

JAN 26 2022

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

PART I

SECTION 1. The purposes of this Act are to (1) establish a new department of law enforcement to consolidate and administer the criminal law enforcement and investigations functions of the department of transportation, certain investigations functions of the department of the attorney general, functions of the office of homeland security, and current law enforcement and investigations functions of the department of public safety; and (2) rename the department of public safety as the department of corrections and rehabilitation, which will administer the corrections, rehabilitation, reentry, and related functions currently assigned to the department of public safety.

Currently, corrections and certain law enforcement functions and activities are placed within the department of public safety. The legislature finds that the goals and functions of corrections and law enforcement are different and distinct and separating the functions of corrections and law enforcement from the department of public safety into two

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1 departments would best accomplish the discrete goals and
2 objectives of both functions.

3 The legislature further finds state law enforcement
4 personnel and functions are currently spread across various
5 departments and also county agencies. The department of public
6 safety, department of transportation, and the department of
7 attorney general all have independent law enforcement officers
8 and different law enforcement duties. Because each department
9 administers its own law enforcement duties, goals, and
10 functions, training and operational standards differ between
11 each department. Accordingly, the reorganization of certain
12 state law enforcement functions into a single entity would
13 provide the highest level of law enforcement service for the
14 public, state employees, and state properties. Consolidation of
15 law enforcement responsibilities into a single state department
16 will centralize state law enforcement functions to increase
17 public safety, improve decision making, promote accountability,
18 streamline communication, decrease costs, reduce duplication of
19 efforts, provide uniform training and standards, and promote
20 uniform standards of law enforcement services.

21 The goals of the department of law enforcement would
22 include (1) establishing a partnership with the federal Joint

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1 Terrorism Task Force to protect the State from both domestic and
2 foreign threats; (2) eliminating the narcotics epidemic that
3 plagues Hawaii's communities through its commitment of
4 investigators in the federal High Intensity Drug Trafficking
5 Area task forces; (3) expanding the narcotics canine program;
6 and (4) reducing gun violence and other violent criminal acts in
7 island communities through participating in the federal Project
8 Safe Neighborhoods program.

9 This Act also establishes a training center within the
10 department of law enforcement to provide all state and county
11 law enforcement entities the highest level of core and
12 continuing education and training. The training center will
13 also be made available to federal law enforcement agencies. The
14 development of a state law enforcement training center, where
15 all non-federal law enforcement officers who intend to work on
16 any island of Hawaii must be certified, will ensure that all law
17 enforcement officers meet the standards set by the law
18 enforcement standards board established in chapter 139, Hawaii
19 Revised Statutes. The center will also ensure that the
20 individuals who earn its certification have learned the highest
21 level of core and continuing education and training. The
22 center's curriculum will be designed to ensure that the

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1 individuals with police powers have the knowledge and skills to
2 protect and serve the public and will be held accountable if
3 they do not uphold the standards set by the law enforcement
4 standards board.

5 The legislature also finds that consolidating adult
6 corrections, reentry services, and other related functions into
7 a separate department of corrections and rehabilitation will
8 allow the efficient use of resources in administering
9 correctional programs and administering and maintaining public
10 and private correctional services. The Hawaii correctional
11 industries, Hawaii paroling authority, and crime victim
12 compensation commission will be administered by the department
13 of corrections and rehabilitation.

14 The legislature intends that patrol officers assigned to
15 the department of law enforcement shall continue to retain the
16 title of deputy sheriffs. During the Kingdom of Hawaii,
17 sheriffs oversaw law enforcement activities on each island under
18 the supervision of a kingdom-wide marshal. From 1905 to 1960,
19 sheriffs protected the public as elected county officials,
20 including Duke Kahanamoku who was elected Honolulu sheriff from
21 1934 to 1960. Modern-day deputy sheriffs have protected the
22 people of Hawaii for nearly fifty years, beginning in 1963 when

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1 the legislature created the office of the sheriff within the
2 department of the attorney general.

3 The legislature does not intend to impair or diminish the
4 longstanding authority and responsibility of county police
5 departments to enforce the laws of the State on state lands
6 within their respective counties. County police departments
7 will continue to have full law enforcement authority and
8 responsibility with respect to state parks, state buildings,
9 state highways, Hawaiian home lands, and other state lands and
10 facilities.

11 Part II of this Act is to be effective upon approval of
12 this Act. Part II establishes a department of law enforcement
13 and its director and deputy directors by amending chapter 26 and
14 section 76-16, Hawaii Revised Statutes. The department of law
15 enforcement will initially be staffed by its director, deputy
16 directors, and certain administrative staff. These personnel
17 will prepare for the transfer of law enforcement functions and
18 personnel to the department in two stages to occur later on
19 January 1, 2023 and July 1, 2023.

20 Part III of this Act is to be effective on January 1, 2023.
21 Part III transfers the law enforcement functions and personnel
22 from the department of public safety to the department of law

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1 enforcement by amending chapter 353C and sections 88-21 and 139-
2 1, Hawaii Revised Statutes. Part III also amends chapter 329
3 and sections 78-52, 134-81, 139-2, 139-7, 200-27, 291-31.5,
4 334D-5, 350-1.1, 603-29, 604-6.2, 607-4, 607-8, 633-8, 634-11,
5 634-12, 634-22, 634-29, 651-1, 652-1.5, 652-2, 652-2.5, 652-2.6,
6 654-2, 666-11, 666-21, and 844D-38, Hawaii Revised Statutes, to
7 reflect the transfer of these functions from the department of
8 public safety to the department of law enforcement.

9 Part IV of this Act is to be effective on January 1, 2023.
10 Part IV renames the department of public safety as the
11 department of corrections and rehabilitation and the director of
12 public safety as the director of corrections and rehabilitation
13 and establishes its deputy directors by amending sections 26-4,
14 26-14.6, 26-52, and 76-16, Hawaii Revised Statutes. Part IV
15 also adds new sections to chapters 353 and repeals sections
16 353C-4.5, 353C-7, 353C-8, and 353C-8.5, Hawaii Revised Statutes,
17 so that the authority and responsibilities of the department of
18 corrections and rehabilitation are set forth in chapter 353,
19 while the authority and responsibilities of the department of
20 law enforcement are set forth in chapter 353C. Part IV further
21 amends sections 134-2, 353-1, 353B-3, 353L-3, 353L-5, 354D-2,
22 707-732, 801D-4, 804-7, and 846-2.7, Hawaii Revised Statutes, to

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1 reflect the renaming of the department of public safety to the
2 department of corrections and rehabilitation.

3 Part V of this Act is to be effective on July 1, 2023.

4 Part V transfers the law enforcement functions and personnel of
5 the department of transportation and the non-statutorily
6 mandated functions and law enforcement personnel of the
7 investigations division of the department of the attorney
8 general to the department of law enforcement. Part V also
9 transfers the office of homeland security from the department of
10 defense to the department of law enforcement. Part V further
11 amends sections 26-21, 128A-2, 128A-3, 128B-1, 139-1, 139-2,
12 139-7, 266-24, and 291-31.5, Hawaii Revised Statutes, to reflect
13 the transfer of these functions to the department of law
14 enforcement.

15 Part VI of this Act provides for the retention of civil
16 service status and related rights of transferred employees.

17 Part VII also transfers any appropriations, equipment,
18 contracts, leases, policies, rules, guidelines, and other items
19 to the respective departments as provided in this Act.

20 Part VII of this Act appropriates funds to the department
21 of law enforcement to establish and fill new positions and for
22 costs that are required for the department's operations. These

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positions include the director of law enforcement, deputy directors, and certain administrative positions that will staff the department upon passage of this Act, as well as new positions that will be required when parts III and IV take effect on January 1, 2023. Part VII further appropriates funds to the department of corrections and rehabilitation to establish and fill new positions that will be required for the operation of the department when parts III and IV take effect on January 1, 2023.

PART II

SECTION 2. Chapter 26, Hawaii Revised Statutes, is amended by adding to part I a new section to be appropriately designated and to read as follows:

"§26-A Department of law enforcement. (a) The department of law enforcement shall be headed by a single executive to be known as the director of law enforcement.

(b) The director of law enforcement shall appoint, without regard to chapter 76, two deputy directors to serve at the director's pleasure. Unless otherwise assigned by the director, one deputy director shall oversee the law enforcement programs of the department of law enforcement and one deputy director

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1 shall oversee administration of the department of law
2 enforcement.

3 (c) The department of law enforcement shall be responsible
4 for the formulation and implementation of state policies and
5 objectives for security, law enforcement, and public safety
6 programs and functions, for the service of process, and for the
7 security of state buildings."

8 SECTION 3. Section 26-4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§26-4 Structure of government.** Under the supervision of
11 the governor, all executive and administrative offices,
12 departments, and instrumentalities of the state government and
13 their respective functions, powers, and duties shall be
14 allocated among and within the following principal departments
15 that are hereby established:

- 16 (1) Department of human resources development (Section 26-
17 5)
18 (2) Department of accounting and general services (Section
19 26-6)
20 (3) Department of the attorney general (Section 26-7)
21 (4) Department of budget and finance (Section 26-8)

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- 1 (5) Department of commerce and consumer affairs (Section
2 26-9)
- 3 (6) Department of taxation (Section 26-10)
- 4 (7) University of Hawaii (Section 26-11)
- 5 (8) Department of education (Section 26-12)
- 6 (9) Department of health (Section 26-13)
- 7 (10) Department of human services (Section 26-14)
- 8 (11) Department of land and natural resources (Section 26-
9 15)
- 10 (12) Department of agriculture (Section 26-16)
- 11 (13) Department of Hawaiian home lands (Section 26-17)
- 12 (14) Department of business, economic development, and
13 tourism (Section 26-18)
- 14 (15) Department of transportation (Section 26-19)
- 15 (16) Department of labor and industrial relations (Section
16 26-20)
- 17 (17) Department of defense (Section 26-21)
- 18 (18) Department of public safety (Section 26-14.6) [–]
- 19 (19) Department of law enforcement (Section 26-A)."

20 SECTION 4. Section 26-52, Hawaii Revised Statutes, is
21 amended to read as follows:

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1 "§26-52 Department heads and executive officers. The
2 salaries of the following state officers shall be as follows:

3 (1) The salary of the superintendent of education shall be
4 set by the board of education at a rate no greater
5 than \$250,000 a year. The superintendent shall be
6 subject to an annual performance evaluation that is in
7 alignment with other employee evaluations within the
8 department of education and are based on outcomes
9 determined by the board of education; provided that
10 nothing shall prohibit the board of education from
11 conditioning a portion of the salary on performance;

12 (2) The salary of the president of the University of
13 Hawaii shall be set by the board of regents;

14 (3) Effective July 1, 2004, the salaries of all department
15 heads or executive officers of the departments of
16 accounting and general services, agriculture, attorney
17 general, budget and finance, business, economic
18 development, and tourism, commerce and consumer
19 affairs, Hawaiian home lands, health, human resources
20 development, human services, labor and industrial
21 relations, land and natural resources, law
22 enforcement, public safety, taxation, and

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1 transportation shall be as last recommended by the
2 executive salary commission. Effective July 1, 2007,
3 and every six years thereafter, the salaries shall be
4 as last recommended by the commission on salaries
5 pursuant to section 26-56, unless rejected by the
6 legislature; and

7 (4) The salary of the adjutant general shall be \$85,302 a
8 year. Effective July 1, 2007, and every six years
9 thereafter, the salary of the adjutant general shall
10 be as last recommended by the commission on salaries
11 pursuant to section 26-56, unless rejected by the
12 legislature, except that if the state salary is in
13 conflict with the pay and allowance fixed by the
14 tables of the regular Army or Air Force of the United
15 States, the latter shall prevail."

