

JAN 24 2019

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT STANDARDS BOARD.

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

1 SECTION 1. The legislature, by Act 220, Session Laws of
2 Hawaii 2018, enacted chapter 139, Hawaii Revised Statutes, to
3 create a law enforcement standards board for the certification
4 of law enforcement officers, including county police officers,
5 state public safety officers, and employees with police powers
6 at the departments of transportation, of land and natural
7 resources, of the attorney general, and of taxation.

8 The board is responsible for establishing minimum standards
9 for employment as a law enforcement officer and certifying
10 persons qualified as law enforcement officers. It is also
11 responsible for establishing minimum criminal justice curriculum
12 requirements for basic, specialized, and in-service courses and
13 programs for the training of law enforcement officers. It must
14 consult and cooperate with the counties, state agencies, other
15 governmental agencies, universities and colleges, and other
16 institutions, concerning the development of law enforcement
17 officer training schools and programs. The board is also

1 responsible for regulating and enforcing the certification
2 requirements of law enforcement officers.

3 These are important and substantial duties that require
4 evaluation to ensure that existing legal obligations are not
5 compromised. Before imposing new standards impacting the
6 employment of law enforcement officers, the board must consider
7 collective bargaining and other employment requirements. At a
8 minimum, the board must evaluate how probationary periods,
9 training requirements (i.e., the types of training, the number
10 of hours of training, and the availability of training
11 facilities), and the issuance, suspension, and revocation of
12 certification will impact obligations already established by
13 law.

14 Such evaluation should include consideration of the study
15 conducted by the legislative reference bureau pursuant to Act
16 124, Session Laws of Hawaii 2018, and any additional study
17 necessary to determine the impact of uniform standards,
18 certification, and training for all law enforcement.

19 The board has determined that it will need significantly more
20 time and funds to accomplish its mission.

21 The purposes of this Act are to clarify board membership
22 requirements to facilitate participation and representation, to
23 enable the board to research the impact of uniform standards,

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1 certification, and training on existing legal requirements, to
2 establish new and more realistic deadlines for the completion of
3 the board's significant responsibilities, and to provide
4 appropriate funds and resources to enable the board to
5 accomplish its mission.

6 SECTION 2. Section 139-2, Hawaii Revised Statutes, is
7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) There is established the law enforcement standards
9 board within the department of the attorney general for
10 administrative purposes only. The purpose of the board shall be
11 to provide programs and standards for training and certification
12 of law enforcement officers. The law enforcement standards
13 board shall consist of the following voting members: nine ex
14 officio individuals [~~two~~] or their designees, five law
15 enforcement officers, and four members of the public.

16 (1) The nine ex officio members of the board shall consist
17 of the:

18 (A) Attorney general [~~+~~] or the attorney general's
19 designee;

20 (B) Director of public safety [~~+~~] or the director's
21 designee;

22 (C) Director of transportation or the director's
23 designee;

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- 1 (D) Chairperson of the board of land and natural
2 resources or chairperson's designee;
- 3 (E) Director of taxation or the director's designee;
4 and
- 5 (F) Chiefs of police of the four counties or the
6 designee of each of the chiefs of police;
- 7 (2) The [~~two~~] five law enforcement officers shall be from
8 each of the four counties and one from the State,
9 shall each have at least ten years of experience as a
10 law enforcement officer, [~~and~~] shall be appointed by
11 the governor and notwithstanding section 26-34, shall
12 not be subject to senatorial confirmation; and
- 13 (3) The four members of the public shall consist of one
14 member of the public from each of the four counties
15 and shall be appointed by the governor. At least two
16 of the four members of the public holding a position
17 on the board at any given time shall:
- 18 (A) Possess a master's or doctorate degree related to
19 criminal justice;
- 20 (B) Possess a law degree and have experience:
- 21 (i) Practicing in Hawaii as a deputy attorney
22 general, a deputy prosecutor, a deputy

1 public defender, or a private criminal
2 defense attorney; or

3 (ii) Litigating constitutional law issues in
4 Hawaii;

5 (C) Be a recognized expert in the field of criminal
6 justice, policing, or security; or

7 (D) Have work experience in a law enforcement
8 capacity[~~; provided that experience in a county
9 police department shall not itself be sufficient
10 to qualify under this paragraph~~].

11 (b) The law enforcement officers and the members of the
12 public on the board shall serve for a term of [~~three~~] four
13 years, provided that the initial terms shall be staggered, as
14 determined by the governor."

