

SB 2428

SD-1

**RELATING TO
LAW
ENFORCEMENT**

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1 SECTION 1. Section 52D-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~{}~~ §52D-6 ~~{}~~ Police force; employees ~~{}~~; background
4 checks; mandatory disqualification. (a) The chief of police
5 may appoint officers and other employees under ~~{}~~ rules and
6 at ~~{}~~ salaries as are authorized by law. Probationary
7 appointment, suspension, and dismissal of officers and employees
8 of the police department shall be as authorized by law.

9 (b) The chief of police shall develop standards to ensure
10 the reputable and responsible characters of officers.

11 (c) Prior to the employment of a prospective officer, the
12 chief of police shall require the prospective officer to provide
13 fingerprints and the chief of police shall obtain criminal
14 history record information on the prospective officer through
15 the Hawaii criminal justice data center and the Federal Bureau
16 of Investigation.



1 (d) The chief of police shall perform a background check
2 prior to the employment of a prospective officer. The
3 background check shall include, at minimum, a review of
4 personnel files from each former employer at which the
5 prospective officer previously served as a law enforcement
6 officer.

7 (e) The chief of police shall deny employment to a
8 prospective officer whose previous position as a law enforcement
9 officer was terminated while the prospective officer was in poor
10 employment standing.

11 (f) For purposes of this section:

12 "Law enforcement officer" means a:

13 (1) Police officer employed by any federal, state, or
14 local law enforcement agency in the United States; or

15 (2) Person granted police powers by any federal, state, or
16 local agency in the United States.

17 "Poor employment standing" includes:

18 (1) Termination due to misconduct;

19 (2) Resignation while under investigation, suspension, or
20 during forced administrative desk duty pending

21 investigation; or



1 (3) Resignation as an alternative to termination due to
2 misconduct."

3 SECTION 2. Section 353C-4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§353C-4 Appointment of employees with police powers and
6 other employees [-]; mandatory disqualification. (a) The
7 director may appoint employees to be public safety officers who
8 shall have all of the powers of police officers; provided that
9 the director [may]:

10 (1) May establish and assign the employees to positions or
11 categories of positions that may have differing
12 titles, specific duties, and limitations upon the
13 exercise of police powers [-];

14 (2) Shall perform prior employment background checks of
15 each prospective public safety officer. Each
16 background check shall include, at minimum, a review
17 of personnel files from each former employer at which
18 the prospective public safety officer previously
19 served as a law enforcement officer; and

20 (3) Shall deny employment to a prospective public safety
21 officer whose previous position as a law enforcement



1 officer was terminated while the prospective public
2 safety officer was in poor employment standing.

3 (b) The director may appoint other personnel necessary to
4 carry out the functions of the department.

5 (c) The state law enforcement officers transferred from
6 the department of the attorney general by Act 211, Session Laws
7 of Hawaii 1989, shall be responsible for public safety in state
8 buildings as well as the personal protection of government
9 officials and employees while in the conduct of their duties.
10 The duties of state law enforcement officers shall also include
11 the service of process, including subpoenas, warrants, and other
12 legal documents, and other duties as the director may assign,
13 including the performance of duties of other public safety
14 officers within the department. State law enforcement officers
15 shall have all of the powers of police officers, including the
16 power of arrest.

17 (d) For purposes of this section:

18 "Law enforcement officer" means a:

19 (1) Police officer employed by any federal, state, or
20 local law enforcement agency in the United States; or



1 (2) Person granted police powers by any federal, state, or
2 local agency in the United States.

3 "Poor employment standing" includes:

4 (1) Termination due to misconduct;

5 (2) Resignation while under investigation, suspension, or
6 during forced administrative desk duty pending

7 investigation; or

8 (3) Resignation as an alternative to termination due to
9 misconduct."

10 SECTION 3. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Law Enforcement; Background Checks; Prior Employment

Description:

Prohibits the hiring of a state or county law enforcement officer if the candidate's previous position as a law enforcement officer was terminated while the officer was in poor employment standing. Requires background checks for prospective police officers. Effective 7/1/2050. (SD1)

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



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TESTIMONY

SB-2428-SD-1

Submitted on: 3/14/2018 2:31:30 AM

Testimony for LAB on 3/15/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

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Submitted on: 3/13/2018 10:33:45 AM

Testimony for LAB on 3/15/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments:

Please vote yes. This is a very important long needed law.

However, please change the defective effective date to July 1, 2018. The public deserves this.

Lynne Matusow

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Submitted on: 3/12/2018 9:11:34 PM

Testimony for LAB on 3/15/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

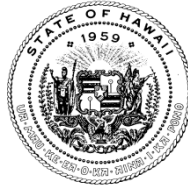
Comments:

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LATE

TESTIMONY



Testimony of:
JADE T. BUTAY
DIRECTOR

Deputy Directors
ROY CATALANI
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

LATE

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 15, 2018
9:00 a.m.
State Capitol, Room 309

S.B. 2428, S.D. 1
RELATING TO LAW ENFORCEMENT

House Committee on Labor and Public Employment

The Department of Transportation (DOT) **supports** S.B. 2428, S.D. 1, Relating to Law Enforcement.

The purpose of S.B. 2428, S.D. 1 is to amend Section 353C-4, Hawaii Revised Statutes to develop standards to ensure reputable and responsible characters of officers.

The DOT recognizes that currently the law enforcement profession is faced with many complex situations, integrity challenges, and a multitude of new criminal elements (i.e., insider threat, active shooters, terrorism, etc.) and techniques (diversion of law enforcement response teams to determine response time and methods). There is concern that some law enforcement agencies may rely on outdated standards and certification processes, policies and procedures, rules and regulations and recruitment and training standards to address these new challenges and may not have consistent standards and certifiable processes that are, among other things, essential to minimize liability to the State of Hawaii.

To this end, the DOT acknowledges that “best practices” for the law enforcement profession requires continuous improvement in the development and establishment of comprehensive entry level minimal qualification standards along with congruent certifiable screening of an applicant’s knowledge, skills and abilities, testing (physical fitness) evaluation (mental stability), and background checks for previous work performance history, administrative misconduct and criminal convictions (Lautenberg Amendment Federal Gun Ban on Misdemeanor Domestic Violence Convictions) of all qualified applicants for law enforcement positions. Internal controls must also be developed to ensure fair and equitable application of these standards by the various agencies.

The DOT recommends that S.B. 2428, S.D. 1 (page 3, line 14) be amended as follows (with new proposed language in italics):

(2) Shall perform prior employment background checks of each prospective public safety officer. Each background check shall include, at minimum, a review of personnel files from each former employer at which the prospective public safety officer previously served as a law enforcement officer, ***any administrative determination that the prospective public safety officer engaged in misconduct while serving as a law enforcement officer, and any criminal convictions of the prospective public safety officer in any capacity***, and

Thank you for the opportunity to provide testimony.



Aloha Chair Johanson, Vice Chair Holt, members of the House Committee on Labor,

On behalf of the nearly 600 registered members of the Young Progressives Demanding Action (YPDA) Hawaii, I would like to express **strong support** for SB2428 SD1. We must never again be so careless when granting law enforcement powers as to allow a criminal to swap badges and continue to terrorize people from behind a uniform. The fact that a police officer was fired for abusing his power and was then allowed to don a DOCARE uniform only to re-abuse that power in one of the most heinous ways imaginable is inexcusable. Our government owes it to the people to ensure that those entrusted with our safety are worthy of that trust.

Mahalo,

Will Caron
Social Justice Action Committee Chair

LATE