work hours, shall be
7 transferred to the department of public safety.

8 (l) Effective July 1, 2002, the functions and authority
9 heretofore exercised by the director of public safety and the
10 department of public safety relating to after hours security
11 contracts at department of education facilities, including all
12 security functions being performed by employees of the public
13 library system, as well as the contractual security services for
14 the libraries, shall be transferred to the department of
15 education and the public library system as appropriate.

16 (m) The department shall coordinate drug abatement efforts
17 of the communities with the State, counties, and community
18 agencies, by:

- 19 (1) Facilitating sharing of resources and information;
- 20 (2) Providing technical support for community mobilization
- 21 groups;

- 1 (3) Establishing community action plans for drug
- 2 education, awareness, and prevention;
- 3 (4) Facilitating problem solving in the delivery of law
- 4 enforcement services by state and local agencies to
- 5 the community.

6 The department shall submit an annual report to the legislature
 7 twenty days before the convening of each regular session, on the
 8 activities of the department relating to this mandate.

9 (n) Effective July 1, 2007, the functions and authority
 10 heretofore exercised by the director of public safety and the
 11 department of public safety pursuant to subsections (d)(2) and
 12 (3), (e), (f), (g), (j), (k), and (m) relating to law
 13 enforcement and security shall be transferred to the department
 14 of the attorney general and the other functions and authority
 15 shall be exercised by the director of corrections and the
 16 department of corrections."

17 SECTION 5. Section 329-59, Hawaii Revised Statutes, is
 18 amended by amending subsection (a) to read as follows:

19 "(a) There is established within the state treasury the
 20 controlled substance registration revolving fund. The fund
 21 shall be expended at the discretion of the [~~director of public~~
 22 ~~safety~~] attorney general for the purpose of:

1 (1) Offsetting the cost of the electronic prescription
2 accountability system, the registration and control of
3 the manufacture, distribution, prescription, and
4 dispensation of controlled substances and regulated
5 chemicals listed under section 329-61, within the
6 State and the processing and issuance of a patient
7 registry identification certificate designated under
8 part IX; and

9 (2) Funding positions authorized by the legislature by
10 law."

11 SECTION 6. Section 329-69, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§329-69 Subpoena powers. Subject to the privileges which
14 witnesses have in the courts of this State, the [~~director of~~
15 ~~public safety or the director's~~] attorney general or the
16 attorney general's designated subordinate is empowered pursuant
17 to and in accordance with the rules of court to subpoena
18 witnesses, examine them under oath and require the production of
19 books, papers, documents or objects where the [~~director of~~
20 ~~public safety~~] attorney general reasonably believes the
21 information sought is relevant or material to enforcement of
22 this chapter. Books, papers, documents, or objects obtained

1 pursuant to exercise of these powers may be retained by the
 2 [~~director of public safety or the director's~~] attorney general
 3 or the attorney general's designate for forty-eight hours for
 4 the purpose of examination, audit, copying, testing, or
 5 photographing. Upon application by the [~~director of public~~
 6 ~~safety,~~] attorney general, obedience to the subpoenas may be
 7 enforced by the circuit court in the county where the person
 8 subpoenaed resides or is found in the same manner as a subpoena
 9 issued by the clerk of a circuit court."

10 SECTION 7. Section 353C-2, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "§353C-2 Director of [~~public safety~~] corrections; powers
 13 and duties. The director of [~~public safety~~] corrections shall
 14 administer the [~~public safety~~] corrections programs of the
 15 department of [~~public safety~~] corrections and shall be
 16 responsible for the formulation and implementation of state
 17 goals and objectives for correctional [~~and law enforcement~~]
 18 programs, including ensuring that correctional facilities and
 19 correctional services meet the present and future needs of
 20 persons committed to the correctional facilities. In the
 21 administration of these programs, the director may:

- 1 ~~[(1) Preserve the public peace, prevent crime, detect and~~
- 2 ~~arrest offenders against the law, protect the rights~~
- 3 ~~of persons and property, and enforce and prevent~~
- 4 ~~violation of all laws and administrative rules of the~~
- 5 ~~State as the director deems to be necessary or~~
- 6 ~~desirable or upon request, to assist other state~~
- 7 ~~officers or agencies that have primary administrative~~
- 8 ~~responsibility over specific subject matters or~~
- 9 ~~programs;~~
- 10 ~~(2) Train, equip, maintain, and supervise the force of~~
- 11 ~~public safety officers, including law enforcement and~~
- 12 ~~correctional personnel, and other employees of the~~
- 13 ~~department;~~
- 14 ~~(3) Serve process both in civil and criminal proceedings;]~~
- 15 (1) Train, equip, maintain, and supervise the force of
- 16 correctional personnel and other employees of the
- 17 department;
- 18 ~~[(4)]~~ (2) Perform other duties as may be required by law;
- 19 ~~[(5)]~~ (3) Adopt, pursuant to chapter 91, rules that are
- 20 necessary or desirable for the administration of
- 21 ~~[public safety]~~ corrections programs; and

1 ~~[(6)]~~ (4) Enter into contracts in behalf of the department
2 and take all actions deemed necessary and appropriate
3 for the proper and efficient administration of the
4 department."