16 SECTION 5. Section 76-16, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The civil service to which this chapter applies shall
19 comprise all positions in the State now existing or hereafter
20 established and embrace all personal services performed for the
21 State, except the following:

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- 1 (1) Commissioned and enlisted personnel of the Hawaii
2 National Guard as such, and positions in the Hawaii
3 National Guard that are required by state or federal
4 laws or regulations or orders of the National Guard to
5 be filled from those commissioned or enlisted
6 personnel;
- 7 (2) Positions filled by persons employed by contract where
8 the director of human resources development has
9 certified that the service is special or unique or is
10 essential to the public interest and that, because of
11 circumstances surrounding its fulfillment, personnel
12 to perform the service cannot be obtained through
13 normal civil service recruitment procedures. Any such
14 contract may be for any period not exceeding one year;
- 15 (3) Positions that must be filled without delay to comply
16 with a court order or decree if the director
17 determines that recruitment through normal recruitment
18 civil service procedures would result in delay or
19 noncompliance, such as the Felix-Cayetano consent
20 decree;
- 21 (4) Positions filled by the legislature or by either house
22 or any committee thereof;

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- 1 (5) Employees in the office of the governor and office of
2 the lieutenant governor, and household employees at
3 Washington Place;
- 4 (6) Positions filled by popular vote;
- 5 (7) Department heads, officers, and members of any board,
6 commission, or other state agency whose appointments
7 are made by the governor or are required by law to be
8 confirmed by the senate;
- 9 (8) Judges, referees, receivers, masters, jurors, notaries
10 public, land court examiners, court commissioners, and
11 attorneys appointed by a state court for a special
12 temporary service;
- 13 (9) One bailiff for the chief justice of the supreme court
14 who shall have the powers and duties of a court
15 officer and bailiff under section 606-14; one
16 secretary or clerk for each justice of the supreme
17 court, each judge of the intermediate appellate court,
18 and each judge of the circuit court; one secretary for
19 the judicial council; one deputy administrative
20 director of the courts; three law clerks for the chief
21 justice of the supreme court, two law clerks for each
22 associate justice of the supreme court and each judge

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1 of the intermediate appellate court, one law clerk for
2 each judge of the circuit court, two additional law
3 clerks for the civil administrative judge of the
4 circuit court of the first circuit, two additional law
5 clerks for the criminal administrative judge of the
6 circuit court of the first circuit, one additional law
7 clerk for the senior judge of the family court of the
8 first circuit, two additional law clerks for the civil
9 motions judge of the circuit court of the first
10 circuit, two additional law clerks for the criminal
11 motions judge of the circuit court of the first
12 circuit, and two law clerks for the administrative
13 judge of the district court of the first circuit; and
14 one private secretary for the administrative director
15 of the courts, the deputy administrative director of
16 the courts, each department head, each deputy or first
17 assistant, and each additional deputy, or assistant
18 deputy, or assistant defined in paragraph (16);

19 (10) First deputy and deputy attorneys general, the
20 administrative services manager of the department of
21 the attorney general, one secretary for the
22 administrative services manager, an administrator and

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any support staff for the criminal and juvenile
justice resources coordination functions, and law
clerks;

- (11) (A) Teachers, principals, vice-principals, complex
area superintendents, deputy and assistant
superintendents, other certificated personnel,
not more than twenty noncertificated
administrative, professional, and technical
personnel not engaged in instructional work;
- (B) Effective July 1, 2003, teaching assistants,
educational assistants, bilingual/bicultural
school-home assistants, school psychologists,
psychological examiners, speech pathologists,
athletic health care trainers, alternative school
work study assistants, alternative school
educational/supportive services specialists,
alternative school project coordinators, and
communications aides in the department of
education;

- (C) The special assistant to the state librarian and
one secretary for the special assistant to the
state librarian; and

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(D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;

(12) Employees engaged in special, research, or demonstration projects approved by the governor;

(13) (A) Positions filled by inmates, patients of state institutions, persons with severe physical or mental disabilities participating in the work experience training programs;

(B) Positions filled with students in accordance with guidelines for established state employment programs; and

(C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States

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Department of Labor, or under other similar state programs;

(14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;

(15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;

(16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals,

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1 and health resources administration, including other
2 functions within the department as may be assigned by
3 the director of health, with the approval of the
4 governor; two additional deputies in charge of the law
5 enforcement programs, administration, or other
6 functions within the department of law enforcement as
7 may be assigned by the director of law enforcement,
8 with the approval of the governor; an administrative
9 assistant to the state librarian; and an
10 administrative assistant to the superintendent of
11 education;

12 (17) Positions specifically exempted from this part by any
13 other law; provided that:

14 (A) Any exemption created after July 1, 2014, shall
15 expire three years after its enactment unless
16 affirmatively extended by an act of the
17 legislature; and

18 (B) All of the positions defined by paragraph (9)
19 shall be included in the position classification
20 plan;

21 (18) Positions in the state foster grandparent program and
22 positions for temporary employment of senior citizens

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- 1 in occupations in which there is a severe personnel
2 shortage or in special projects;
- 3 (19) Household employees at the official residence of the
4 president of the University of Hawaii;
- 5 (20) Employees in the department of education engaged in
6 the supervision of students during meal periods in the
7 distribution, collection, and counting of meal
8 tickets, and in the cleaning of classrooms after
9 school hours on a less than half-time basis;
- 10 (21) Employees hired under the tenant hire program of the
11 Hawaii public housing authority; provided that not
12 more than twenty-six per cent of the authority's
13 workforce in any housing project maintained or
14 operated by the authority shall be hired under the
15 tenant hire program;
- 16 (22) Positions of the federally funded expanded food and
17 nutrition program of the University of Hawaii that
18 require the hiring of nutrition program assistants who
19 live in the areas they serve;
- 20 (23) Positions filled by persons with severe disabilities
21 who are certified by the state vocational

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rehabilitation office that they are able to perform
safely the duties of the positions;

(24) The sheriff;

(25) A gender and other fairness coordinator hired by the
judiciary;

(26) Positions in the Hawaii National Guard youth and adult
education programs;

(27) In the state energy office in the department of
business, economic development, and tourism, all
energy program managers, energy program specialists,
energy program assistants, and energy analysts;

(28) Administrative appeals hearing officers in the
department of human services;

(29) In the Med-QUEST division of the department of human
services, the division administrator, finance officer,
health care services branch administrator, medical
director, and clinical standards administrator;

(30) In the director's office of the department of human
services, the enterprise officer, information security
and privacy compliance officer, security and privacy
compliance engineer, and security and privacy
compliance analyst;

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(31) The Alzheimer's disease and related dementia services coordinator in the executive office on aging;

[+] (32) [+] In the Hawaii emergency management agency, the executive officer, public information officer, civil defense administrative officer, branch chiefs, and emergency operations center state warning point personnel; provided that, for state warning point personnel, the director shall determine that recruitment through normal civil service recruitment procedures would result in delay or noncompliance; and

[+] (33) [+] The executive director and seven full-time administrative positions of the school facilities authority.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955. "

PART III

SECTION 6. All rights, powers, functions, and duties of the employees of the sheriff division, narcotics enforcement division, internal affairs office, and the law enforcement officers within the training and staff development division of

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1 the department of public safety are transferred to the
2 department of law enforcement. The positions of director of
3 public safety, deputy director for administration, deputy
4 director for corrections, and deputy director for law
5 enforcement of the department of public safety shall become the
6 positions of director of corrections and rehabilitation, deputy
7 director for correctional institutions, deputy director for
8 rehabilitation services and programs, and deputy director for
9 administration, respectively, within the department of
10 corrections and rehabilitation established in part IV.

11 SECTION 7. Chapter 353C, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§353C-A Statewide law enforcement training center. There
15 is established within the department a statewide law enforcement
16 training center. The center shall be responsible for training
17 and administering certification requirements of all state law
18 enforcement personnel who exercise police powers in any county.
19 Such training shall conform to uniform statewide standards set
20 by the law enforcement standards board pursuant to chapter 139.
21 The center shall operate and maintain such facilities as are

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1 necessary to conduct training and certification under this
2 section."

3 SECTION 8. Section 88-21, Hawaii Revised Statutes, is
4 amended by amending the definition of "public safety
5 investigations staff investigators" to read as follows:

6 "" ~~[Public safety]~~ Law enforcement investigations staff
7 investigators": those employees in the investigations staff
8 office of the department of ~~[public safety]~~ law enforcement who
9 have been conferred police powers by the director of ~~[public~~
10 ~~safety]~~ law enforcement in accordance with section 353C-4 and
11 are in the positions of investigator I to VII."

12 SECTION 9. Section 139-1, Hawaii Revised Statutes, is
13 amended by amending the definition of "law enforcement officer"
14 to read as follows:

15 ""Law enforcement officer" means:

16 (1) A police officer employed by a county police
17 department;

18 (2) ~~[A public safety officer employed by the department of~~
19 ~~public safety;]~~ An employee of the department of law
20 enforcement conferred with police powers by the
21 director of law enforcement; or

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1 (3) An employee of the department of transportation,
2 department of land and natural resources, department
3 of taxation, or department of the attorney general who
4 is conferred by law with general police powers."

5 SECTION 10. Chapter 353C, Hawaii Revised Statutes, is
6 amended by amending its title to read as follows:

7 "CHAPTER 353C
8 ~~[PUBLIC SAFETY]~~ LAW ENFORCEMENT"

9 SECTION 11. Section 353C-2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~§353C-2 Director of [public safety],~~ law enforcement;
12 powers and duties. [~~+(a)+~~] The director of [~~public safety~~] law
13 enforcement shall administer the public safety programs of the
14 department [~~of public safety~~] and shall be responsible for the
15 formulation and implementation of state goals and objectives for
16 [~~correctional and~~] law enforcement programs[, ~~including ensuring~~
17 ~~that correctional facilities and correctional services meet the~~
18 ~~present and future needs of persons committed to the~~
19 ~~correctional facilities.~~] and homeland security. In the
20 administration of these programs, the director may:

21 (1) Preserve the public peace, prevent crime, detect and
22 arrest offenders against the law, protect the rights

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1 of persons and property, and enforce and prevent
2 violation of all laws and administrative rules of the
3 State as the director deems to be necessary or
4 desirable or upon request, to assist other state
5 officers or agencies that have primary administrative
6 responsibility over specific subject matters or
7 programs;

8 (2) Train, equip, maintain, and supervise the force of
9 ~~[public safety officers, including]~~ law enforcement
10 ~~[and correctional personnel,]~~ officers and other
11 employees of the department;

12 (3) Serve process both in civil and criminal proceedings;

13 (4) Perform other duties as may be required by law;

14 (5) Adopt, pursuant to chapter 91, rules that are
15 necessary or desirable for the administration of
16 ~~[public safety]~~ law enforcement programs; and

17 (6) Enter into contracts in behalf of the department and
18 take all actions deemed necessary and appropriate for
19 the proper and efficient administration of the
20 department.

