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A BILL FOR AN ACT

RELATING TO SHERIFFS.

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

1           SECTION 1. Chapter 28, Hawaii Revised Statutes, is amended  
2 by adding a new part to be appropriately designated and to read  
3 as follows:

4                                               **"PART . SHERIFFS**

5           **§28-A Office of sheriff; created.** There shall be  
6 established within the department, a division to be known as the  
7 office of the sheriff, consisting of the sheriff, first deputy  
8 sheriff, and any additional deputies as the exigencies of the  
9 public service may require. Sheriffs shall be subject to the  
10 supervision and control of the attorney general.

11           **§28-B Definitions.** For the purpose of this part:

12           "Office" means the office of the sheriff established  
13 pursuant to section 28-A.

14           **§28-C Appointment.** The attorney general may appoint and  
15 commission and, at the attorney general's pleasure, remove the  
16 sheriff and any deputy sheriff.

17           The sheriff and deputy sheriffs shall be appointed without  
18 regard to chapter 76, but shall be entitled to participate in



1 any employee benefit program plan or privilege generally  
2 available to employees of the State.

3       **§28-D Duties.** The sheriff and the sheriff's deputies  
4 shall be responsible for service of process and execution of any  
5 order of the courts of this State, for the security of state  
6 buildings, and perform any other duties specified and directed  
7 by the attorney general. In connection with the duties of  
8 office, the sheriff and the sheriff's deputies shall have all of  
9 the powers of a police officer, including the power of arrest.

10       **§28-E Process.** Any process of any court of record shall  
11 be addressed to the sheriff or the sheriff's deputy, or to a  
12 chief of police, except as may be otherwise provided by law or  
13 rule of court. The sheriff or the sheriff's deputy may execute  
14 the process according to its terms, and shall not be liable for  
15 any damages resulting from its execution.

16       **§28-F Sheriff of Kalawao county.** No provision of this  
17 part shall apply to the sheriff of the county of Kalawao, except  
18 those charging the office with the service of process and  
19 execution of any order of court."

20       SECTION 2. Section 26-7, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§26-7 Department of the attorney general. (a) The  
2 department of the attorney general shall be headed by a single  
3 executive to be known as the attorney general.

4           (b) The department shall administer and render state legal  
5 services, including furnishing of written legal opinions to the  
6 governor, legislature, and such state departments and officers  
7 as the governor may direct; represent the State in all civil  
8 actions in which the State is a party; approve as to legality  
9 and form all documents relating to the acquisition of any land  
10 or interest in lands by the State; and, unless otherwise  
11 provided by law, prosecute cases involving violations of state  
12 laws and cases involving agreements, uniform laws, or other  
13 matters which are enforceable in the courts of the State. The  
14 attorney general shall be charged with such other duties and  
15 have such authority as heretofore provided by common law or  
16 statute.

17           (c) There shall be within the department of the attorney  
18 general a commission to be known as the commission to promote  
19 uniform legislation which shall sit in an advisory capacity to  
20 the attorney general and to the legislature on matters relating  
21 to the promotion of uniform legislation. The composition of the  
22 commission shall be as heretofore provided for the commission to



1 promote uniform legislation existing immediately prior to  
2 November 25, 1959. The members of the commission shall be  
3 nominated, and by and with the advice and consent of the senate,  
4 appointed by the governor for terms of four years each, provided  
5 that each member shall hold office until the member's successor  
6 is appointed and qualified; and provided also that the  
7 provisions of section 26-34, limiting the appointment of members  
8 of boards and commissions to two terms and the duration of  
9 membership to not more than eight consecutive years shall not be  
10 applicable.

11 (d) The functions and authority heretofore exercised by  
12 the attorney general, high sheriff, and the commission to  
13 promote uniform legislation as heretofore constituted are  
14 transferred to the department of the attorney general  
15 established by this chapter.

16 (e) Effective January 1, 2013, the functions, authority,  
17 and obligations, together with the limitations imposed thereon  
18 and the privileges and immunities conferred thereby, exercised  
19 by the department of public safety relating to the office of the  
20 sheriff, including the service of process, execution of court  
21 orders, and provision of security for state buildings shall be  
22 transferred to the department of the attorney general."



1 SECTION 3. Section 26-14.6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "(a) The department of public safety shall be headed by a  
4 single executive to be known as the director of public safety.

