
A BILL FOR AN ACT

RELATING TO PUBLIC REAL PROPERTY.

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

1 PART I

2 SECTION 1. The purpose of this part is to provide for the
3 removal from state real property of debris deposited by
4 occupants of illegal encampments.

5 More specifically, this part requires the department of
6 accounting and general services to establish a temporary program
7 for removal of debris and litter from state real property after
8 the departure of homeless persons who had illegally camped or
9 lodged there. The program applies to state real property under
10 the control and management of the department of accounting and
11 general services and other real property of state agencies,
12 including the judiciary, that choose to participate in the
13 program.

14 The legislature intends that the temporary program take a
15 consolidated approach to cleaning state real property after the
16 departure of homeless persons. At present, many different state
17 agencies control and manage state real property. The



1 legislature finds that consolidating cleanup efforts should
2 result in efficiencies and cost savings to the State.

3 The legislature also intends that the temporary cleanup
4 program under this part should operate in conjunction and
5 coordination with the temporary sheriff patrol program under
6 part II of this Act.

7 The legislature further intends to later evaluate the
8 temporary program to determine whether it should be extended,
9 permanently established, or terminated.

10 SECTION 2. Temporary cleanup program; establishment,
11 operation. The department of accounting and general services
12 shall establish a temporary program to clean state real property
13 of debris and litter after the departure of persons known, or
14 suspected to have, illegally or without permission camped or
15 lodged on the state real property.

16 The department of accounting and general services may:

- 17 (1) Operate the program directly; or
- 18 (2) Enter into a memorandum of agreement with a county
19 agency to perform the cleanup on behalf of the
20 department of accounting and general services.



1 The department of accounting and general services shall
2 operate the temporary cleanup program in conjunction and
3 coordination with the temporary sheriff patrol program
4 established pursuant to part II of this Act.

5 SECTION 3. State real property subject to temporary
6 program. (a) The temporary program shall apply to state real
7 property:

- 8 (1) Under the control and management of the department of
9 accounting and general services; or
- 10 (2) Under the ownership, control, or management of any
11 other state agency that enters into a memorandum of
12 agreement with the department of accounting and
13 general services to participate in the temporary
14 program. For the purpose of this paragraph, "state
15 agency" includes the judiciary and excludes the office
16 of Hawaiian affairs.

17 (b) Nothing in this part shall prohibit a state agency
18 from engaging in the cleanup of its own state real property or
19 require a state agency to participate in the temporary program.

20 SECTION 4. No charge to other state agencies. For the
21 duration of the temporary program, the department of accounting



1 and general services shall not charge any participating state
2 agency for the cleanup of the state real property under the
3 ownership, control, or management of the state agency.

4 SECTION 5. Temporary program; planning and preparation,
5 commencement, termination. (a) Beginning on July 1, 2016, the
6 department of accounting and general services shall plan and
7 prepare to implement the temporary cleanup program established
8 by this part.

9 (b) Beginning on January 1, 2017, the department of
10 accounting and general services shall commence implementing the
11 temporary program in accordance with this part.

12 Subject to the availability of funds for fiscal year 2017-
13 2018 and fiscal year 2018-2019, the department of accounting and
14 general services shall implement and operate the temporary
15 program until December 31, 2018. The temporary program shall
16 terminate on December 31, 2018.

17 SECTION 6. Appropriation. There is appropriated out of
18 the general revenues of the State of Hawaii the sum of \$
19 or so much thereof as may be necessary for fiscal year 2016-2017
20 as follows:



- 1 (1) \$ to be expended from July 1, 2016, to
- 2 December 31, 2016, for planning and preparation for
- 3 implementation of the temporary program to clean state
- 4 real property established under this part; and
- 5 (2) \$ for implementation and operation of the
- 6 temporary program.

7 The sum appropriated shall be expended by the department of
8 accounting and general services for the purposes of this part.

9 SECTION 7. Report, recommendation. No later than twenty
10 days prior to the convening of the regular session of 2018, the
11 department of accounting and general services shall submit a
12 report to the legislature regarding the implementation of the
13 temporary program, including a recommendation of whether to
14 extend the temporary program, permanently establish the program,
15 or terminate the program.

16 If the department of accounting and general services
17 recommends that the program be permanently established, the
18 report shall include the:

- 19 (1) Projected annual cost of operating the permanent
- 20 program;



1 (2) Number and type of positions needed for the permanent
2 program; and

3 (3) Method proposed to deliver the program's consolidated
4 cleanup services, whether by the department itself,
5 another state agency, contract with a county, or
6 contract with a private entity.