21 ~~[{(b)} The department of public safety shall report to the~~
22 ~~legislature not later than twenty days prior to the commencement~~

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1 ~~of the 2008 regular session, and every session thereafter, with~~
 2 ~~its achievements, continuing improvements, and ongoing problems~~
 3 ~~in providing the appropriate mental health care to committed~~
 4 ~~persons under its jurisdiction.] "~~

5 SECTION 12. Section 353C-3, Hawaii Revised Statutes, is
 6 amended to read as follows:

7 " ~~[f]~~ §353C-3 ~~[f]~~ **Deputy directors; appointment.** The
 8 director shall appoint, without regard to chapter 76, ~~[three]~~
 9 two deputy directors to serve at the director's pleasure.
 10 Unless otherwise assigned by the director, one deputy director
 11 shall oversee the ~~[correctional programs and facilities of the~~
 12 ~~department, one deputy director shall oversee the]~~ law
 13 enforcement programs of the department, and one deputy director
 14 shall oversee administration of the department."

15 SECTION 13. Section 353C-4, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "**§353C-4 Appointment of employees with police powers and**
 18 **other employees.** (a) The director may appoint employees to be
 19 ~~[public safety]~~ law enforcement officers who shall have all of
 20 the powers of police officers; provided that the director may
 21 establish and assign the employees to positions or categories of

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1 positions that may have differing titles, specific duties, and
2 limitations upon the exercise of police powers.

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

5 (c) The duties of state law enforcement officers
6 ~~[transferred from the department of the attorney general by Act~~
7 ~~211, Session Laws of Hawaii 1989,]~~ shall ~~[be responsible for]~~
8 include conducting law enforcement operations and investigations
9 throughout the State and maintaining public safety in state
10 buildings as well as the personal protection of government
11 officials and employees while in the conduct of their duties.
12 The duties of state law enforcement officers shall also include
13 the service of process, including subpoenas, warrants, and other
14 legal documents, and other duties as the director may assign~~[,~~
15 ~~including the performance of duties of other public safety~~
16 ~~officers within the department]~~. State law enforcement officers
17 shall have all of the powers of police officers, including the
18 power of arrest. This section does not relieve county police
19 officers of any authority or responsibility to enforce laws or
20 to maintain public safety on state lands and in state
21 buildings."

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SECTION 14. Section 353C-5, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

"(a) The department shall develop standards to ensure the reputable and responsible characters of staff members ~~[of its correctional facilities]~~, which shall include criminal history record checks.

(b) For purposes of this section:

"Prospective staff member" means any applicant for a job in the department ~~[of public safety that is directly involved with the treatment and care of persons committed to a facility or that requires]~~ that involves the exercise of police powers~~[7]~~ conferred by the director, including the power to arrest in the performance of its duties.

"Staff member" means any employee of the department ~~[of public safety who is directly involved with the treatment and care of persons committed to a facility or]~~ who possesses police powers~~[7]~~ conferred by the director, including the power of arrest.

(c) The department shall obtain criminal history record information through the Hawaii criminal justice data center in accordance with section 846-2.7, on all staff and prospective

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1 staff members of the department of [~~public safety~~] law
2 enforcement. Prospective staff members shall be fingerprinted
3 and the criminal history record check shall be completed prior
4 to beginning employment."

5 SECTION 15. Section 353C-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[~~f~~] §353C-6 [~~f~~] **Parking fees, exemption.** Notwithstanding
8 any other law, rule, or provision to the contrary, [~~special~~
9 ~~service deputies~~] law enforcement officers of the department of
10 [~~public safety~~] law enforcement are exempt from all state and
11 county parking meter fees and county time parking restrictions
12 while in the performance of their official duties, including
13 attendance at court; provided that this exemption shall:

14 (1) Apply exclusively to state owned law enforcement
15 vehicles assigned to the department of [~~public~~
16 ~~safety~~,] law enforcement; and

17 (2) Not apply to private individuals retained by the
18 department on a contractual basis to serve civil
19 process in any capacity."

20 SECTION 16. Chapter 329, and sections 78-52, 134-81, 139-
21 2, 139-7, 200-27, 291-31.5, 334D-5, 350-1.1, 353C-1, 603-29,
22 604-6.2, 607-4, 607-8, 633-8, 634-11, 634-12, 634-22, 634-29,

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651-1, 652-1.5, 652-2, 652-2.5, 652-2.6, 654-2, 666-11, 666-21,
and 844D-38, Hawaii Revised Statutes, are amended by
substituting the word "law enforcement", or similar term,
wherever the word "public safety", or similar term, appears, by
substituting the word "department of law enforcement", or
similar term, wherever the word "department of public safety",
or similar term, appears, and by substituting the word "director
of law enforcement", or similar term, wherever the word
"director of public safety", or similar term, appears, as the
context requires.

PART IV

SECTION 17. Chapter 353, Hawaii Revised Statutes, is
amended by adding to part I seven new sections to be
appropriately designated and to read as follows:

**"§353-A Director of corrections and rehabilitation; powers
and duties.** The director shall be responsible for the
formulation and implementation of state goals and objectives for
correctional programs, including ensuring that correctional
facilities and correctional services meet the present and future
needs of persons committed to the correctional facilities. In
the administration of these programs, the director may:

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1 (1) Train, equip, maintain, and supervise correctional
2 personnel and other employees of the department;

3 (2) Perform other duties as may be required by law;

4 (3) Adopt, pursuant to chapter 91, rules that are
5 necessary or desirable for the administration of
6 corrections; and

7 (4) Enter into contracts in behalf of the department and
8 take all actions deemed necessary and appropriate for
9 the proper and efficient administration of the
10 department, including contracts for the custody and
11 care of Hawaii inmates housed outside of the state.

12 §353-B Deputy directors; appointment. The director shall
13 appoint, without regard to chapter 76, three deputy directors to
14 serve at the director's pleasure. Unless otherwise assigned by
15 the director, one deputy director shall oversee the correctional
16 institutions of the department including prisons and jails
17 within the state and any contracts for the custody and care of
18 Hawaii inmates housed outside of the state, one deputy director
19 shall oversee the rehabilitation services and programs of the
20 department, and one deputy director shall oversee administration
21 of the department.

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1 §353-C Correctional health care program. There is
2 established a correctional health care program within the
3 department. The administrator of the correctional health care
4 program and physicians who provide care to inmates shall be
5 appointed by the director without regard to chapter 76.

6 §353-D Criminal history record checks. (a) The
7 department shall develop standards to ensure the reputable and
8 responsible characters of staff members of its correctional
9 facilities, which shall include criminal history record checks.

10 (b) For purposes of this section:

11 "Prospective staff member" means any applicant for a job in
12 the department that is directly involved with the treatment and
13 care of persons committed to a facility.

14 "Staff member" means any employee of the department who is
15 directly involved with the treatment and care of persons
16 committed to a facility.

17 (c) The department shall obtain criminal history record
18 information through the Hawaii criminal justice data center in
19 accordance with section 846-2.7, on all staff and prospective
20 staff members of the department. Prospective staff members
21 shall be fingerprinted and the criminal history record check
22 shall be completed prior to beginning employment.

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1 (d) The department may deny employment to a prospective
2 staff member who was convicted of a crime other than a minor
3 traffic violation involving a fine of \$50 or less and if the
4 department finds from the prospective staff member's criminal
5 history record that the prospective staff member poses a risk to
6 the health, safety, security, or well-being of inmates under
7 supervision and confinement, other staff, or the public at
8 large.

9 (e) Staff members shall not be subject to termination
10 based on findings in their criminal records except for those
11 whose conviction of a crime occurred after May 8, 1989, or under
12 circumstances in which a staff member is a fugitive from
13 justice. Staff members shall be subject to termination for
14 crimes other than a minor traffic violation involving a fine of
15 \$50 or less, where because of the staff member's conviction
16 record, the staff member poses a risk to the health, safety,
17 security, or well-being of inmates under supervision and
18 confinement, other staff, or the public at large.

19 **§353-E Federal reimbursement maximization special fund.**

20 (a) There is established in the state treasury the federal
21 reimbursement maximization special fund, into which shall be
22 deposited all federal reimbursements received by the department

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1 relating to the State Criminal Alien Assistance Program. Unless
2 otherwise provided by law, all other receipts shall immediately
3 be deposited to the credit of the general fund of the State.

4 (b) Moneys in the federal reimbursement maximization
5 special fund shall be used by the department for the following
6 purposes:

7 (1) To meet the state match requirement for federal grants
8 and costs associated with federal grant reporting
9 requirements, including administrative expenses such
10 as the hiring of temporary staff;

11 (2) For any other purpose deemed necessary by the
12 department for maintaining existing federal grants as
13 well as pursuing federal grants;

14 (3) To hire consultants to provide training for
15 corrections officers;

16 (4) To hire consultants to conduct facility or program
17 evaluations;

18 (5) To rent or purchase vehicles to transport inmates;

19 (6) To provide pre-release and reentry programs;

20 (7) To improve technology; and

21 (8) To recruit and retain corrections workforce.

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1 (c) The department shall prepare and submit an annual
2 report on the status of the federal reimbursement maximization
3 special fund to the legislature no later than twenty days before
4 the convening of each regular session. The annual report shall
5 include but not be limited to a description of the use of the
6 funds.

7 **§353-F Sexual assaults in prison.** (a) The department, to
8 the best of the department's ability, shall address sexual
9 assault in prison and make every effort to seek grant moneys
10 from the federal government to implement those efforts. The
11 department shall place priority upon establishing:

- 12 (1) Appropriate counseling services for sexual assault, to
13 be made available to victims of prison rape within
14 twenty-four hours of the report of an assault; and
15 (2) Policies and standards of transparency to achieve a
16 zero-tolerance policy for sexual assault.

17 (b) The department, no later than twenty days prior to the
18 convening of each regular session, shall annually report data to
19 the legislature regarding:

- 20 (1) Sexual assault by persons in custody against other
21 persons in custody of the department;

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1 (2) Sexual assault by correctional staff against persons
2 in custody of the department;

3 (3) Non-criminal sexual misconduct by staff, including
4 sexual harassment of persons in custody of the
5 department;

6 (4) Criminal cases initiated, and closed by dismissal,
7 plea, or verdict, for sexual assaults by or upon a
8 person in custody of the department; and

9 (5) Civil claims filed and closed by dismissal,
10 settlement, or verdict for sexual assaults by or upon
11 a person in custody of the department.