5 (b) The department of public safety shall be responsible  
6 for the formulation and implementation of state policies and  
7 objectives for correctional, security, law enforcement, and  
8 public safety programs and functions, for the administration and  
9 maintenance of all public or private correctional facilities and  
10 services [~~for the service of process, and for the security of~~  
11 ~~state buildings~~].

12 (c) Effective July 1, 1990, the Hawaii paroling authority  
13 and the crime victim compensation commission are placed within  
14 the department of public safety for administrative purposes  
15 only.

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

18 (1) The department of corrections relating to adult  
19 corrections and the intake service centers;

20 (2) The judiciary relating to the [~~sheriff's office and~~  
21 judiciary security personnel; and



1           (3) The department of the attorney general relating to  
2           state law enforcement officers and narcotics  
3           enforcement investigators with the narcotics  
4           enforcement division,  
5 shall be transferred to the department of public safety.

6           (e) Effective July 1, 1990, the functions and authority  
7 heretofore exercised by the department of health pursuant to  
8 chapters 329 and 329C, with the exception of sections 329-2,  
9 329-3, and 329-4(3) to (8), shall be transferred to the  
10 department of public safety.

11           ~~[(f) Effective July 1, 1990, the functions, authority,~~  
12 ~~and obligations, together with the limitations imposed thereon~~  
13 ~~and the privileges and immunities conferred thereby, exercised~~  
14 ~~by a "sheriff", "sheriffs", a "sheriff's deputy", "sheriff's~~  
15 ~~deputies", a "deputy sheriff", "deputy sheriffs", or a "deputy",~~  
16 ~~under sections 21-8, 47-18, 105-4, 134-51, 183D-11, 187A-14,~~  
17 ~~231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9,~~  
18 ~~353-11, 356D-54, 356D-94, 383-71, 438-5, 445-37, 482E-4, 485A-~~  
19 ~~202, 501-42, 501-171, 501-218, 521-78, 578-4, 584-6, 587-33,~~  
20 ~~603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8, 634-11,~~  
21 ~~634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2, 655-2,~~  
22 ~~657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35, 804-14,~~



1 ~~804-18, 804-41, 805-1, 806-71, and 832-23 shall be exercised to~~  
2 ~~the same extent by the department of public safety.~~

3 ~~(g) Effective January 1, 1993, the functions and authority~~  
4 ~~heretofore exercised by the attorney general and the department~~  
5 ~~of the attorney general relating to the executive security~~  
6 ~~officers shall be transferred to the department of public~~  
7 ~~safety.~~

8 ~~(h)]~~ (f) Effective July 1, 1999, the functions and  
9 authority heretofore exercised by the director of public safety  
10 and the department of public safety relating to after hours  
11 security contracts at department of education facilities, except  
12 for the security functions being performed by employees of the  
13 public library system as well as the contractual security  
14 services for the libraries, shall be transferred to the  
15 department of education.

16 ~~(i)]~~ (g) Effective January 1, 1993, the functions and  
17 authority heretofore exercised by the director of health and the  
18 department of health relating to uniformed security employees  
19 and security contracts at various state hospitals throughout the  
20 State shall be transferred to the department of public safety.  
21 Effective July 1, 2005, the functions, authority, and employee  
22 positions of the department of public safety relating to



1 uniformed security employees and security contracts at health  
2 facilities that are under the operation, management, and control  
3 of the Hawaii health systems corporation shall be transferred to  
4 the Hawaii health systems corporation.

5       ~~(j)~~ (h) Effective January 1, 1993, the functions and  
6 authority heretofore exercised by the director of human services  
7 and the department of human services relating to contractual  
8 security guard services shall be transferred to the department  
9 of public safety.

10       ~~(k)~~ (i) Effective July 1, 1994, the functions and  
11 authority heretofore exercised by the adjutant general relating  
12 to security for national guard and state civil defense  
13 facilities in the Diamond Head complex, for after work hours,  
14 shall be transferred to the department of public safety.

15       ~~(l)~~ (j) Effective July 1, 2002, the functions and  
16 authority heretofore exercised by the director of public safety  
17 and the department of public safety relating to after hours  
18 security contracts at department of education facilities,  
19 including all security functions being performed by employees of  
20 the public library system, as well as the contractual security  
21 services for the libraries, shall be transferred to the





1 department of education and the public library system as  
2 appropriate."