7 PART II

8 SECTION 8. The legislature finds that if laws and rules
9 are not enforced, violators may believe that there are no
10 consequences to the violations, may become more brazen and
11 continue the violations, or may feel emboldened to violate
12 other, more serious laws and rules. The result is detrimental
13 to public safety and should not be tolerated.

14 The purpose of this part is to require the department of
15 public safety to establish a temporary sheriff patrol program
16 for the enforcement of laws and rules prohibiting trespassing,
17 camping, or being present after closing hours on state real
18 property. The temporary program is intended to apply to state
19 real property under the ownership, control, or management of
20 state agencies that choose to participate in the program.



1 The legislature intends that the temporary program take a
2 consolidated approach to enforcing the laws and rules for
3 participating state agencies. The legislature finds that the
4 consolidated approach may result in efficiencies and cost
5 savings to the State.

6 The legislature also intends that the temporary sheriff
7 patrol program should operate in conjunction and coordination
8 with the temporary state real property cleanup program under
9 part I of this Act.

10 The legislature intends to evaluate the temporary program
11 to determine whether it should be extended or permanently
12 established.

13 SECTION 9. Definitions. For the purpose of this part:

14 "Law prohibiting an individual from trespassing on state
15 real property" means an offense under section 708-813, 708-814,
16 708-814.5, or 708-815, Hawaii Revised Statutes.

17 "Law or rule prohibiting an individual from being present
18 after closing hours on state real property" means any statute or
19 rule that prohibits an individual from being on the state real
20 property when closed to the public; provided that this does not



1 include laws prohibiting an individual from trespassing on state
2 real property.

3 "Law or rule prohibiting an individual from camping on
4 state real property" means any statute or rule that prohibits
5 camping on state real property, even when the state real
6 property is open to the public for non-camping use.

7 "State real property" means real property under the
8 ownership, control, or management of the State, except real
9 property leased, assigned, or otherwise conveyed by a state
10 agency to the federal government, a county government, or a
11 private person.

12 SECTION 10. Temporary sheriff patrol program;
13 establishment, operation. (a) The department of public safety
14 shall establish a temporary sheriff patrol program to enforce
15 laws and rules prohibiting an individual from trespassing,
16 camping, or being present after closing hours on state real
17 property.

18 The department of public safety shall operate the temporary
19 sheriff patrol program in conjunction and coordination with the
20 temporary state real property cleanup program under part I of
21 this Act.



1 (b) The department of public safety shall operate the
2 temporary sheriff patrol program by creating a team of deputy
3 sheriffs to patrol among state real property that is subject to
4 the temporary program and enforce laws or rules prohibiting
5 trespassing, camping, or being present after closing hours on
6 the state real property. The teams shall enforce violations of
7 the laws or rules with or without receipt of complaints.

8 (c) To the extent possible, when observing or discovering
9 a violation of a law or rule prohibiting trespassing, camping,
10 or being present after closing hours on state real property, the
11 deputy sheriffs first shall request the violator to leave the
12 state real property. If the violator refuses to leave the state
13 real property or leaves and then returns to the state real
14 property in violation of the law or rule, the deputy sheriffs
15 shall cite or arrest the violator.

16 (d) The team of deputy sheriffs may also enforce laws or
17 rules other than those prohibiting trespassing, camping, or
18 being present after closing hours on state real property.

19 SECTION 11. State real property subject to temporary
20 sheriff patrol program. (a) The temporary sheriff patrol
21 program shall apply to state real property under the ownership,



1 control, or management of any state agency that enters into a
2 memorandum of agreement with the department of public safety to
3 participate in the temporary program. For the purpose of this
4 subsection, "state agency" includes the judiciary and excludes
5 the office of Hawaiian affairs.

6 (b) Nothing in this part shall prohibit any state or
7 county agency from engaging in its own effort to enforce laws
8 prohibiting trespassing, camping, or being present after closing
9 hours on state real property under the state agency's ownership,
10 control, or management.

11 SECTION 12. No charge to other participating state agency.
12 For the duration of the temporary sheriff patrol program, the
13 department of public safety shall not charge any participating
14 state agency for participation in the temporary program.

15 SECTION 13. Temporary sheriff patrol program; planning and
16 preparation, commencement, termination. (a) Beginning July 1,
17 2016, the department of public safety shall plan and prepare to
18 implement the temporary sheriff patrol program pursuant to this
19 part.



1 (b) The department of public safety shall commence
2 implementation of the temporary sheriff patrol program, in
3 accordance with this part, on January 1, 2017.

4 Subject to the availability of funds for fiscal year 2017-
5 2018 and fiscal year 2018-2019, the department of public safety
6 shall implement the temporary sheriff patrol program until
7 December 31, 2018. On December 31, 2018, the temporary program
8 shall terminate.

