

JAN 24 2024

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1 SECTION 1. Section 139-2, Hawaii Revised Statutes,
2 establishes a law enforcement standards board for the
3 certification of law enforcement officers, including county
4 police officers and law enforcement officers of the departments
5 of law enforcement, land and natural resources, attorney
6 general, and taxation.

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

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

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

14 Such evaluation should include consideration of the study
15 conducted by the legislative reference bureau pursuant to Act
16 124, Session Laws of Hawaii 2018, and any additional study
17 necessary to determine the impact of uniform standards,
18 certification, and training for all law enforcement officers.
19 The board has determined that it will need significantly more
20 time and resources to accomplish its mission.

21 The purposes of this Act are to:

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- 1 (1) Clarify membership requirements for the law
- 2 enforcement standards board to facilitate more
- 3 meaningful participation and representation;
- 4 (2) Enable the board to research the impact of uniform
- 5 standards, certification, and training on existing
- 6 legal requirements; and
- 7 (3) Establish new deadlines for the completion of the
- 8 board's significant responsibilities.

9 SECTION 2. Section 76-16, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

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

- 15 (1) Commissioned and enlisted personnel of the Hawaii
- 16 National Guard as such, and positions in the Hawaii
- 17 National Guard that are required by state or federal
- 18 laws or regulations or orders of the National Guard to
- 19 be filled from those commissioned or enlisted
- 20 personnel;
- 21 (2) Positions filled by persons employed by contract where
- 22 the director of human resources development has

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- 1 certified that the service is special or unique or is
2 essential to the public interest and that, because of
3 circumstances surrounding its fulfillment, personnel
4 to perform the service cannot be obtained through
5 normal civil service recruitment procedures. Any such
6 contract may be for any period not exceeding one year;
- 7 (3) Positions that must be filled without delay to comply
8 with a court order or decree if the director
9 determines that recruitment through normal recruitment
10 civil service procedures would result in delay or
11 noncompliance, such as the Felix-Cayetano consent
12 decree;
- 13 (4) Positions filled by the legislature or by either house
14 or any committee thereof;
- 15 (5) Employees in the office of the governor and office of
16 the lieutenant governor, and household employees at
17 Washington Place;
- 18 (6) Positions filled by popular vote;
- 19 (7) Department heads, officers, and members of any board,
20 commission, or other state agency whose appointments
21 are made by the governor or are required by law to be
22 confirmed by the senate;

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- 1 (8) Judges, referees, receivers, masters, jurors, notaries
2 public, land court examiners, court commissioners, and
3 attorneys appointed by a state court for a special
4 temporary service;
- 5 (9) One bailiff for the chief justice of the supreme court
6 who shall have the powers and duties of a court
7 officer and bailiff under section 606-14; one
8 secretary or clerk for each justice of the supreme
9 court, each judge of the intermediate appellate court,
10 and each judge of the circuit court; one secretary for
11 the judicial council; one deputy administrative
12 director of the courts; three law clerks for the chief
13 justice of the supreme court, two law clerks for each
14 associate justice of the supreme court and each judge
15 of the intermediate appellate court, one law clerk for
16 each judge of the circuit court; two additional law
17 clerks for the civil administrative judge of the
18 circuit court of the first circuit, two additional law
19 clerks for the criminal administrative judge of the
20 circuit court of the first circuit, one additional law
21 clerk for the senior judge of the family court of the
22 first circuit, two additional law clerks for the civil

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1 motions judge of the circuit court of the first
2 circuit, two additional law clerks for the criminal
3 motions judge of the circuit court of the first
4 circuit, and two law clerks for the administrative
5 judge of the district court of the first circuit; and
6 one private secretary for the administrative director
7 of the courts, the deputy administrative director of
8 the courts, each department head, each deputy or first
9 assistant, and each additional deputy, or assistant
10 deputy, or assistant defined in paragraph (16);

11 (10) First deputy and deputy attorneys general, the
12 administrative services manager of the department of
13 the attorney general, one secretary for the
14 administrative services manager, an administrator and
15 any support staff for the criminal and juvenile
16 justice resources coordination functions, and law
17 clerks;

18 (11) (A) Teachers, principals, vice-principals, complex
19 area superintendents, deputy and assistant
20 superintendents, other certificated personnel, no
21 more than twenty noncertificated administrative,