12 (c) The department shall preserve any forensic evidence
13 consisting of human biological specimens for collection by the
14 relevant criminal investigation entity or coroner, if there is
15 any indication of sexual assault leading to the death of any:

16 (1) Correctional facility or community correctional center
17 employee who dies on the grounds of a correctional
18 facility or community correctional center where Hawaii
19 inmates reside or who sustains an injury on the
20 grounds of a correctional facility or community
21 correctional center where Hawaii inmates reside that
22 causes the death of the employee; and

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(2) Hawaii inmate who is incarcerated in a state or
contracted correctional facility."

§353-G Correctional facility and community correctional
center deaths; reporting. (a) Within forty-eight hours, the
director shall report to the governor, and the governor shall
report to the legislature, the death of any:

(1) Correctional facility or community correctional center
employee who dies on the grounds of a correctional
facility or community correctional center where Hawaii
inmates reside or who sustains an injury on the
grounds of a correctional facility or community
correctional center where Hawaii inmates reside that
causes the death of the employee; or

(2) Hawaii inmate who is incarcerated in a state or
contracted correctional facility.

(b) The report in subsection (a) shall include the
following information:

(1) The name of the decedent;

(2) The gender and age of the decedent;

(3) Whether the decedent was an inmate or an employee;

(4) The location of the death or injury leading to the
death;

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1 (5) The date and time of the death;
2 (6) The cause of death; and
3 (7) Any indication of sexual assault leading to the death,
4 provided that when the official cause of death has been
5 determined, the director shall immediately report the official
6 cause of death to the governor, and the governor shall
7 immediately report the official cause of death to the
8 legislature.

9 (c) Within thirty days of a death described in subsection
10 (a), the director shall submit a report to the governor, and the
11 governor shall submit the report to the legislature, of the
12 clinical mortality review conducted in response to the death,
13 including correctional actions to be taken.

14 (d) The director shall have the discretion to withhold
15 disclosure of the decedent's name or any information protected
16 from disclosure by state or federal laws."

17 SECTION 18. Section 26-4, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§26-4 Structure of government.** Under the supervision of
20 the governor, all executive and administrative offices,
21 departments, and instrumentalities of the state government and
22 their respective functions, powers, and duties shall be

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allocated among and within the following principal departments
that are hereby established:

- (1) Department of human resources development (Section 26-5)
- (2) Department of accounting and general services (Section 26-6)
- (3) Department of the attorney general (Section 26-7)
- (4) Department of budget and finance (Section 26-8)
- (5) Department of commerce and consumer affairs (Section 26-9)
- (6) Department of taxation (Section 26-10)
- (7) University of Hawaii (Section 26-11)
- (8) Department of education (Section 26-12)
- (9) Department of health (Section 26-13)
- (10) Department of human services (Section 26-14)
- (11) Department of land and natural resources (Section 26-15)
- (12) Department of agriculture (Section 26-16)
- (13) Department of Hawaiian home lands (Section 26-17)
- (14) Department of business, economic development, and tourism (Section 26-18)
- (15) Department of transportation (Section 26-19)

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(16) Department of labor and industrial relations (Section 26-20)

(17) Department of defense (Section 26-21)

(18) Department of ~~[public safety]~~ corrections and rehabilitation (Section 26-14.6)

(19) Department of law enforcement (Section 26-A)."

SECTION 19. Section 26-14.6, Hawaii Revised Statutes, is amended to read as follows:

"§26-14.6 Department of ~~[public safety.]~~ corrections and rehabilitation. (a) The department of ~~[public safety]~~ corrections and rehabilitation shall be headed by a single executive to be known as the director of ~~[public safety.]~~ corrections and rehabilitation.

(b) The department of ~~[public safety]~~ corrections and rehabilitation shall be responsible for the formulation and implementation of state policies and objectives for the correctional ~~[, security, law enforcement, and public safety programs and functions,]~~ system statewide and for the administration and maintenance of all public or private correctional facilities and services ~~[, for the service of process, and for the security of state buildings].~~

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1 (c) Effective July 1, 1990, the Hawaii paroling authority
2 and the crime victim compensation commission are placed within
3 the department of public safety for administrative purposes
4 only[-], and effective July 1, 2023, are placed within the
5 department of corrections and rehabilitation for administrative
6 purposes only.

7 (d) Effective July 1, 1990, the functions and authority
8 heretofore exercised by:

- 9 (1) The department of corrections relating to adult
10 corrections and the intake service centers;
11 (2) The judiciary relating to the sheriff's office and
12 judiciary security personnel; and
13 (3) The department of the attorney general relating to
14 state law enforcement officers and narcotics
15 enforcement investigators with the narcotics
16 enforcement division,

17 shall be transferred to the department of public safety.

18 Effective July 1, 2023, the functions and authority transferred
19 in paragraph (1) shall be transferred to the department of
20 corrections and rehabilitation. Effective July 1, 2023, the
21 functions and authority transferred in paragraphs (2) and (3)
22 shall be transferred to the department of law enforcement.

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1 (e) Effective July 1, 1990, the functions and authority
2 heretofore exercised by the department of health pursuant to
3 chapters 329 and 329C, with the exception of sections 329-2,
4 329-3, and 329-4(3) to (8), shall be transferred to the
5 department of public safety[-], and effective July 1, 2023,
6 shall be transferred to the department of law enforcement.

7 (f) Effective July 1, 1990, the functions, authority, and
8 obligations, together with the limitations imposed thereon and
9 the privileges and immunities conferred thereby, exercised by a
10 "sheriff", "sheriffs", a "sheriff's deputy", "sheriff's
11 deputies", a "deputy sheriff", "deputy sheriffs", or a "deputy",
12 under sections 21-8, 47-18, 105-4, 134-51, 183D-11, 187A-14,
13 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9,
14 353-11, 356D-54, 356D-94, 383-71, 438-5, 445-37, 482E-4, 485A-
15 202, 501-42, 501-171, 501-218, 521-78, 578-4, 584-6, 587-33,
16 603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8, 634-11,
17 634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2, 655-2,
18 657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35, 804-14,
19 804-18, 804-41, 805-1, 806-71, and 832-23 shall be exercised to
20 the same extent by the department of public safety[-], and
21 effective July 1, 2023, shall be exercised to the same extent by
22 the department of law enforcement.

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1 (g) Effective January 1, 1993, the functions and authority
2 heretofore exercised by the attorney general and the department
3 of the attorney general relating to the executive security
4 officers shall be transferred to the department of public safety
5 [–], and effective July 1, 2023, shall be transferred to the
6 department of law enforcement.

7 (h) Effective July 1, 1999, the functions and authority
8 heretofore exercised by the director of public safety and the
9 department of public safety relating to after hours security
10 contracts at department of education facilities, except for the
11 security functions being performed by employees of the public
12 library system as well as the contractual security services for
13 the libraries, shall be transferred to the department of
14 education.

15 (i) Effective January 1, 1993, the functions and authority
16 heretofore exercised by the director of health and the
17 department of health relating to uniformed security employees
18 and security contracts at various state hospitals throughout the
19 State shall be transferred to the department of public safety
20 [–], and effective July 1, 2023, shall be transferred to the
21 department of law enforcement. Effective July 1, 2005, the
22 functions, authority, and employee positions of the department

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1 of public safety relating to uniformed security employees and
2 security contracts at health facilities that are under the
3 operation, management, and control of the Hawaii health systems
4 corporation shall be transferred to the Hawaii health systems
5 corporation.

6 (j) Effective January 1, 1993, the functions and authority
7 heretofore exercised by the director of human services and the
8 department of human services relating to contractual security
9 guard services shall be transferred to the department of public
10 safety[-], and effective July 1, 2023, shall be transferred to
11 the department of law enforcement.

12 (k) Effective July 1, 1994, the functions and authority
13 heretofore exercised by the adjutant general relating to
14 security for national guard and state emergency management
15 facilities in the Diamond Head complex, for after work hours,
16 shall be transferred to the department of public safety[-], and
17 effective July 1, 2023, shall be transferred to the department
18 of law enforcement.

19 (l) Effective July 1, 2002, the functions and authority
20 heretofore exercised by the director of public safety and the
21 department of public safety relating to after hours security
22 contracts at department of education facilities, including all

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1 security functions being performed by employees of the public
2 library system, as well as the contractual security services for
3 the libraries, shall be transferred to the department of
4 education and the public library system as appropriate."

5 SECTION 20. Section 26-52, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§26-52 Department heads and executive officers.** The
8 salaries of the following state officers shall be as follows:

- 9 (1) The salary of the superintendent of education shall be
10 set by the board of education at a rate no greater
11 than \$250,000 a year. The superintendent shall be
12 subject to an annual performance evaluation that is in
13 alignment with other employee evaluations within the
14 department of education and are based on outcomes
15 determined by the board of education; provided that
16 nothing shall prohibit the board of education from
17 conditioning a portion of the salary on performance;
- 18 (2) The salary of the president of the University of
19 Hawaii shall be set by the board of regents;
- 20 (3) Effective July 1, 2004, the salaries of all department
21 heads or executive officers of the departments of
22 accounting and general services, agriculture, attorney

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1 general, budget and finance, business, economic
2 development, and tourism, commerce and consumer
3 affairs, corrections and rehabilitation, Hawaiian home
4 lands, health, human resources development, human
5 services, labor and industrial relations, land and
6 natural resources, law enforcement, [~~public safety~~,]
7 taxation, and transportation shall be as last
8 recommended by the executive salary commission.

9 Effective July 1, 2007, and every six years
10 thereafter, the salaries shall be as last recommended
11 by the commission on salaries pursuant to section 26-
12 56, unless rejected by the legislature; and

- 13 (4) The salary of the adjutant general shall be \$85,302 a
14 year. Effective July 1, 2007, and every six years
15 thereafter, the salary of the adjutant general shall
16 be as last recommended by the commission on salaries
17 pursuant to section 26-56, unless rejected by the
18 legislature, except that if the state salary is in
19 conflict with the pay and allowance fixed by the
20 tables of the regular Army or Air Force of the United
21 States, the latter shall prevail."

