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# 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.

5        §139- Reports of use of force by law enforcement  
6 officers. (a) It shall be the duty of a law enforcement  
7 officer who observes another officer using force that the  
8 officer believes to be beyond that which is necessary, as  
9 determined by an objectively reasonable officer under the  
10 circumstances, based upon the totality of information actually  
11 known to the officer to notify the division head of the officer  
12 who exercised the use of force. The notice shall be submitted  
13 in writing immediately or as soon as is practicable after  
14 observing the use of force.

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

20        (c) Any division 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 division head, sufficient evidence shows that the individual  
4 used excessive force, the name of the individual and act of  
5 excessive force shall be disclosed to the chief of police of the  
6 respective county. If the division head determines that  
7 evidence of use of excessive force is insufficient, the division  
8 head shall provide the chief of police with the outcome of the  
9 investigation but shall redact any personally identifiable  
10 information of the individuals involved in the investigation.

11 (d) Within fifteen days of receiving written notification  
12 of the outcome of the investigation, the chief of police or the  
13 state department deputy director who received the written  
14 notification shall notify the police commission of the  
15 respective county or the state department director, as  
16 applicable, of the outcome of the investigation in writing.

17 (e) If the department head is the subject of the use of  
18 force report, the reporting officer shall report directly to the  
19 police commission of the respective county or the state  
20 department director, as applicable, within seven days of  
21 observing the use of force, and the police commission or the



1 state department director shall complete an investigation  
2 pursuant to subsection (f).

3 (f) Any police commission or state department director who  
4 receives a report of use of force pursuant to subsection (e)  
5 shall begin conducting an investigation as soon as practicable  
6 and reach a timely determination on the merits.

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

12 (h) For purposes of this section:

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

16 "Division head" means the official or officer who, subject  
17 to the authority of the department head or chief of police, has  
18 the most managerial or administrative authority within a  
19 division in the state department or county agency."

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



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

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

5           (2) Has received training designed to minimize the use of  
6 force, including but not limited to legal standards,  
7 de-escalation techniques, crisis intervention, mental  
8 health response, implicit bias, and first aid; and

9           [~~+~~2] (3) Possesses other qualifications as prescribed by  
10 the board for the employment of law enforcement  
11 officers, including minimum age, education, physical  
12 and mental standards, citizenship, good conduct, moral  
13 character, and experience."

14           SECTION 3. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

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





**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 excessive force by another law enforcement officer to report the use of excessive force. Requires that law enforcement officers receive training designed to minimize the use of force. Takes effect 1/1/2024. (SD2)

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