9 SECTION 14. Appropriation; position authorization. (a)
10 There is appropriated out of the general revenues of the State
11 of Hawaii the sum of \$ or so much thereof as may be
12 necessary for fiscal year 2016-2017 for the following:

13 (1) \$ to be expended from July 1, 2016, to
14 December 31, 2016, for planning and preparation for
15 implementation of the temporary sheriff patrol program
16 established under this part to enforce laws
17 prohibiting trespassing, camping, and being present
18 after closing hours on state real property; and

19 (2) \$ for implementation of the temporary sheriff
20 patrol program commencing January 1, 2017.



1 The sum appropriated shall be expended by the department of
2 public safety for the purposes of this part.

3 (b) The department of public safety may establish
4 temporary full-time equivalent deputy sheriff positions, the
5 compensation of which may be paid from the appropriation under
6 subsection (a). The department of public safety shall use the
7 temporary positions to employ deputy sheriffs for the temporary
8 sheriff patrol program or to backfill for other deputy sheriffs
9 assigned to the temporary program.

10 SECTION 15. Report, recommendation. The department of
11 public safety shall submit a report to the legislature on the
12 temporary sheriff patrol program, including a recommendation on
13 whether it should be extended, permanently established, or
14 terminated. The department shall submit the report no later
15 than twenty days prior to the convening of the regular session
16 of 2018.

17 If the department of public safety recommends that the
18 program should be permanently established, the report shall
19 include the following:

20 (1) The projected annual cost of operating the permanent
21 program;



- 1 (2) The number and type of positions needed for the
2 permanent program; and
- 3 (3) The method proposed to deliver the program's
4 consolidated patrol services, whether by the
5 department itself, another state agency, a contract
6 with a county, or a contract with a private entity.

7 PART III

8 SECTION 16. The purpose of this part is to amend certain
9 statutes relating to trespass to improve enforcement capability.

10 SECTION 17. Chapter 708, Hawaii Revised Statutes, is
11 amended by adding a new section to part II to be appropriately
12 designated and to read as follows:

13 "§708- Criminal trespass onto public real property.

14 (1) A person commits the offense of criminal trespass onto
15 public real property if the person remains unlawfully in or upon
16 public real property after a request to leave is made by any law
17 enforcement officer, when the request is based upon a violation
18 by the person of any:

19 (a) Term of use specified on a sign or notice posted on
20 the property;



1 (b) Term of use contained in, or the expiration of, any
2 permit relating to the person's presence on the
3 property; or

4 (c) Statute or administrative rule personally known by the
5 officer, who possesses a written copy when making the
6 request to leave.

7 (2) For the purposes of this section, unless the context
8 requires otherwise:

9 "Law enforcement officer" has the same meaning as in
10 section 710-1000.

11 "Public real property" means any real property, except a
12 public park or recreational ground as defined in section 708-
13 814.5, under the control, maintenance, and management of the
14 State or any of the counties.

15 (3) Criminal trespass onto public real property is a petty
16 misdemeanor."

17 SECTION 18. Section 708-800, Hawaii Revised Statutes, is
18 amended by amending the definition of "enter or remain
19 unlawfully" to read as follows:

20 "'Enter or remain unlawfully" means to enter or remain in
21 or upon premises when the person is not licensed, invited, or



1 otherwise privileged to do so. A person who, regardless of the
2 person's intent, enters or remains in or upon premises which are
3 at the time open to the public does so with license and
4 privilege unless the person defies a lawful order not to enter
5 or remain, personally communicated to the person by the owner of
6 the premises or some other authorized person. A license or
7 privilege to enter or remain in [~~a building which is~~] or upon
8 premises that are only partly open to the public is not a
9 license or privilege to enter or remain in that part of the
10 [~~building which is~~] premises that are not open to the public."

11 SECTION 19. Section 708-814.5, Hawaii Revised Statutes, is
12 amended by amending subsection (1) to read as follows:

13 "(1) A person commits the offense of criminal trespass
14 onto public parks and recreational grounds if the person remains
15 unlawfully in or upon a public park or recreational ground after
16 a request to leave is made by any law enforcement officer, when
17 the request is based upon violation by the person of any [~~term~~];

18 (a) Term of use specified on a sign or notice posted on
19 the property[, ~~or based on violation of any term~~];



Report Title:

State Property Cleanup Program; Sheriff Patrol Program;
Appropriation

Description:

Establishes temporary programs, to be implemented beginning on January 1, 2017, in debris removal from, and trespass onto, public property to be run by DAGS and DPS in coordination and conjunction with each other. Amends and creates criminal trespass offenses relating to public property. Makes appropriations. (SD1)

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