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SECTION 21. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

(1) Commissioned and enlisted personnel of the Hawaii National Guard as such, and positions in the Hawaii National Guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;

(2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;

(3) Positions that must be filled without delay to comply with a court order or decree if the director

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determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;

(4) Positions filled by the legislature or by either house or any committee thereof;

(5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;

(6) Positions filled by popular vote;

(7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;

(8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;

(9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme

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1 court, each judge of the intermediate appellate court,
2 and each judge of the circuit court; one secretary for
3 the judicial council; one deputy administrative
4 director of the courts; three law clerks for the chief
5 justice of the supreme court, two law clerks for each
6 associate justice of the supreme court and each judge
7 of the intermediate appellate court, one law clerk for
8 each judge of the circuit court, two additional law
9 clerks for the civil administrative judge of the
10 circuit court of the first circuit, two additional law
11 clerks for the criminal administrative judge of the
12 circuit court of the first circuit, one additional law
13 clerk for the senior judge of the family court of the
14 first circuit, two additional law clerks for the civil
15 motions judge of the circuit court of the first
16 circuit, two additional law clerks for the criminal
17 motions judge of the circuit court of the first
18 circuit, and two law clerks for the administrative
19 judge of the district court of the first circuit; and
20 one private secretary for the administrative director
21 of the courts, the deputy administrative director of
22 the courts, each department head, each deputy or first

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1 assistant, and each additional deputy, or assistant
2 deputy, or assistant defined in paragraph (16);

3 (10) First deputy and deputy attorneys general, the
4 administrative services manager of the department of
5 the attorney general, one secretary for the
6 administrative services manager, an administrator and
7 any support staff for the criminal and juvenile
8 justice resources coordination functions, and law
9 clerks;

10 (11) (A) Teachers, principals, vice-principals, complex
11 area superintendents, deputy and assistant
12 superintendents, other certificated personnel,
13 not more than twenty noncertificated
14 administrative, professional, and technical
15 personnel not engaged in instructional work;
16 (B) Effective July 1, 2003, teaching assistants,
17 educational assistants, bilingual/bicultural
18 school-home assistants, school psychologists,
19 psychological examiners, speech pathologists,
20 athletic health care trainers, alternative school
21 work study assistants, alternative school
22 educational/supportive services specialists,

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1 alternative school project coordinators, and
2 communications aides in the department of
3 education;

4 (C) The special assistant to the state librarian and
5 one secretary for the special assistant to the
6 state librarian; and

7 (D) Members of the faculty of the University of
8 Hawaii, including research workers, extension
9 agents, personnel engaged in instructional work,
10 and administrative, professional, and technical
11 personnel of the university;

12 (12) Employees engaged in special, research, or
13 demonstration projects approved by the governor;

14 (13) (A) Positions filled by inmates, patients of state
15 institutions, persons with severe physical or
16 mental disabilities participating in the work
17 experience training programs;

18 (B) Positions filled with students in accordance with
19 guidelines for established state employment
20 programs; and

21 (C) Positions that provide work experience training
22 or temporary public service employment that are

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filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;

(14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;

(15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;

(16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and

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1 airports divisions or other functions within the
2 department of transportation as may be assigned by the
3 director of transportation, with the approval of the
4 governor; four additional deputies in the department
5 of health, each in charge of one of the following:
6 behavioral health, environmental health, hospitals,
7 and health resources administration, including other
8 functions within the department as may be assigned by
9 the director of health, with the approval of the
10 governor; two additional deputies either in charge of
11 the law enforcement programs, and administration or
12 other functions within the department of law
13 enforcement as may be assigned by the director of law
14 enforcement, with the approval of the governor; three
15 additional deputies each in charge of the correctional
16 institutions, rehabilitation services and programs,
17 and administration or other functions within the
18 department of corrections and rehabilitation as may be
19 assigned by the director of corrections and
20 rehabilitation, with the approval of the governor; an
21 administrative assistant to the state librarian; and

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1 an administrative assistant to the superintendent of
2 education;

3 (17) Positions specifically exempted from this part by any
4 other law; provided that:

5 (A) Any exemption created after July 1, 2014, shall
6 expire three years after its enactment unless
7 affirmatively extended by an act of the
8 legislature; and

9 (B) All of the positions defined by paragraph (9)
10 shall be included in the position classification
11 plan;

12 (18) Positions in the state foster grandparent program and
13 positions for temporary employment of senior citizens
14 in occupations in which there is a severe personnel
15 shortage or in special projects;

16 (19) Household employees at the official residence of the
17 president of the University of Hawaii;

18 (20) Employees in the department of education engaged in
19 the supervision of students during meal periods in the
20 distribution, collection, and counting of meal
21 tickets, and in the cleaning of classrooms after
22 school hours on a less than half-time basis;

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- 1 (21) Employees hired under the tenant hire program of the
2 Hawaii public housing authority; provided that not
3 more than twenty-six per cent of the authority's
4 workforce in any housing project maintained or
5 operated by the authority shall be hired under the
6 tenant hire program;
- 7 (22) Positions of the federally funded expanded food and
8 nutrition program of the University of Hawaii that
9 require the hiring of nutrition program assistants who
10 live in the areas they serve;
- 11 (23) Positions filled by persons with severe disabilities
12 who are certified by the state vocational
13 rehabilitation office that they are able to perform
14 safely the duties of the positions;
- 15 (24) The sheriff;
- 16 (25) A gender and other fairness coordinator hired by the
17 judiciary;
- 18 (26) Positions in the Hawaii National Guard youth and adult
19 education programs;
- 20 (27) In the state energy office in the department of
21 business, economic development, and tourism, all

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energy program managers, energy program specialists,
energy program assistants, and energy analysts;

(28) Administrative appeals hearing officers in the
department of human services;

(29) In the Med-QUEST division of the department of human
services, the division administrator, finance officer,
health care services branch administrator, medical
director, and clinical standards administrator;

(30) In the director's office of the department of human
services, the enterprise officer, information security
and privacy compliance officer, security and privacy
compliance engineer, and security and privacy
compliance analyst;

(31) The Alzheimer's disease and related dementia services
coordinator in the executive office on aging;

[+] (32) [+] In the Hawaii emergency management agency, the
executive officer, public information officer, civil
defense administrative officer, branch chiefs, and
emergency operations center state warning point
personnel; provided that, for state warning point
personnel, the director shall determine that

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1 recruitment through normal civil service recruitment
2 procedures would result in delay or noncompliance; and
3 [4] (33) [4] The executive director and seven full-time
4 administrative positions of the school facilities
5 authority.

6 The director shall determine the applicability of this
7 section to specific positions.

8 Nothing in this section shall be deemed to affect the civil
9 service status of any incumbent as it existed on July 1, 1955."

10 SECTION 22. Section 846-2.7, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) Criminal history record checks may be conducted by:

13 (1) The department of health or its designee on operators
14 of adult foster homes for individuals with
15 developmental disabilities or developmental
16 disabilities domiciliary homes and their employees, as
17 provided by section 321-15.2;

18 (2) The department of health or its designee on
19 prospective employees, persons seeking to serve as
20 providers, or subcontractors in positions that place
21 them in direct contact with clients when providing

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non-witnessed direct mental health or health care
services as provided by section 321-171.5;

(3) The department of health or its designee on all
applicants for licensure or certification for,
operators for, prospective employees, adult
volunteers, and all adults, except adults in care, at
healthcare facilities as defined in section 321-15.2;

(4) The department of education on employees, prospective
employees, and teacher trainees in any public school
in positions that necessitate close proximity to
children as provided by section 302A-601.5;

(5) The counties on employees and prospective employees
who may be in positions that place them in close
proximity to children in recreation or child care
programs and services;

(6) The county liquor commissions on applicants for liquor
licenses as provided by section 281-53.5;

(7) The county liquor commissions on employees and
prospective employees involved in liquor
administration, law enforcement, and liquor control
investigations;

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(8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;

(9) The department of human services on prospective adoptive parents as established under section 346-19.7;

(10) The department of human services or its designee on applicants to operate child care facilities, household members of the applicant, prospective employees of the applicant, and new employees and household members of the provider after registration or licensure as provided by section 346-154, and persons subject to section 346-152.5;

(11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;

(12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;

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(13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;

(14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;

(15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;

(16) The department of [~~public safety~~] corrections and rehabilitation on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility [~~or who possess~~] as provided by section 353-D and the department of law enforcement on employees and prospective employees whose duties involve or may involve the exercise of police powers including the power of arrest as provided by section 353C-5;

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- 1 (17) The board of private detectives and guards on
2 applicants for private detective or private guard
3 licensure as provided by section 463-9;
- 4 (18) Private schools and designated organizations on
5 employees and prospective employees who may be in
6 positions that necessitate close proximity to
7 children; provided that private schools and designated
8 organizations receive only indications of the states
9 from which the national criminal history record
10 information was provided pursuant to section 302C-1;
- 11 (19) The public library system on employees and prospective
12 employees whose positions place them in close
13 proximity to children as provided by section 302A-
14 601.5;
- 15 (20) The State or any of its branches, political
16 subdivisions, or agencies on applicants and employees
17 holding a position that has the same type of contact
18 with children, vulnerable adults, or persons committed
19 to a correctional facility as other public employees
20 who hold positions that are authorized by law to
21 require criminal history record checks as a condition
22 of employment as provided by section 78-2.7;

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1 (21) The department of health on licensed adult day care
2 center operators, employees, new employees,
3 subcontracted service providers and their employees,
4 and adult volunteers as provided by section 321-15.2;

5 (22) The department of human services on purchase of
6 service contracted and subcontracted service providers
7 and their employees serving clients of the adult
8 protective and community services branch, as provided
9 by section 346-97;

10 (23) The department of human services on foster grandparent
11 program, senior companion program, and respite
12 companion program participants as provided by section
13 346-97;

14 (24) The department of human services on contracted and
15 subcontracted service providers and their current and
16 prospective employees that provide home and community-
17 based services under section 1915(c) of the Social
18 Security Act, title 42 United States Code section
19 1396n(c), or under any other applicable section or
20 sections of the Social Security Act for the purposes
21 of providing home and community-based services, as
22 provided by section 346-97;

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(25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;

(26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;

(27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;

(28) The department of commerce and consumer affairs on:

(A) Each principal of every non-corporate applicant for a money transmitter license;

(B) Each person who upon approval of an application by a corporate applicant for a money transmitter license will be a principal of the licensee; and

(C) Each person who upon approval of an application requesting approval of a proposed change in

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1 control of licensee will be a principal of the
2 licensee,

3 as provided by sections 489D-9 and 489D-15;

4 (29) The department of commerce and consumer affairs on
5 applicants for licensure and persons licensed under
6 title 24;

7 (30) The Hawaii health systems corporation on:

8 (A) Employees;

9 (B) Applicants seeking employment;

10 (C) Current or prospective members of the corporation
11 board or regional system board; or

12 (D) Current or prospective volunteers, providers, or
13 contractors,

14 in any of the corporation's health facilities as
15 provided by section 323F-5.5;

16 (31) The department of commerce and consumer affairs on:

17 (A) An applicant for a mortgage loan originator
18 license, or license renewal; and

19 (B) Each control person, executive officer, director,
20 general partner, and managing member of an
21 applicant for a mortgage loan originator company
22 license or license renewal,

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- 1 as provided by chapter 454F;
- 2 (32) The state public charter school commission or public
3 charter schools on employees, teacher trainees,
4 prospective employees, and prospective teacher
5 trainees in any public charter school for any position
6 that places them in close proximity to children, as
7 provided in section 302D-33;
- 8 (33) The counties on prospective employees who work with
9 children, vulnerable adults, or senior citizens in
10 community-based programs;
- 11 (34) The counties on prospective employees for fire
12 department positions that involve contact with
13 children or vulnerable adults;
- 14 (35) The counties on prospective employees for emergency
15 medical services positions that involve contact with
16 children or vulnerable adults;
- 17 (36) The counties on prospective employees for emergency
18 management positions and community volunteers whose
19 responsibilities involve planning and executing
20 homeland security measures including viewing,
21 handling, and engaging in law enforcement or