5 SECTION 8. Section 353C-4, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§353C-4 Appointment of employees with police powers and**
8 **other employees.** (a) The director may appoint employees to be
9 ~~[public safety]~~ corrections officers who shall have all of the
10 powers of police officers; provided that the director may
11 establish and assign the employees to positions or categories of
12 positions that may have differing titles, specific duties, and
13 limitations upon the exercise of police powers.

14 (b) The director may appoint other personnel necessary to
15 carry out the functions of the department.

16 ~~[(c) The state law enforcement officers transferred from~~
17 ~~the department of the attorney general by Act 211, Session Laws~~
18 ~~of Hawaii 1989, shall be responsible for public safety in state~~
19 ~~buildings as well as the personal protection of government~~
20 ~~officials and employees while in the conduct of their duties.~~
21 ~~The duties of state law enforcement officers shall also include~~
22 ~~the service of process, including subpoenas, warrants, and other~~



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1 ~~legal documents, and other duties as the director may assign,~~
2 ~~including the performance of duties of other public safety~~
3 ~~officers within the department. State law enforcement officers~~
4 ~~shall have all of the powers of police officers, including the~~
5 ~~power of arrest.] "~~

6 SECTION 9. Sections 329-1, 329-4, 329-11, 329-18, 329-20,
7 329-23, 329-31, 329-32, 329-33, 329-34, 329-35, 329-36, 329-37,
8 329-51, 329-52, 329-54, 329-55, 329-57, 329-58, 329-63, 329-64,
9 329-66, 329-67, 329-68, 329-121, and 329-123, Hawaii Revised
10 Statutes, are amended by substituting the term "department of
11 the attorney general" or like term, wherever the term
12 "department of public safety" appears, as the context requires.

13 SECTION 10. Sections 26-14.6, 334-74, 351-62.5, 351-70,
14 353-1, 353-10, 353-10.5, 353-15, 353-16.5, 353-22.6, 353-22.8,
15 353-63, 353-63.5, 353-65, 353-72, 353-101, 353C-1, 353C-2,
16 353F-2, 353F-4, 354D-2, 355D-4, 355D-5, and 706-605.5, Hawaii
17 Revised Statutes, are amended by substituting the term "director
18 of corrections" or like term, wherever the term "director of
19 public safety" appears, as the context requires.

20 SECTION 11. Sections 23-12, 26-4, 26-14.6, 321-193.5,
21 350-1.1, 351-11, 352-10, 353-1, 353-8, 356-10, 353-10.5,
22 353-11.5, 353-13.4, 353-16.37, 353C-1, 353C-2, 353C-5, 353C-6,



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1 353E-1, 353E-2, 353F-1, 353F-6, 353G-2, 353G-3, 353G-4, 353G-5,
2 353G-6, 353G-13, 353G-14, 353G-16, 354D-1, 354D-2, 356-10,
3 706-605.5, and 801D-4, Hawaii Revised Statutes, are amended by
4 substituting the term "department of corrections" or like term,
5 wherever the term "department of public safety" appears as the
6 context requires.

7 SECTION 12. All the rights, powers, functions, duties,
8 resources, positions within their respective authorized position
9 ceilings, and personnel of the department of public safety set
10 forth below shall be transferred to the department of the
11 attorney general effective July 1, 2007:

- 12 (1) Narcotics enforcement program (PSD 502);
- 13 (2) Sheriff's program (PSD 503);
- 14 (3) Position numbers 102218, 100060, 18100, 43407, 43439,
15 43443, 43397, 43761, and 49862; and
- 16 (4) Law enforcement and security functions and their
17 related personnel, as determined by the mutual
18 agreement of the director of public safety and the
19 attorney general or as determined by the governor.

20 SECTION 13. All contracts, agreements, leases, rules, or
21 other documents executed or entered into by or on behalf of the
22 department of public safety pursuant to the provisions of the



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1 Hawaii Revised Statutes, which are made applicable to the
2 department of the attorney general by this Act, shall remain in
3 full force and effect. Effective July 1, 2007, every reference
4 to the department of public safety or the director of public
5 safety therein shall be construed as a reference to the
6 department of the attorney general or the attorney general as
7 appropriate.

8 SECTION 14. All appropriations, resources, records,
9 equipment, machines, files, supplies, contracts, books, papers,
10 documents, and other personal property made, used, acquired, or
11 held by the department of public safety relating to the
12 functions transferred to the department of the attorney general
13 by this Act, shall be transferred with the functions to which
14 they relate.

15 SECTION 15. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 16. This Act shall take effect on the date that is
18 twelve months after the date the chief election officer issues a
19 certificate of results under section 11-156, certifying that the
20 State Constitution has been amended to require the election of
21 the attorney general.

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Report Title:

Law Enforcement

Description:

Transfers the law enforcement and security functions of the department of public safety to the department of attorney general subject to the approval of a constitutional amendment to elect the attorney general. (SD1)

