

JAN 22 2016

A BILL FOR AN ACT

RELATING TO THE LAW ENFORCEMENT OFFICER INDEPENDENT REVIEW BOARD.

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 . LAW ENFORCEMENT OFFICER INDEPENDENT REVIEW BOARD

5 §28-A Definitions. As used in this part:

6 "Board" means the law enforcement officer independent
7 review board established by section 28-B.

8 "Law enforcement agency" means any county police
9 department, the department of public safety, and any state or
10 county public body that employs law enforcement officers.

11 "Law enforcement officer" means a sheriff, deputy sheriff,
12 police officer, enforcement officer within the department of
13 land and natural resources conservation and resources
14 enforcement program, enforcement officer within the department
15 of transportation harbors division, and any other employee of a



1 state or county public body who carries a badge and firearm and
2 has powers of arrest.

3 §28-B Law enforcement officer independent review board;
4 established. (a) There is established the law enforcement
5 officer independent review board within the department of the
6 attorney general for administrative purposes. The board shall
7 be responsible for reviewing investigative reports submitted
8 pursuant to section 28-C after a death while in custody of a law
9 enforcement agency or a shooting involving a law enforcement
10 officer where an individual is injured.

11 (b) The board shall consist of seven members as follows:

- 12 (1) One deputy attorney general, to be appointed by the
13 attorney general;
- 14 (2) One retired justice or judge or magistrate of a state
15 or federal court in the State;
- 16 (3) One former prosecuting attorney or assistant
17 prosecuting attorney who has served in that capacity
18 for at least ten years;
- 19 (4) One former chief of police, former sheriff, former
20 chief deputy chief of police, or former chief deputy
21 sheriff;



1 (5) One professor or researcher, affiliated with an
2 institution of higher education in Hawaii, who has
3 expertise in the field of criminal law or criminal
4 justice; and

5 (6) Two community members; provided that the community
6 members shall not have a law enforcement or criminal
7 justice background.

8 (c) Unless otherwise provided, the members of the board
9 shall be appointed by the governor in accordance with section
10 26-34.

11 (d) The members of the board shall serve without
12 compensation but shall be reimbursed for expenses, including
13 travel expenses, incurred in the performance of their duties.

14 §28-C Review of deaths while in custody or use of
15 excessive force by a law enforcement officer. (a) Each law
16 enforcement agency in the State shall have a written policy
17 regarding the handling of deaths while in custody of a law
18 enforcement agency or shootings involving a law enforcement
19 officer where an individual is injured.

20 (b) In the event of a death in custody or a shooting
21 involving a law enforcement officer where an individual is



1 injured, each law enforcement agency shall be responsible for
2 its internal investigation of the law enforcement officer
3 involved in the incident.

4 (c) An independent review board investigator, who shall be
5 located within the attorney general's office, shall:

6 (1) Be empowered to work with or investigate cooperatively
7 with the law enforcement agency involved in the
8 internal investigation of a law enforcement officer
9 involved in a death in custody or a shooting where an
10 individual is injured, pursuant to subsection (b);

11 (2) Review the final disposition of the law enforcement
12 agency's internal investigation; and

13 (3) Report to the board with the investigator's findings
14 and recommendations.

15 (d) When the board receives a report from an independent
16 review board investigator pursuant to subsection (c), the board
17 shall review the report and evidence to determine if the report
18 addresses all aspects of the death while in custody or the
19 shooting that resulted in injury covered in the report. The
20 board may request more information, clarification, or testimony



1 from the independent review board investigator who prepared the
2 report, as needed.

3 (e) Once the board has finished the review of any report
4 submitted pursuant to subsection (c), the board shall make
5 recommendations to the attorney general and the prosecuting
6 attorney of the county in which the death in custody or shooting
7 that resulted in injury occurred. The board shall forward the
8 independent review board investigator's report to the law
9 enforcement officer or agency responsible for disciplining the
10 law enforcement officer involved.

11 (f) After the board has finished the board's review of any
12 report submitted pursuant to subsection (c), the attorney
13 general shall release the report and any accompanying written
14 files, unless otherwise prohibited by law."

15 SECTION 2. Section 712A-16, Hawaii Revised Statutes, is
16 amended by amending subsection (4) to read as follows:

17 "(4) There is established in the department of the
18 attorney general a revolving fund to be known as the criminal
19 forfeiture fund, hereinafter referred to as the "fund" in which
20 shall be deposited one-half of the proceeds of a forfeiture and
21 any penalties paid pursuant to section 712A-10(6). All moneys



1 in the fund shall be expended by the attorney general and are
2 [~~hereby~~] appropriated for the following purposes:

3 (a) The payment of any expenses necessary to seize,
4 detain, appraise, inventory, safeguard, maintain,
5 advertise, or sell property seized, detained, or
6 forfeited pursuant to this chapter or of any other
7 necessary expenses incident to the seizure, detention,
8 or forfeiture of such property and such contract
9 services and payments to reimburse any federal, state,
10 or county agency for any expenditures made to perform
11 the foregoing functions;

12 (b) The payment of awards for information or assistance
13 leading to a civil or criminal proceeding;

14 (c) The payment of supplemental sums to state and county
15 agencies for law enforcement purposes;

16 (d) The payment of expenses arising in connection with
17 programs for training and education of law enforcement
18 officers; [~~and~~]

19 (e) The payment of expenses arising in connection with
20 enforcement pursuant to the drug nuisance abatement
21 unit in the department of the attorney general [~~-~~]; and



1 (f) The payment of expenses arising in connection with the
2 law enforcement officer independent review board and
3 independent review board investigators in the
4 department of the attorney general."

5 SECTION 3. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2016-2017 for
8 the establishment of the law enforcement officer independent
9 review board and expenses arising in connection with the board.

10 The sum appropriated shall be expended by the department of
11 the attorney general for the purposes of this Act.

12 SECTION 4. There is appropriated out of the civil
13 forfeiture fund the sum of \$ or so much thereof as may
14 be necessary for fiscal year 2016-2017 for the establishment of
15 the law enforcement officer independent review board and
16 expenses arising in connection with the board.

17 The sum appropriated shall be expended by the department of
18 the attorney general for the purposes of this Act.

19 SECTION 5. In codifying the new sections added by section
20 1 of this Act, the revisor of statutes shall substitute



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1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2016;
6 provided that either the sum appropriated by section 3 of this
7 Act or the sum appropriated by section 4 of this Act, or a
8 combination of both, shall serve as the source of funding for
9 the establishment of the law enforcement officer independent
10 review board and expenses arising in connection with the board.

11

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S.B. NO. 2196

Report Title:

Law Enforcement Officer Independent Review Board; Establishment;
Law Enforcement Officer; Law Enforcement Agency; Department of
the Attorney General; Appropriation

Description:

Establishes the law enforcement officer independent review board
within the department of the attorney general to investigate
deaths while in law enforcement custody and shootings involving
a law enforcement officer where an individual is injured.
Appropriates funds.

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not legislation or evidence of legislative intent.*