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1 classified meetings and assisting vulnerable citizens
2 during emergencies or crises;

3 (37) The State and counties on employees, prospective
4 employees, volunteers, and contractors whose position
5 responsibilities require unescorted access to secured
6 areas and equipment related to a traffic management
7 center;

8 (38) The State and counties on employees and prospective
9 employees whose positions involve the handling or use
10 of firearms for other than law enforcement purposes;

11 (39) The State and counties on current and prospective
12 systems analysts and others involved in an agency's
13 information technology operation whose position
14 responsibilities provide them with access to
15 proprietary, confidential, or sensitive information;

16 (40) The department of commerce and consumer affairs on:

17 (A) Applicants for real estate appraiser licensure or
18 certification as provided by chapter 466K;

19 (B) Each person who owns more than ten per cent of an
20 appraisal management company who is applying for
21 registration as an appraisal management company,
22 as provided by section 466L-7; and

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- 1 (C) Each of the controlling persons of an applicant
2 for registration as an appraisal management
3 company, as provided by section 466L-7;
- 4 (41) The department of health or its designee on all
5 license applicants, licensees, employees, contractors,
6 and prospective employees of medical cannabis
7 dispensaries, and individuals permitted to enter and
8 remain in medical cannabis dispensary facilities as
9 provided under sections 329D-15(a)(4) and 329D-
10 16(a)(3);
- 11 (42) The department of commerce and consumer affairs on
12 applicants for nurse licensure or license renewal,
13 reactivation, or restoration as provided by sections
14 457-7, 457-8, 457-8.5, and 457-9;
- 15 (43) The county police departments on applicants for
16 permits to acquire firearms pursuant to section 134-2
17 and on individuals registering their firearms pursuant
18 to section 134-3;
- 19 (44) The department of commerce and consumer affairs on:
20 (A) Each of the controlling persons of the applicant
21 for licensure as an escrow depository, and each
22 of the officers, directors, and principals who

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1 will be in charge of the escrow depository's
2 activities upon licensure; and
3 (B) Each of the controlling persons of an applicant
4 for proposed change in control of an escrow
5 depository licensee, and each of the officers,
6 directors, and principals who will be in charge
7 of the licensee's activities upon approval of the
8 application,
9 as provided by chapter 449;
10 (45) The department of taxation on current or prospective
11 employees or contractors who have access to federal
12 tax information in order to comply with requirements
13 of federal law, regulation, or procedure, as provided
14 by section 231-1.6;
15 (46) The department of labor and industrial relations on
16 current or prospective employees or contractors who
17 have access to federal tax information in order to
18 comply with requirements of federal law, regulation,
19 or procedure, as provided by section 383-110;
20 (47) The department of human services on current or
21 prospective employees or contractors who have access
22 to federal tax information in order to comply with

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requirements of federal law, regulation, or procedure,
as provided by section 346-2.5;

(48) The child support enforcement agency on current or
prospective employees, or contractors who have access
to federal tax information in order to comply with
federal law, regulation, or procedure, as provided by
section 576D-11.5;

(49) The department of the attorney general on current or
prospective employees or employees or agents of
contractors who have access to federal tax information
to comply with requirements of federal law,
regulation, or procedure, as provided by section 28-
17;

[+] (50) [+] The department of commerce and consumer affairs
on each control person, executive officer, director,
general partner, and managing member of an installment
loan licensee, or an applicant for an installment loan
license, as provided in chapter 480J;

[+] (51) [+] The University of Hawaii on current and
prospective employees and contractors whose duties
include ensuring the security of campus facilities and
persons; and

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[+] (52) [+] Any other organization, entity, or the State,
its branches, political subdivisions, or agencies as
may be authorized by state law."

SECTION 23. Sections 134-2, 353-1, 353B-3, 353L-3, 353L-5,
354D-2, 707-732, 801D-4, 804-7, Hawaii Revised Statutes, are
amended by substituting the word "department of corrections and
rehabilitation", or similar term, wherever the word "department
of public safety", or similar term, appears and by substituting
the word "director of corrections and rehabilitation", or
similar term, wherever the word "director of public safety", or
similar term, appears, as the context requires.

SECTION 24. Section 353C-4.5, Hawaii Revised Statutes, is
repealed.

~~["§353C-4.5] Correctional health care program. There is
established a correctional health care program within the
department. The administrator of the correctional health care
program and physicians who provide care to inmates shall be
appointed by the director without regard to [chapter 76]."]~~

SECTION 25. Section 353C-7, Hawaii Revised Statutes, is
repealed.

~~["§353C-7 Federal reimbursement maximization special fund.
(a) There is established in the state treasury the federal~~

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~~reimbursement maximization special fund, into which shall be deposited all federal reimbursements received by the department relating to the State Criminal Alien Assistance Program. Unless otherwise provided by law, all other receipts shall immediately be deposited to the credit of the general fund of the State.~~

~~(b) Moneys in the federal reimbursement maximization special fund shall be used by the department for the following purposes:~~

~~(1) To meet the state match requirement for federal grants and costs associated with federal grant reporting requirements, including administrative expenses such as the hiring of temporary staff;~~

~~(2) For any other purpose deemed necessary by the department for maintaining existing federal grants as well as pursuing federal grants;~~

~~(3) To hire consultants to provide training for corrections officers;~~

~~(4) To hire consultants to conduct facility or program evaluations;~~

~~(5) To rent or purchase vehicles to transport inmates;~~

~~(6) To provide pre-release and reentry programs;~~

~~(7) To improve technology; and~~

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~~(8) To recruit and retain corrections workforce.~~

~~(c) The department shall prepare and submit an annual report on the status of the federal reimbursement maximization special fund to the legislature no later than twenty days before the convening of each regular session. The annual report shall include but not be limited to a description of the use of the funds."]~~

SECTION 26. Section 353C-8, Hawaii Revised Statutes, is repealed.

~~["§353C-8 Sexual assaults in prison. (a) The department of public safety, to the best of the department's ability, shall address sexual assault in prison and make every effort to seek grant moneys from the federal government to implement those efforts. The department shall place priority upon establishing:~~

~~(1) Appropriate counseling services for sexual assault, to be made available to victims of prison rape within twenty four hours of the report of an assault; and~~

~~(2) Policies and standards of transparency to achieve a zero tolerance policy for sexual assault.~~

~~(b) The department of public safety, no later than twenty days prior to the convening of each regular session, shall annually report data to the legislature regarding:~~

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- ~~(1) Sexual assault by persons in custody against other persons in custody of the department of public safety;~~
- ~~(2) Sexual assault by correctional staff against persons in custody of the department of public safety;~~
- ~~(3) Non-criminal sexual misconduct by staff, including sexual harassment of persons in custody of the department of public safety;~~
- ~~(4) Criminal cases initiated, and closed by dismissal, plea, or verdict, for sexual assaults by or upon a person in custody of the department of public safety; and~~
- ~~(5) Civil claims filed and closed by dismissal, settlement, or verdict for sexual assaults by or upon a person in custody of the department of public safety.~~
- ~~(c) The department of public safety shall preserve any forensic evidence consisting of human biological specimens for collection by the relevant criminal investigation entity or coroner, if there is any indication of sexual assault leading to the death of any.~~
- ~~(1) Correctional facility or community correctional center employee who dies on the grounds of a correctional~~

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~~facility or community correctional center where Hawaii inmates reside or who sustains an injury on the grounds of a correctional facility or community correctional center where Hawaii inmates reside that causes the death of the employee; and~~

~~(2) Hawaii inmate who is incarcerated in a state or contracted correctional facility."]~~

SECTION 27. Section 353C-8.5, Hawaii Revised Statutes, is repealed.

~~["§ 353C-8.5] Correctional facility and community correctional center deaths; reporting. (a) Within forty eight hours, the director shall report to the governor, and the governor shall report to the legislature, the death of any:~~

~~(1) Correctional facility or community correctional center employee who dies on the grounds of a correctional facility or community correctional center where Hawaii inmates reside or who sustains an injury on the grounds of a correctional facility or community correctional center where Hawaii inmates reside that causes the death of the employee; or~~

~~(2) Hawaii inmate who is incarcerated in a state or contracted correctional facility.~~

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~~(b) The report in subsection (a) shall include the following information:~~

~~(1) The name of the decedent;~~

~~(2) The gender and age of the decedent;~~

~~(3) Whether the decedent was an inmate or an employee;~~

~~(4) The location of the death or injury leading to the death;~~

~~(5) The date and time of the death;~~

~~(6) The cause of death; and~~

~~(7) Any indication of sexual assault leading to the death;~~

~~provided that when the official cause of death has been determined, the director shall immediately report the official cause of death to the governor, and the governor shall immediately report the official cause of death to the legislature.~~

~~(c) Within thirty days of a death described in subsection (a), the director shall submit a report to the governor, and the governor shall submit the report to the legislature, of the clinical mortality review conducted in response to the death, including correctional actions to be taken.~~

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1 ~~(d) The director shall have the discretion to withhold~~
2 ~~disclosure of the decedent's name or any information protected~~
3 ~~from disclosure by state or federal laws."]~~

PART V

5 SECTION 28. All rights, powers, functions, and duties of
6 the employees of the investigations division of the department
7 of the attorney general performing non-statutorily mandated
8 functions are transferred to the department of law enforcement.

9 SECTION 29. All rights, powers, functions, and duties of
10 the employees of the state office of homeland security are
11 transferred to the department of law enforcement.

12 SECTION 30. All rights, powers, functions, and duties of
13 the employees of the department of transportation performing law
14 enforcement functions and related employees are transferred to
15 the department of law enforcement.

16 SECTION 31. Section 26-21, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) The department of defense shall be headed by a single
19 executive to be known as the adjutant general. The adjutant
20 general shall also be the director of the Hawaii emergency
21 management agency as established in section 127A-3 [~~and the~~
22 ~~director of homeland security~~]."

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1 SECTION 32. Section 128A-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "director of homeland
3 security" or "director" to read as follows:

4 " [~~"Director of homeland security" or "director"~~] "Director"
5 means the [~~adjutant general~~] director of law enforcement."

6 SECTION 33. Section 128A-3, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) There shall be established within the department of
9 [~~defense~~] law enforcement an office of homeland security. The
10 director [~~of homeland security~~] shall employ appropriate
11 personnel and make expenditures as may be necessary to carry out
12 this chapter. The director shall appoint an administrator of
13 homeland security who shall be exempt from chapter 76, subject
14 to removal by the director, and receive compensation as the
15 director may determine."

16 SECTION 34. Section 128B-1, Hawaii Revised Statutes, is
17 amended by amending subsections (a) and (b) to read as follows:

18 "(a) There is established the full-time Hawaii
19 cybersecurity, economic, education, and infrastructure security
20 coordinator to oversee cybersecurity and cyber resiliency
21 matters, including cybersecurity, economic, education, and
22 infrastructure security for the State. The coordinator shall be

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1 placed within the state department of [~~defense.~~] law
2 enforcement.