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- 1 professional, and technical personnel not engaged
2 in instructional work;
- 3 (B) Effective July 1, 2003, teaching assistants,
4 educational assistants, bilingual/bicultural
5 school-home assistants, school psychologists,
6 psychological examiners, speech pathologists,
7 athletic health care trainers, alternative school
8 work study assistants, alternative school
9 educational/supportive services specialists,
10 alternative school project coordinators, and
11 communications aides in the department of
12 education;
- 13 (C) The special assistant to the state librarian and
14 one secretary for the special assistant to the
15 state librarian; and
- 16 (D) Members of the faculty of the University of
17 Hawaii, including research workers, extension
18 agents, personnel engaged in instructional work,
19 and administrative, professional, and technical
20 personnel of the university;
- 21 (12) Employees engaged in special, research, or
22 demonstration projects approved by the governor;

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- 1 (13) (A) Positions filled by inmates, patients of state
2 institutions, persons with severe physical or
3 mental disabilities participating in the work
4 experience training programs;
- 5 (B) Positions filled with students in accordance with
6 guidelines for established state employment
7 programs; and
- 8 (C) Positions that provide work experience training
9 or temporary public service employment that are
10 filled by persons entering the workforce or
11 persons transitioning into other careers under
12 programs such as the federal Workforce Investment
13 Act of 1998, as amended, or the Senior Community
14 Service Employment Program of the Employment and
15 Training Administration of the United States
16 Department of Labor, or under other similar state
17 programs;
- 18 (14) A custodian or guide at Iolani Palace, the Royal
19 Mausoleum, and Hulihee Palace;
- 20 (15) Positions filled by persons employed on a fee,
21 contract, or piecework basis, who may lawfully perform
22 their duties concurrently with their private business

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1 or profession or other private employment and whose
2 duties require only a portion of their time, if it is
3 impracticable to ascertain or anticipate the portion
4 of time to be devoted to the service of the State;
5 (16) Positions of first deputies or first assistants of
6 each department head appointed under or in the manner
7 provided in section 6, article V, of the Hawaii State
8 Constitution; three additional deputies or assistants
9 either in charge of the highways, harbors, and
10 airports divisions or other functions within the
11 department of transportation as may be assigned by the
12 director of transportation, with the approval of the
13 governor; one additional deputy in the department of
14 human services either in charge of welfare or other
15 functions within the department as may be assigned by
16 the director of human services; four additional
17 deputies in the department of health, each in charge
18 of one of the following: behavioral health,
19 environmental health, hospitals, and health resources
20 administration, including other functions within the
21 department as may be assigned by the director of
22 health, with the approval of the governor; two

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1 additional deputies in charge of the law enforcement
2 programs, administration, or other functions within
3 the department of law enforcement as may be assigned
4 by the director of law enforcement, with the approval
5 of the governor; three additional deputies each in
6 charge of the correctional institutions,
7 rehabilitation services and programs, and
8 administration or other functions within the
9 department of corrections and rehabilitation as may be
10 assigned by the director of corrections and
11 rehabilitation, with the approval of the governor; an
12 administrative assistant to the state librarian; and
13 an administrative assistant to the superintendent of
14 education;

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

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

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1 (B) All of the positions defined by paragraph (9)
2 shall be included in the position classification
3 plan;

4 (18) Positions in the state foster grandparent program and
5 positions for temporary employment of senior citizens
6 in occupations in which there is a severe personnel
7 shortage or in special projects;

8 (19) Household employees at the official residence of the
9 president of the University of Hawaii;

10 (20) Employees in the department of education engaged in
11 the supervision of students during meal periods in the
12 distribution, collection, and counting of meal
13 tickets, and in the cleaning of classrooms after
14 school hours on a less than half-time basis;

15 (21) Employees hired under the tenant hire program of the
16 Hawaii public housing authority; provided that not
17 more than twenty-six per cent of the authority's
18 workforce in any housing project maintained or
19 operated by the authority shall be hired under the
20 tenant hire program;

21 (22) Positions of the federally funded expanded food and
22 nutrition program of the University of Hawaii that

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- 1 require the hiring of nutrition program assistants who
2 live in the areas they serve;
- 3 (23) Positions filled by persons with severe disabilities
4 who are certified by the state vocational
5 rehabilitation office that they are able to perform
6 safely the duties of the positions;
- 7 (24) The sheriff;
- 8 (25) A gender and other fairness coordinator hired by the
9 judiciary;
- 10 (26) Positions in the Hawaii National Guard youth and adult
11 education programs;
- 12 (27) In the state energy office in the department of
13 business, economic development, and tourism, all
14 energy program managers, energy program specialists,
15 energy program assistants, and energy analysts;
- 16 (28) Administrative appeals hearing officers in the
17 department of human services;
- 18 (29) In the Med-QUEST division of the department of human
19 services, the division administrator, finance officer,
20 health care services branch administrator, medical
21 director, and clinical standards administrator;