15 SECTION 3. Section 139-3, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[~~4~~] §139-3 [~~1~~] **Powers and duties of the board.** The board
18 shall:

19 (1) Adopt rules in accordance with chapter 91 to implement
20 this chapter;

21 (2) Establish minimum standards for employment as a law
22 enforcement officer and to certify persons to be
23 qualified as law enforcement officers;

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- 1 (3) Establish criteria and standards in which a person who
- 2 has been denied certification, whose certification has
- 3 been revoked by the board, or whose certification has
- 4 lapsed may reapply for certification;
- 5 (4) Establish minimum criminal justice curriculum
- 6 requirements for basic, specialized, and in-service
- 7 courses and programs for schools operated by or for
- 8 the State or a county for the specific purpose of
- 9 training law enforcement officers;
- 10 (5) Consult and cooperate with the counties, agencies of
- 11 the State, other governmental agencies, universities,
- 12 colleges, and other institutions concerning the
- 13 development of law enforcement officer training
- 14 schools and programs of criminal justice instruction;
- 15 (6) Employ[~~7 subject to chapter 767~~] an administrator and
- 16 other persons necessary to carry out its duties under
- 17 this chapter;
- 18 (7) Investigate when there is reason to believe that a law
- 19 enforcement officer does not meet the minimum
- 20 standards for employment, and in so doing, may:
- 21 (A) Subpoena persons, books, records, or documents;
- 22 (B) Require answers in writing under oath to
- 23 questions asked by the board; and

- 1 (C) Take or cause to be taken depositions as needed
2 in investigations, hearings, and other
3 proceedings,
4 related to the investigation;
- 5 (8) Establish and require participation in continuing
6 education programs for law enforcement officers;
- 7 (9) Have the authority to charge and collect fees for
8 applications for certification as a law enforcement
9 officer; [~~and~~]
- 10 (10) Establish procedures and criteria for the revocation
11 of certification issued by the board[-];
- 12 (11) Consider studies relevant to the board's objectives,
13 including but not limited to the study that examines
14 consolidating the law enforcement activities and
15 responsibilities of various state divisions and
16 agencies under a single, centralized state enforcement
17 division or agency, conducted pursuant to Act 124,
18 Session Laws of Hawaii 2018; and
- 19 (12) Conduct its own study to evaluate how to efficiently
20 and effectively satisfy its duties in accordance with
21 the law."

22 SECTION 4. Act 220, Session Laws of Hawaii 2018, is
23 amended by amending section 6 to read as follows:

1 "SECTION 6. This Act shall take effect on July 1, 2018;
2 provided that [~~the law enforcement standards board established~~
3 ~~under this Act shall finalize its standards and certification~~
4 ~~process by July 1, 2019.~~] sections -5 through -8, of the new
5 chapter in section 2 of this Act shall not be enforced until
6 July 1, 2023."

7 SECTION 5. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$275,000 or so much
9 thereof as may be necessary for fiscal year 2019-2020 for
10 deposit into the law enforcement standards board special fund.

11 SECTION 6. There is appropriated out of the law
12 enforcement standards board special fund the sum of \$275,000 or
13 so much thereof as may be necessary for the fiscal year
14 2019-2020 for:

15 (1) One permanent administrator position (1.0 FTE) exempt
16 from chapter 76, Hawaii Revised Statutes, and one
17 permanent clerical position (1.0 FTE) subject to
18 chapter 76, Hawaii Revised Statutes; and

19 (2) Administration and operating costs of the law
20 enforcement standards board.

21 The sum appropriated shall be expended by the law
22 enforcement standards board.

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1 SECTION 7. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before the effective date of this Act.

4 SECTION 8. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect upon its approval.

7

8 INTRODUCED BY: *W. A. M.*

9

BY REQUEST

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1 **Report Title:**

2 Law Enforcement Standards Board

3

4 **Description:**

5 Clarifies membership and certain powers and duties of the Law
6 Enforcement Standards Board, establishes new and more realistic
7 deadlines for the completion of board responsibilities, and
8 provides appropriate funds and resources to enable the board to
9 accomplish its mission.

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

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT STANDARDS BOARD.

PURPOSE: To clarify board membership requirements, to enable the board to research the impact of standards, certification and training requirements on existing legal requirements, to establish new deadlines for the completion of the board's responsibilities, and to provide the necessary funds and resources for the board's mission.

MEANS: Amend sections 139-2 and 139-3, Hawaii Revised Statutes and section 6 of Act 220, Session Laws of Hawaii 2018 ("Act 220").

JUSTIFICATION: Increasing the size of the board and allowing ex-officio members to use designees will expand the perspective of the board while increasing its operational flexibility.

Collective bargaining and employment laws and rules dictate various aspects of a law enforcement officer's career from start to finish. Explicitly authorizing the board to study and evaluate these laws, rules, and agreements will allow the board to establish standards, certifications and training requirements in a purposeful and intentional manner.

A proper study and evaluation takes time and resources; therefore, certain aspects of the new chapter established by Act 220 should take effect on July 1, 2023 and an increased amount should be appropriated to fund dedicated staff.

Impact on the public: The public will benefit from a careful consideration of the existing laws, rules and agreements by a better-resourced, larger, and more flexible board. This should result in better standards, certification, and training requirements and thereby increase public confidence in law enforcement and improve public safety generally.

Impact on the department and other agencies: Approval of this bill will have a direct positive effect on the board's ability to execute its responsibilities.

Additionally, county police officers, state public safety officers, and employees with police powers at the departments of Transportation, of Land and Natural Resources, of the Attorney General, and Taxation will all benefit from better standards, certification, and training requirements.

GENERAL FUND: \$275,000.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Departments of Transportation, of Land and Natural Resources, and of Taxation.

EFFECTIVE DATE: Upon approval.