3 (b) The coordinator shall be selected by the [~~state~~
4 ~~adjutant general~~] director of law enforcement based on the
5 recommendations of the various agencies, departments, and
6 private entities that will partner with the coordinator."

7 SECTION 35. Section 139-1, Hawaii Revised Statutes, is
8 amended by amending the definition of "law enforcement officer"
9 to read as follows:

10 "Law enforcement officer" means:

- 11 (1) A police officer employed by a county police
12 department;
- 13 (2) An employee of the department of law enforcement
14 conferred with police powers by the director of law
15 enforcement; or
- 16 (3) An employee of the [~~department of transportation,~~]
17 department of land and natural resources, department
18 of taxation, or department of the attorney general who
19 is conferred by law with general police powers."

20 SECTION 36. Section 139-2, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

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1 "(a) There is established the law enforcement standards
2 board within the department of the attorney general for
3 administrative purposes only. The purpose of the board shall be
4 to provide programs and standards for training and certification
5 of law enforcement officers. The law enforcement standards
6 board shall consist of the following voting members: [~~nine~~]
7 eight ex officio individuals, two law enforcement officers, and
8 four members of the public.

9 (1) The [~~nine~~] eight ex officio members of the board shall
10 consist of the:

11 (A) Attorney general;

12 (B) Director of law enforcement;

13 [~~(C)~~] ~~Director of transportation or the director's~~
14 ~~designee;~~

15 [~~(D)~~] (C) Chairperson of the board of land and natural
16 resources or chairperson's designee;

17 [~~(E)~~] (D) Director of taxation or the director's
18 designee; and

19 [~~(F)~~] (E) Chiefs of police of the four counties;

20 (2) The two law enforcement officers shall each have at
21 least ten years of experience as a law enforcement
22 officer and shall be appointed by the governor; and

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(3) The four members of the public shall consist of one member of the public from each of the four counties and shall be appointed by the governor. At least two of the four members of the public holding a position on the board at any given time shall:

(A) Possess a master's or doctorate degree related to criminal justice;

(B) Possess a law degree and have experience:

(i) Practicing in Hawaii as a deputy attorney general, a deputy prosecutor, deputy public defender, or private criminal defense attorney; or

(ii) Litigating constitutional law issues in Hawaii;

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

(D) Have work experience in a law enforcement capacity; provided that experience in a county police department shall not itself be sufficient to qualify under this paragraph."

SECTION 37. Section 139-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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1 "(a) No person shall be appointed or employed as a law
2 enforcement officer by any county police department, the
3 department of law enforcement, [~~the department of~~
4 ~~transportation,~~] the department of land and natural resources,
5 the department of taxation, or the department of the attorney
6 general, unless the person possesses a valid certification
7 issued by the board pursuant to section 139-6(b)."

8 SECTION 38. Section 266-24, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "~~(a) [The director of transportation shall enforce this~~
11 ~~chapter and all rules thereunder, except for the rules relative~~
12 ~~to the control and management of the beaches encumbered with~~
13 ~~easements in favor of the public and ocean waters, which shall~~
14 ~~be enforced by the department of land and natural resources.~~
15 ~~For the purpose of the enforcement of this chapter and of all~~
16 ~~rules adopted pursuant to this chapter, the powers of police~~
17 ~~officers are conferred upon the director of transportation and~~
18 ~~any officer, employee, or representative of the department of~~
19 ~~transportation. Without limiting the generality of the~~
20 ~~foregoing, the director and any person appointed by the director~~
21 ~~hereunder may serve and execute warrants, arrest offenders, and~~
22 ~~serve notices and orders. The director of transportation and~~

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~~any employee, agent, or representative of the department of transportation appointed as enforcement officers by the director, and every]~~ Every state and county officer charged with the enforcement of any law, statute, rule, regulation, ordinance, or order, shall enforce and assist in the enforcement of this chapter and of all rules and orders issued pursuant thereto, and in carrying out the responsibilities hereunder, each shall be specifically authorized to:

- (1) Conduct any enforcement action hereunder in any commercial harbor area and any area over which the department of transportation and the director of transportation has jurisdiction under this chapter;
- (2) Inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where harbors or harbor facilities are situated, or where harbor-related activities are operated or conducted; and
- (3) ~~[Subject to limitations as may be imposed by the director of transportation, serve and execute warrants, arrest offenders, and serve]~~ Serve notices and orders.

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~~[Any employee appointed as a law enforcement officer by the director of transportation pursuant to this section who has been qualified by training may use electric guns, as specifically provided in section 134-87, when exercising powers of police officers and carrying out the responsibilities described herein, provided that training for the purposes of this section means a course of instruction or training in the use of any electric gun that is provided, authorized, or approved by the manufacturer of the electric gun prior to deployment or issuance of electric guns and related equipment.]~~

~~For purposes of this subsection, "agent" and "representative" includes but is not limited to persons performing services at harbors or harbor areas under contract with the department of transportation.] "~~

SECTION 39. Section 291-31.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No person shall knowingly operate, affix or cause to be affixed, display, or possess any lamp, reflector, or illumination device that appears to be the color blue, or colors blue and red, upon any motor vehicle, motorcycle, motor scooter, bicycle, electric foot scooter, or moped, except for:

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- 1 (1) County law enforcement vehicles authorized and
2 approved by the chief of police of the county in which
3 the vehicle is operated;
- 4 (2) Department of law enforcement vehicles with blue and
5 red lamps, reflectors, or illumination devices
6 authorized and approved by the director of law
7 enforcement;
- 8 (3) Department of land and natural resources division of
9 conservation and resources enforcement vehicles with
10 blue and red lamps, reflectors, or illumination
11 devices authorized and approved by the chairperson of
12 the board of land and natural resources; or
- 13 (4) Department of ~~[transportation division of harbors]~~ the
14 attorney general law enforcement vehicles with blue
15 and red lamps, reflectors, or illumination devices
16 authorized and approved by the ~~[director of~~
17 ~~transportation.]~~ attorney general.

18 This prohibition shall not apply to factory-installed
19 instrument illumination."

20 PART VI

21 SECTION 40. All employees who occupy civil service
22 positions and whose functions are transferred by this Act shall

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1 retain their civil service status (permanent or temporary).
2 Employees shall be transferred without loss of salary, seniority
3 (except as prescribed by collective bargaining agreements),
4 retention points, prior service credit, any vacation and sick
5 leave credits previously earned, and other rights, benefits, and
6 privileges, in accordance with state personnel laws and this
7 Act, provided that the employees possess the minimum
8 qualifications and public employment requirements for the class
9 or position to which transferred or appointed, as applicable,
10 provided further that subsequent changes in status may be made
11 pursuant to applicable civil service and compensation laws.

12 Any employee who, prior to this Act, is exempt from civil
13 service and is transferred as a consequence of this Act may
14 continue to retain the employee's exempt status but shall not be
15 appointed to a civil service position because of this Act. An
16 exempt employee who is transferred by this Act shall not suffer
17 any loss of prior service credit, any vacation and sick leave
18 credits previously earned, or other employee benefits or
19 privileges as a consequence of this Act, provided that the
20 employee possesses legal and public employment requirements for
21 the position to which transferred or appointed, as applicable;
22 provided that subsequent changes in status may be made pursuant

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1 to applicable employment and compensation laws. The director of
2 the department to which the employee is transferred may
3 prescribe the duties and qualifications of such employees and
4 fix their salaries without regard to chapter 76, Hawaii Revised
5 Statutes.

6 SECTION 41. All appropriations, records, equipment,
7 machines, files, supplies, contracts, books, papers, documents,
8 maps, and other personal property heretofore made, used,
9 acquired, or held by the department of transportation,
10 department of the attorney general, department of public safety,
11 and department of defense relating to the functions transferred
12 to the department of law enforcement or department of
13 corrections and rehabilitation shall be transferred with the
14 functions to which they relate.

15 SECTION 42. All leases, contracts, loans, agreements,
16 permits, or other documents executed or entered into by or on
17 behalf of the department of transportation, department of public
18 safety, department of the attorney general, and department of
19 defense pursuant to the provisions of the Hawaii Revised
20 Statutes, that are reenacted or made applicable to the
21 department of law enforcement or department of corrections and
22 rehabilitation by this Act shall remain in full force and

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1 effect. Effective January 1, 2023, every reference to the
2 department of public safety or the director of public safety in
3 those leases, contracts, loans, agreements, permits, or other
4 documents shall be construed as a reference to the department of
5 law enforcement or the director of law enforcement, or the
6 department of corrections and rehabilitation or the director of
7 corrections and rehabilitation, as appropriate. Effective July
8 1, 2023, every reference to the department of transportation or
9 the director of transportation, the department of the attorney
10 general or the attorney general, or the department of defense or
11 the state adjutant general in those leases, contracts, loans,
12 agreements, permits, or other documents shall be construed as a
13 reference to the department of law enforcement or the director
14 of law enforcement, as applicable.

15 SECTION 43. All rules, policies, procedures, guidelines,
16 and other material adopted or developed by the department of
17 transportation, department of the attorney general, department
18 of public safety, or the department of defense to implement
19 provisions of the Hawaii Revised Statutes that are reenacted or
20 made applicable to the department of law enforcement or the
21 department of corrections and rehabilitation by this Act shall
22 remain in full force and effect until amended or repealed by the

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1 department of law enforcement or department of corrections and
2 rehabilitation pursuant to chapter 91, Hawaii Revised Statutes.
3 In the interim, every reference to the department of
4 transportation or director of transportation, department of the
5 attorney general or attorney general, department of defense or
6 state adjutant general, department of public safety or director
7 of public safety, in those rules, policies, procedures,
8 guidelines, and other material is amended to refer to the
9 department of law enforcement or director of law enforcement, or
10 department of corrections and rehabilitation or director of
11 corrections and rehabilitation, as appropriate.

12 SECTION 44. No offense committed and no penalty or
13 forfeiture incurred under the law shall be affected by this Act;
14 provided that whenever any punishment, penalty, or forfeiture is
15 mitigated by any provision of this Act, such provision may be
16 extended and applied to any judgment pronounced after the
17 passage of this Act. No suit or prosecution pending at the time
18 this Act takes effect shall be affected by this Act. The right
19 of any administrative officer whose function is transferred by
20 this Act to the department of law enforcement or department of
21 corrections and rehabilitation as the case may be, to institute
22 proceedings for prosecution for an offense or an action to

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1 recover a penalty or forfeiture shall be vested in the director
2 of law enforcement, director of corrections and rehabilitation,
3 or the respective director's designee as may be appropriate.

