
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 "Officer-involved death" means a death of an individual
4 that results directly from an act or omission of a law
5 enforcement officer while the law enforcement officer is on duty
6 or while the law enforcement officer is off duty but performing
7 activities that are within the scope of the officer's law
8 enforcement duties.

9 **§28-B Law enforcement officer independent review board;**
10 **established.** (a) There is established a law enforcement
11 officer independent review board that is placed within the
12 department of the attorney general for administrative purposes
13 only. The board shall be responsible for reviewing criminal
14 investigations of incidents of officer-involved death conducted
15 by law enforcement agencies and issuing recommendations to the
16 prosecuting attorney of the county in which the incident
17 occurred.

18 (b) The board shall consist of seven members as follows:
19 (1) One deputy attorney general;
20 (2) One former prosecuting attorney or deputy prosecuting
21 attorney who served in that capacity with the



- 1 department of the prosecuting attorney for the city
2 and county of Honolulu;
- 3 (3) One former prosecuting attorney or deputy prosecuting
4 attorney who served in that capacity with the
5 department of the prosecuting attorney for the county
6 of Maui;
- 7 (4) One former prosecuting attorney or deputy prosecuting
8 attorney who served in that capacity with the office
9 of the prosecuting attorney for Hawaii county;
- 10 (5) One former prosecuting attorney or deputy prosecuting
11 attorney who served in that capacity with the office
12 of the prosecuting attorney for the county of Kauai;
- 13 (6) One retired justice or judge of a state court in the
14 State to be appointed by the governor without regard
15 to the requirements of section 26-34; and
- 16 (7) One former chief of police, former sheriff, former
17 chief deputy chief of police, or former chief deputy
18 sheriff to be appointed by the governor without regard
19 to the requirements of section 26-34.



1 (c) Each member of the board shall have at least five
2 years' experience investigating, prosecuting, or presiding over
3 criminal cases involving death.

4 (d) Unless otherwise provided, the members of the board
5 shall be appointed by the attorney general.

6 (e) The members of the board shall serve without
7 compensation for terms specified by the appointing authority,
8 but shall be reimbursed for expenses, including travel expenses,
9 incurred in the performance of their duties.

10 (f) Notwithstanding any law to the contrary, no member
11 shall be liable in any civil action founded upon a statute or
12 the case law of this State, for damage, injury, or loss caused
13 by or resulting from the member's performance of failure to
14 perform any duty that is required or authorized to be performed
15 by a person holding the position to which the member was
16 appointed, unless the member acted with a malicious or improper
17 purpose, except when the plaintiff in a civil action is the
18 State.

19 §28-C Review of incidents of officer-involved death. (a)
20 Each law enforcement agency in the State shall have a written



1 policy regarding the investigation of incidents of officer-
2 involved death.

3 (b) In the event of any incident of officer-involved
4 death, each law enforcement agency shall be responsible for
5 conducting a criminal investigation of the law enforcement
6 officer or officers involved in the incident.

7 (c) Each law enforcement agency conducting the criminal
8 investigation of the officer-involved death shall disclose to
9 the board the final disposition of the law enforcement agency's
10 criminal investigation and all related reports, documents, and
11 information for the purposes of the board's review.

12 (d) Once the board receives the final disposition of the
13 law enforcement agency's criminal investigation and all related
14 reports, documents, and information pursuant to subsection (c),
15 the board shall review all matters submitted to evaluate the
16 fairness of the criminal investigation and to determine whether,
17 in the board's opinion, criminal prosecution or further
18 investigation may be warranted.

19 (e) Each law enforcement agency of the State and all of
20 its counties shall cooperate with and assist the board in the



1 performance of its duties, except that the board shall not have
2 access to physical evidence.

3 (f) The board shall expeditiously make recommendations to
4 the prosecuting attorney of the county in which the officer-
5 involved death occurred, however, the prosecuting attorney is
6 not required to wait for the recommendation before making a
7 determination to prosecute or decline prosecution. The board's
8 recommendations shall consist of the board's determination that
9 the prosecuting attorney should (1) prosecute, (2) decline
10 prosecution, or (3) conduct further investigation. The board's
11 recommendations shall not be binding upon the prosecuting
12 attorney and shall have no effect on any determination of
13 probable cause that may be made, at any time.

14 (g) Subject to subsection (h), all matters submitted to
15 the board pursuant to subsection (c) and all proceedings and
16 recommendations of the board shall be confidential. All
17 records, documents, and information in the possession of the
18 board or maintained by the board shall not be subject to
19 discovery or disclosure in any civil or criminal proceedings or
20 to a request for disclosure pursuant to chapters 92 and 92F.
21 The scope of this subsection shall be limited solely to the



1 proceedings and recommendations of the board and any records,
2 documents, and information in the board's possession.

3 (h) Once the board has issued the board's recommendations
4 pursuant to subsection (f) and any criminal prosecution or
5 proceedings in the State related to the officer-involved death
6 have been adjudicated, the board shall release the board's
7 recommendations and any accompanying reports, documents, and
8 information, unless otherwise prohibited by law.

9 (i) Nothing in this part shall be construed to create a
10 private right of action."

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

13 "(4) There is established in the department of the
14 attorney general a revolving fund to be known as the criminal
15 forfeiture fund, hereinafter referred to as the "fund" in which
16 shall be deposited one-half of the proceeds of a forfeiture and
17 any penalties paid pursuant to section 712A-10(6). All moneys
18 in the fund shall be expended by the attorney general and are
19 [hereby] appropriated for the following purposes:

20 (a) The payment of any expenses necessary to seize,
21 detain, appraise, inventory, safeguard, maintain,



- 1 advertise, or sell property seized, detained, or
2 forfeited pursuant to this chapter or of any other
3 necessary expenses incident to the seizure, detention,
4 or forfeiture of such property and such contract
5 services and payments to reimburse any federal, state,
6 or county agency for any expenditures made to perform
7 the foregoing functions;
- 8 (b) The payment of awards for information or assistance
9 leading to a civil or criminal proceeding;
- 10 (c) The payment of supplemental sums to state and county
11 agencies for law enforcement purposes;
- 12 (d) The payment of expenses arising in connection with
13 programs for training and education of law enforcement
14 officers; [~~and~~]
- 15 (e) The payment of expenses arising in connection with
16 enforcement pursuant to the drug nuisance abatement
17 unit in the department of the attorney general [~~-~~]; and
- 18 (f) The payment of expenses arising in connection with the
19 law enforcement officer independent review board in
20 the department of the attorney general."



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

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

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

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

15 SECTION 5. In codifying the new sections added by section
16 1 of this Act, the revisor of statutes shall substitute
17 appropriate section numbers for the letters used in designating
18 the new sections in this Act.

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on July 1, 2076;
2 provided that either the sum appropriated by section 3 of this
3 Act or the sum appropriated by section 4 of this Act, or a
4 combination of both, shall serve as the source of funding for
5 the establishment of the law enforcement officer independent
6 review board and expenses arising in connection with the board.



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
incidents of officer-involved death. Appropriates funds.
(SB2196 HD1)

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

