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



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

7 **§28-B Law enforcement officer independent review board;**
8 **established.** (a) There is established a law enforcement
9 officer independent review board that is placed within the
10 department of the attorney general for administrative purposes
11 only. The board shall be responsible for reviewing criminal
12 investigations of incidents of officer-involved death or serious
13 bodily injury conducted by law enforcement agencies and issuing
14 recommendations to the prosecuting attorney of the county in
15 which the incident occurred.

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



1 (3) One former prosecuting attorney or deputy prosecuting
2 attorney who served in that capacity with the
3 department of the prosecuting attorney for the county
4 of Maui;

5 (4) One former prosecuting attorney or deputy prosecuting
6 attorney who served in that capacity with the office
7 of the prosecuting attorney for Hawaii county;

8 (5) One former prosecuting attorney or deputy prosecuting
9 attorney who served in that capacity with the office
10 of the prosecuting attorney for the county of Kauai;

11 (6) One retired justice or judge of a state court in the
12 State to be appointed by the governor without regard
13 to the requirements of section 26-34; and

14 (7) One former chief of police, former sheriff, former
15 chief deputy chief of police, or former chief deputy
16 sheriff to be appointed by the governor without regard
17 to the requirements of section 26-34.

18 (c) Each member of the board shall have at least five
19 years' experience investigating, prosecuting, or presiding over
20 criminal cases involving death or serious bodily injury.



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

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

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

16 **§28-C Review of incidents of officer-involved death or**
17 **serious bodily injury.** (a) Each law enforcement agency in the
18 State shall have a written policy regarding the investigation of
19 incidents of officer-involved death or serious bodily injury.

20 (b) In the event of any incident of officer-involved death
21 or serious bodily injury, each law enforcement agency shall be



1 responsible for conducting a criminal investigation of the law
2 enforcement officer or officers involved in the incident.

3 (c) Each law enforcement agency conducting the criminal
4 investigation of the officer-involved death or serious bodily
5 injury shall disclose to the board the final disposition of the
6 law enforcement agency's criminal investigation and all related
7 reports, documents, and information for the purposes of the
8 board's review.

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

16 (e) Each law enforcement agency of the State and all of
17 its counties shall cooperate with and assist the board in the
18 performance of its duties.

19 (f) Upon completing its review of all matters submitted
20 pursuant to subsection (c), the board shall make recommendations
21 to the prosecuting attorney of the county in which the officer-



1 involved death or serious bodily injury occurred. The board's
2 recommendations shall consist of the board's determination that
3 the prosecuting attorney should (1) prosecute, (2) decline
4 prosecution, or (3) conduct further investigation. The board's
5 recommendations shall not be binding upon the prosecuting
6 attorney and shall have no effect on any determination of
7 probable cause that may be made, at any time.

8 (g) Subject to subsection (h), all matters submitted to
9 the board pursuant to subsection (c) and all proceedings and
10 recommendations of the board shall be confidential and shall not
11 be disclosable pursuant to chapters 92 and 92F.

12 (h) Once the board has issued the board's recommendations
13 pursuant to subsection (f) and any criminal prosecution or
14 proceedings in the State related to the officer-involved death
15 or serious bodily injury have been adjudicated, the board shall
16 release the board's recommendations and any accompanying
17 reports, documents, and information, unless otherwise prohibited
18 by law.

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



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

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

10 (a) The payment of any expenses necessary to seize,
11 detain, appraise, inventory, safeguard, maintain,
12 advertise, or sell property seized, detained, or
13 forfeited pursuant to this chapter or of any other
14 necessary expenses incident to the seizure, detention,
15 or forfeiture of such property and such contract
16 services and payments to reimburse any federal, state,
17 or county agency for any expenditures made to perform
18 the foregoing functions;

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



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

3 (d) The payment of expenses arising in connection with
4 programs for training and education of law enforcement
5 officers; [and]

6 (e) The payment of expenses arising in connection with
7 enforcement pursuant to the drug nuisance abatement
8 unit in the department of the attorney general[-]; and

9 (f) The payment of expenses arising in connection with the
10 law enforcement officer independent review board in
11 the department of the attorney general."

12 SECTION 3. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2016-2017 for
15 the establishment of the law enforcement officer independent
16 review board and 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 4. There is appropriated out of the criminal
20 forfeiture fund the sum of \$ or so much thereof as may
21 be necessary for fiscal year 2016-2017 for the establishment of



1 the law enforcement officer independent review board and
2 expenses arising in connection with the board.

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

5 SECTION 5. In codifying the new sections added by section
6 1 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 SECTION 6. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

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

17



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 or serious bodily injury.
Appropriates funds. (SD1)

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not legislation or evidence of legislative intent.*

