

JAN 18 2023

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT REFORM.

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

1 SECTION 1. Chapter 139, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§139- Law enforcement use of force policies. (a) Any
5 department or agency employing a law enforcement officer shall
6 maintain a policy that provides a minimum standard on the use of
7 force that shall include:

8 (1) A requirement that law enforcement officers utilize
9 de-escalation techniques, crisis intervention tactics,
10 and other alternatives to force when feasible;

11 (2) A requirement that a law enforcement officer may only
12 use a level of force that the officer reasonably
13 believes is proportional to the seriousness of the
14 suspected offense or the reasonably perceived level of
15 actual or threatened resistance;

16 (3) A requirement that law enforcement officers report
17 potential excessive force to a superior officer when



1 present and observing another officer using force that
2 the law enforcement officer believes to be beyond that
3 which is necessary, as determined by an objectively
4 reasonable officer under the circumstances, based upon
5 the totality of information actually known to the law
6 enforcement officer;

7 (4) Clear and specific guidelines regarding situations in
8 which law enforcement officers may or may not draw a
9 firearm or point a firearm at a person;

10 (5) A requirement that law enforcement officers consider
11 their surroundings and potential risks to bystanders,
12 to the extent reasonable under the circumstances,
13 before discharging a firearm;

14 (6) Procedures for the filing, investigation, and
15 reporting of citizen complaints regarding use of force
16 incidents;

17 (7) A requirement that a law enforcement officer intercede
18 when present and observing another officer using force
19 that is clearly beyond that which is necessary, as
20 determined by an objectively reasonable officer under
21 the circumstances, taking into account the possibility



- 1 that other officers may have additional information
2 regarding the threat posed by a subject;
- 3 (8) Comprehensive and specific guidelines regarding
4 approved methods and devices available for the
5 application of force;
- 6 (9) An explicitly stated requirement that law enforcement
7 officers carry out duties, including use of force, in
8 a manner that is fair and unbiased;
- 9 (10) Comprehensive and specific guidelines for the
10 application of deadly force;
- 11 (11) Comprehensive and detailed requirements for prompt
12 internal reporting and notification regarding a use of
13 force incident;
- 14 (12) The role of supervisors in review of use of force
15 applications;
- 16 (13) A requirement that law enforcement officers promptly
17 provide, if properly trained, or otherwise promptly
18 procure medical assistance for persons injured in a
19 use of force incident, when reasonable and safe to do
20 so;



- 1 (14) Training standards and requirements relating to
2 demonstrated knowledge and understanding of the law
3 enforcement agency's use of force policy by law
4 enforcement officers, investigators, and supervisors;
- 5 (15) Training and guidelines regarding vulnerable
6 populations, including but not limited to children;
7 elderly persons; people who are pregnant; and people
8 with physical, mental, and developmental disabilities;
- 9 (16) Comprehensive and specific guidelines under which the
10 discharge of a firearm at or from a moving vehicle may
11 or may not be permitted;
- 12 (17) Factors for evaluating and reviewing all use of force
13 incidents;
- 14 (18) Minimum training and course titles required to meet
15 the objectives in the use of force policy; and
- 16 (19) A requirement for the regular review and updating of
17 the policy to reflect developing practices and
18 procedures.
- 19 (b) Each department or agency employing a law enforcement
20 officer shall make its use of force policy adopted pursuant to
21 this section accessible to the public.



1 (c) A department or agency's use of force policies and
2 training pursuant to this section may be introduced as evidence
3 in proceedings involving a law enforcement officer's use of
4 force. The policies and training may be considered as a factor
5 in the totality of circumstances in determining whether the
6 officer acted reasonably, but shall not be considered as
7 imposing a legal duty on the officer to act in accordance with
8 such policies and training.

9 §139- Reports of use of force by law enforcement
10 officers. (a) It shall be the duty of a law enforcement
11 officer who observes the use of force by another law enforcement
12 officer to notify the department head of the officer who
13 exercised the use of force. The notice shall be submitted in
14 writing immediately or as soon as is practicable after observing
15 the use of force.

16 (b) Within fifteen days of receiving written notification,
17 the department head shall complete an investigation pursuant to
18 subsection (c) and notify the chief of police of the respective
19 county of the outcome of the investigation in writing.

20 (c) Any department head who receives a report of use of
21 force under this section shall immediately begin conducting an



1 investigation and reach a timely determination on the merits.
2 If the investigation determines that, in the determination of
3 the department head, sufficient evidence shows that the
4 individual used excessive force, the name of the individual and
5 act of excessive force shall be disclosed to the chief of police
6 of the respective county. If the department head determines
7 that evidence of use of excessive force is insufficient, the
8 department head shall provide the chief of police with the
9 outcome of the investigation but shall redact any personally
10 identifiable information of the individuals involved in the
11 investigation.

12 (d) Within fifteen days of receiving written notification
13 of the outcome of the investigation, the chief of police shall
14 notify the police commission of the respective county of the
15 outcome of the investigation in writing.

16 (e) If the department head is the subject of the use of
17 force report, the reporting officer shall report directly to the
18 police commission of the respective county within seven days of
19 observing the use of force, and the police commission shall
20 complete an investigation pursuant to subsection (f) within
21 fifteen days of receiving written notification.



1 (f) Any police commission that receives a report of use of
2 force pursuant to subsection (e) shall immediately begin
3 conducting an investigation and reach a timely determination on
4 the merits.

5 (g) No discriminatory, disciplinary, or retaliatory action
6 shall be taken against any law enforcement officer for any
7 information given or disclosed by the officer in good faith in
8 the course of making a report of use of force under this
9 section.

10 (h) For purposes of this section:

11 "Department head" means the official or officer having the
12 most managerial or administrative authority in the state
13 department or county agency."

14 SECTION 2. Section 139-6, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) No person may be appointed as a law enforcement
17 officer unless the person:

18 (1) Has satisfactorily completed a basic program of law
19 enforcement training approved by the board; [~~and~~]

20 (2) Has received training designed to minimize the use of
21 force, including but not limited to legal standards,



S.B. NO. 151

1 de-escalation techniques, crisis intervention, mental

2 health response, implicit bias, and first aid; and

3 [~~2~~] (3) Possesses other qualifications as prescribed by

4 the board for the employment of law enforcement

5 officers, including minimum age, education, physical

6 and mental standards, citizenship, good conduct, moral

7 character, and experience."

8 SECTION 3. Statutory material to be repealed is bracketed

9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on January 1, 2024.

11

INTRODUCED BY:

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, positioned to the right of the text 'INTRODUCED BY:'.

S.B. NO. 151

Report Title:

Law Enforcement Officers; Use of Force; Reports; Training

Description:

Requires any department or agency employing a law enforcement officer to maintain a publicly available policy that provides a minimum standard on the use of force. Allows use of force policies and training to be considered in legal proceedings involving a law enforcement officer's use of force. Requires a law enforcement officer who observes the use of force by another law enforcement officer to report the use of force. Requires that law enforcement officers receive training designed to minimize the use of force.

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