3 SECTION 4. Section 386-181, Hawaii Revised Statutes, is  
4 amended by amending the definition of "sheriffs' chaplain" in  
5 subsection (a) to read as follows:

6 "Sheriffs' chaplain" means a member of an authorized  
7 chaplaincy program of the department of [~~public safety~~] the  
8 attorney general, who performs functions similar to a police  
9 chaplain in a voluntary and unpaid capacity for the [~~sheriff~~  
10 ~~division.~~] office of the sheriff."

11 SECTION 5. All rights, powers, functions, and duties of  
12 the department of public safety relating to the office of the  
13 sheriff are transferred to the department of the attorney  
14 general.

15 All officers and employees whose functions are transferred  
16 by this Act shall be transferred with their functions and shall  
17 continue to perform their regular duties upon their transfer,  
18 subject to the state personnel laws and this Act.

19 No officer or employee of the State having tenure shall  
20 suffer any loss of salary, seniority, prior service credit,  
21 vacation, sick leave, or other employee benefit or privilege as  
22 a consequence of this Act, and such officer or employee may be



1 transferred or appointed to a civil service position without the  
2 necessity of examination; provided that the officer or employee  
3 possesses the minimum qualifications for the position to which  
4 transferred or appointed; and provided that subsequent changes  
5 in status may be made pursuant to applicable civil service and  
6 compensation laws.

7 An officer or employee of the State who does not have  
8 tenure and who may be transferred or appointed to a civil  
9 service position as a consequence of this Act shall become a  
10 civil service employee without the loss of salary, seniority,  
11 prior service credit, vacation, sick leave, or other employee  
12 benefits or privileges and without the necessity of examination;  
13 provided that such officer or employee possesses the minimum  
14 qualifications for the position to which transferred or  
15 appointed.

16 If an office or position held by an officer or employee  
17 having tenure is abolished, the officer or employee shall not  
18 thereby be separated from public employment, but shall remain in  
19 the employment of the State with the same pay and classification  
20 and shall be transferred to some other office or position for  
21 which the officer or employee is eligible under the personnel



1 laws of the State as determined by the head of the department or  
2 the governor.

3 SECTION 6. All appropriations, records, equipment,  
4 machines, files, supplies, contracts, books, papers, documents,  
5 maps, and other personal property heretofore made, used,  
6 acquired, or held by the department of public safety relating to  
7 the functions transferred to the department of the attorney  
8 general shall be transferred with the functions to which they  
9 relate.

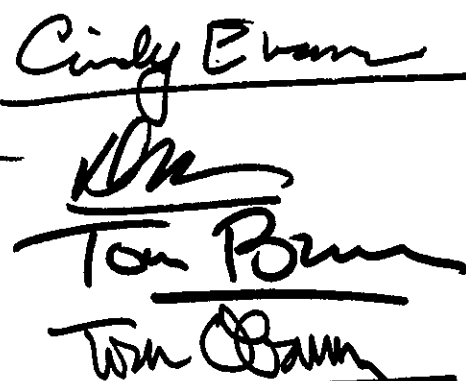
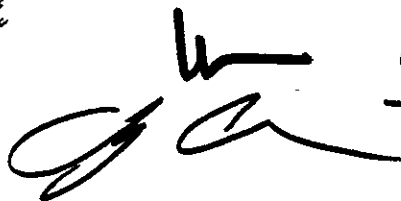
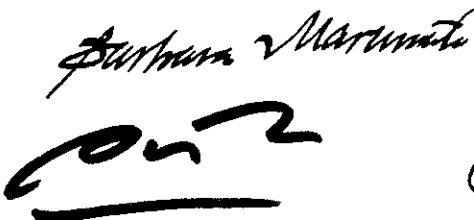

10 SECTION 7. In codifying the new sections added by section  
11 1 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14 SECTION 8. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 9. This Act shall take effect on July 1, 2012.

17

INTRODUCED BY:



# H.B. NO. 2086

**Report Title:**

Sheriffs; Department of Safety; Attorney General; Transfer

**Description:**

Establishes the office of the sheriff within the department of the attorney general. Transfers the department of public safety's duties relating to the office of the sheriff, including the service of process, execution of court orders, and provision of security to state buildings to the department of the attorney general.

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