4 SECTION 45. The right of appeal from administrative
5 actions or determinations as provided by law shall not be
6 impaired by this Act. Except as otherwise provided by this Act,
7 wherever a right of appeal from administrative actions or
8 determinations is provided by law to or from any officer, board,
9 department, bureau, commission, administrative agency, or
10 instrumentality of the State that, or any of the programs of
11 which, is transferred by this Act to the department of law
12 enforcement or department of corrections and rehabilitation as
13 the case may be, the right of appeal shall lie to or from the
14 department of law enforcement or department of corrections and
15 rehabilitation as the case may be when the transfer is made.
16 The right of appeal shall exist to the same extent and in
17 accordance with the applicable procedures that are in effect
18 immediately prior to the effective date of this Act.

19 If the provisions of the preceding paragraph relating to
20 appeals cannot be effected by reason of abolishment, splitting,
21 or shifting of functions or otherwise, the right of appeal shall

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lie to the circuit court of the State pursuant to the Hawaii rules of civil procedure.

SECTION 46. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor is authorized and empowered to modify the strict provisions of this Act, but shall promptly report any such modifications with his reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 47. The revisor of statutes may incorporate into the Hawaii Revised Statutes, any of the provisions contained in this Act. The revisor of statutes shall substitute the appropriate department of corrections and rehabilitation or department of law enforcement reference in all existing statutes where a department, board, commission, agency, program, or organizational segment is transferred to the department of corrections and rehabilitation or department of law enforcement if such existing statutory language has not been amended by this Act.

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SECTION 48. All laws and parts of laws heretofore enacted that are in conflict with the provisions of this Act are hereby amended to conform herewith. All Acts passed during this regular session of 2022, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such Acts specifically provide that the Act relating to a "department of public safety" are being amended. Amendments made to sections of the Hawaii Revised Statutes that are amended by this Act as of a future effective date shall include amendments made after the approval of this Act and before the effective date of the amendments made by this Act, to the extent that the intervening amendments may be harmonized with the amendments made by this Act.

PART VII

SECTION 49. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,121,309 or so much thereof as may be necessary for fiscal year 2022-2023 for the purposes of this Act, including the establishment, hiring, and filling of positions within the department of law enforcement as follows:

- (1) \$175,056 for one permanent full-time equivalent (FTE) director position;

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- 1 (2) \$322,056 for two permanent full-time equivalent (FTE)
2 deputy director positions;
- 3 (3) \$211,032 for three permanent full-time equivalent
4 (FTE) private secretary positions;
- 5 (4) \$118,000 for one permanent full-time equivalent (FTE)
6 special assistant position;
- 7 (5) \$127,848 for one permanent full-time equivalent (FTE)
8 administrative services officer position;
- 9 (6) \$115,950 for one permanent full-time equivalent (FTE)
10 human resources officer position;
- 11 (7) \$67,200 for one permanent full-time equivalent (FTE)
12 planner position;
- 13 (8) \$228,132 for eight permanent full-time equivalent
14 (FTE) administrative services and accounting
15 positions;
- 16 (9) \$285,636 for nine permanent full-time equivalent (FTE)
17 information services and technology positions;
- 18 (10) \$78,630 for four permanent full-time equivalent (FTE)
19 internal support services positions;
- 20 (11) \$238,026 for eight permanent full-time equivalent
21 (FTE) human resources positions;

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- (12) \$75,588 for two permanent full-time equivalent (FTE) capital improvement project coordinator positions;
- (13) \$156,699 for four permanent full-time equivalent (FTE) litigation coordination positions;
- (14) \$315,360 for nine permanent full-time equivalent (FTE) training and staffing development positions;
- (15) \$243,126 for six permanent full-time equivalent (FTE) supervisory deputy sheriff positions;
- (16) \$179,217 for five permanent full-time equivalent (FTE) office of homeland security investigator positions;
- (17) \$139,596 for four permanent full-time equivalent (FTE) civil rights compliance positions;
- (18) \$37,794 for one permanent full-time equivalent (FTE) public information officer position; and
- (19) \$1,006,363 for other operation costs.

The sum appropriated shall be expended by the department of law enforcement.

SECTION 50. There is appropriated out of the general revenues of the State of Hawaii the sum of \$280,782 or so much thereof as may be necessary for fiscal year 2022-2023 for the purposes of this Act, including the establishment, hiring, and

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1 filling of positions within the department of corrections and
2 rehabilitation as follows:

3 (1) \$40,872 for one permanent full-time equivalent (FTE)
4 investigator VI position;

5 (2) \$113,382 for three permanent full-time equivalent
6 (FTE) investigator V positions;

7 (3) \$22,362 for one permanent full-time equivalent (FTE)
8 secretary I position; and

9 (4) \$104,166 for three permanent full-time equivalent
10 (FTE) adult correctional officer 08 (CO-08) sergeant
11 positions.

12 The sum appropriated shall be expended by the department of
13 corrections and rehabilitation.

14 SECTION 51. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 52. In codifying the new sections added by
17 sections 2 and 17 and referenced in sections 3 and 18 of this
18 Act, the revisor of statutes shall substitute appropriate
19 section numbers for the letters used in designating the new
20 sections in this Act.

21 SECTION 53. This Act shall take effect upon its approval,
22 provided that:

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- 1 (1) Parts III and IV shall, upon its approval, take effect
2 on January 1, 2023;
3 (2) Part V shall, upon its approval, take effect on July
4 1, 2023; and
5 (3) The amendments made to section 26-52, Hawaii Revised
6 Statutes, by sections 4 and 20 of this Act shall not
7 be repealed when that section is reenacted on June 30,
8 2024, pursuant to section 4 of Act 90, Session Laws of
9 Hawaii 2014.

10
11 INTRODUCED BY:



12 BY REQUEST

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Report Title:

Relating to Public Safety; Law Enforcement; Corrections and Rehabilitation; Appropriation

Description:

Establishes a Department of Law Enforcement to consolidate and administer criminal law enforcement and investigations functions of the State effective upon approval and reestablishes the Department of Public Safety as an independent Department of Corrections and Rehabilitation to administer the corrections, rehabilitation, and reentry of the inmate population effective January 1, 2023. Transfers the law enforcement functions of the Department of Public Safety to the Department of Law Enforcement effective January 1, 2023, and the law enforcement functions of the Department of Transportation, the non-statutorily mandated functions of the Investigations Division of the Department of the Attorney General, and the Office of Homeland Security to the Department of Law Enforcement effective July 1, 2023. Appropriates funds to the Department of Law Enforcement and Department of Corrections and Rehabilitation.

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: Public Safety

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC SAFETY.

PURPOSE: To enhance state law enforcement and correction services by separating the Department of Public Safety (PSD) into two discrete departments as follows: (1) establish an independent and new Department of Law Enforcement (DLE) with a single mission focus to consolidate and administer criminal law enforcement and investigations functions of the State; and (2) reestablish the PSD as an independent Department of Corrections and Rehabilitation (DOCR) with a single mission focus to administer the corrections, rehabilitation, and reentry of the inmate population.

MEANS: Add a new section to chapter 26 and amend sections 26-4, 26-52, and 76-16, Hawaii Revised Statutes (HRS) (part II); add a new section to chapter 353C and amend the title of chapter 353C and sections 88-21, 139-1, 353C-2, 353C-3, 353C-4, 353C-5(a), (b), and (c), 353C-6, and by reference only to chapter 329, HRS, and twenty seven other HRS sections, (part III); add seven new sections to chapter 353 and amend sections 26-4, 26-14.6, 26-52, 76-16, 846-2.7, HRS, and by reference only to nine other HRS sections; and repeal sections 353C-4.5, 353C-7, 353C-8, and 353C-8.5, HRS (part IV); amend sections 26-21, 128A-2, 128A-3, 128B-1, 139-1, 139-2, 139-7, 266-24(a) and 291-31.5, HRS (part V).

JUSTIFICATION: Currently, PSD provides both correctional and law enforcement services, and certain law enforcement functions and activities are spread across various departments. The goals and functions of corrections and law enforcement are different and distinct. The reorganization of the PSD into two separate departments and centralization of State law

enforcement functions and activities will improve the coordination and effectiveness of services to the inmate population and community.

Part II of bill takes effect upon approval. Part II establishes the DLE by amending chapter 26 and section 76-16, HRS.

Part III takes effect on January 1, 2023. Part III transfers the law enforcement functions and personnel of PSD to DLE by amending chapter 353C and sections 88-21 and 139-1, HRS. Part III also amends chapter 329 and sections 78-52, 134-81, 139-2, 139-7, 200-27, 291-31.5, 334D-5, 350-1.1, 603-29, 604-6.2, 607-4, 607-8, 633-8, 634-11, 634-12, 634-22, 634-29, 651-1, 652-1.5, 652-2, 652-2.5, 652-2.6, 654-2, 666-11, 666-21, and 844D-38, HRS, to reflect the transfer of these functions from PSD to DLE.

Part IV takes effect on January 1, 2023. Part IV renames PSD as the Department of Corrections and Rehabilitation by further amending chapter 26 and 76-16, HRS. Part IV also adds new sections to chapters 353 and repeals 353C, HRS, so that the authority and responsibilities of DOCR are set forth in chapter 353, while the authority and responsibilities of DLE are set forth in chapter 353C. Part IV further amends sections 134-2, 353B-3, 353L-3, 353L-5, 354D-2, 707-732, 801D-4, 804-7, and 846-2.7, HRS, to reflect the renaming of PSD to DOCR.

Part V takes effect on July 1, 2023. Part V transfers the law enforcement functions and personnel of the Department of Transportation (DOT) and the non-statutorily mandated law enforcement functions and personnel of the Investigations Division of the Department of the Attorney General (ATG) to DLE. Part V also transfers the Office of Homeland Security from the Department of Defense (DOD) to DLE. Part V further amends sections 26-21, 128A-2, 128A-3, 128B-1, 139-

1, 139-7, 266-24, and 291-31.5, HRS, to reflect the transfer of these functions to DLE.

Part VI provides for the retention of civil service status and related rights of transferred employees. Part VI also transfers any appropriations, equipment, contracts, leases, policies, rules, guidelines, and other items to the respective departments as provided in the bill.

Part VII appropriates funds to DLE to establish and fill new positions and for costs that are required for DLE's operations. Part VII further appropriates funds to DOCR to establish and fill new positions that will be required for the operation of DOCR when parts III and IV take effect on January 1, 2023.

Impact on the public: The centralization of State law enforcement into a single command structure will provide the highest level of law enforcement services, streamline communication, promote accountability and operational flexibility, establish uniform standards and training, and improve the ability to address State priorities with county law enforcement partners. Also, the consolidation of state law enforcement will increase the public's understanding of the structure, functions, and services of State law enforcement which will increase the community's access to law enforcement services.

Impact on the department and other agencies: The consolidation of state law enforcement will positively impact PSD, DOT, DOD, and ATG. DOCR will also benefit by having a singular focus on which to concentrate efforts to update correctional and rehabilitative best practices into its programs.

GENERAL FUND: \$4,402,091.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

OTHER AFFECTED
AGENCIES: Department of Transportation, Department of
Defense, and the Department of the Attorney
General.

EFFECTIVE DATE: Upon approval, except for parts III and IV,
which, upon its approval, take effect on
January 1, 2023, and part V, which, upon its
approval, takes effect on July 1, 2023.