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- 1 (30) In the director's office of the department of human
2 services, the enterprise officer, information security
3 and privacy compliance officer, security and privacy
4 compliance engineer, security and privacy compliance
5 analyst, information technology implementation
6 manager, assistant information technology
7 implementation manager, resource manager,
8 community/project development director, policy
9 director, special assistant to the director, and
10 limited English proficiency project
11 manager/coordinator;
- 12 (31) The Alzheimer's disease and related dementia services
13 coordinator in the executive office on aging;
- 14 (32) In the Hawaii emergency management agency, the
15 executive officer, public information officer, civil
16 defense administrative officer, branch chiefs, and
17 emergency operations center state warning point
18 personnel; provided that for state warning point
19 personnel, the director shall determine that
20 recruitment through normal civil service recruitment
21 procedures would result in delay or noncompliance;

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1 (33) The executive director and seven full-time
2 administrative positions of the school facilities
3 authority;

4 (34) Positions in the Mauna Kea stewardship and oversight
5 authority;

6 (35) In the office of homeland security of the department
7 of law enforcement, the statewide interoperable
8 communications coordinator; [and

9 {] (36) {+} In the social services division of the department
10 of human services, the business technology analyst[-];
11 and

12 (37) The administrator for the law enforcement standards
13 board.

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

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

18 SECTION 3. Section 139-2, Hawaii Revised Statutes, is
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) There is established the law enforcement standards
21 board within the department of the attorney general for
22 administrative purposes only. The purpose of the board shall be

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1 to provide programs and standards for training and certification
2 of law enforcement officers. The law enforcement standards
3 board shall consist of the following voting members: eight ex
4 officio individuals [~~7~~, ~~two~~] or their designees, five law
5 enforcement officers, and four members of the public.

6 (1) The eight ex officio members of the board shall
7 consist of the:

8 (A) Attorney general [~~7~~] or the attorney general's
9 designee;

10 (B) Director of law enforcement [~~7~~] or the director's
11 designee;

12 (C) Chairperson of the board of land and natural
13 resources or the chairperson's designee;

14 (D) Director of taxation or the director's designee;
15 and

16 (E) Chiefs of police of the four counties [~~7~~] or the
17 designees of each of the chiefs of police;

18 (2) The [~~two~~] five law enforcement officers shall [~~each~~]
19 be persons other than the chiefs of police or
20 designees described in paragraph (1) (E) and shall
21 consist of:

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- 1 public defender, or a private criminal
- 2 defense attorney; or
- 3 (ii) Litigating constitutional law issues in
- 4 Hawaii;
- 5 (C) Be a recognized expert in the field of criminal
- 6 justice, policing, or security; or
- 7 (D) Have work experience in a law enforcement
- 8 capacity[~~; provided that experience in a county~~
- 9 ~~police department shall not itself be sufficient~~
- 10 ~~to qualify under this paragraph].~~

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

15 SECTION 4. Section 139-3, Hawaii Revised Statutes, is
16 amended to read as follows:

- 17 "**§139-3 Powers and duties of the board.** The board shall:
- 18 (1) Adopt rules in accordance with chapter 91 to implement
 - 19 this chapter;
 - 20 (2) Establish minimum standards for employment as a law
 - 21 enforcement officer and to certify persons to be
 - 22 qualified as law enforcement officers;

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- 1 (3) Establish criteria and standards in which a person who
2 has been denied certification, whose certification has
3 been revoked by the board, or whose certification has
4 lapsed may reapply for certification;
- 5 (4) Establish minimum criminal justice curriculum
6 requirements for basic, specialized, and in-service
7 courses and programs for schools operated by or for
8 the State or a county for the specific purpose of
9 training law enforcement officers;
- 10 (5) Consult and cooperate with the counties, agencies of
11 the State, other governmental agencies, universities,
12 colleges, and other institutions concerning the
13 development of law enforcement officer training
14 schools and programs of criminal justice instruction;
- 15 (6) Employ [~~subject to chapter 76,~~] an administrator,
16 without regard to chapter 76, and other persons
17 necessary to carry out its duties under this chapter;
- 18 (7) Investigate when there is reason to believe that a law
19 enforcement officer does not meet the minimum
20 standards for employment, and in so doing, may:
21 (A) Subpoena persons, books, records, or documents;

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- 1 (B) Require answers in writing under oath to
2 questions asked by the board; and
3 (C) Take or cause to be taken depositions as needed
4 in investigations, hearings, and other
5 proceedings,
6 related to the investigation;
7 (8) Establish and require participation in continuing
8 education programs for law enforcement officers;
9 (9) Have the authority to charge and collect fees for
10 applications for certification as a law enforcement
11 officer;
12 (10) Establish procedures and criteria for the revocation
13 of certification issued by the board;
14 (11) Have the authority to revoke certifications; [~~and~~]
15 (12) Review and recommend statewide policies and procedures
16 relating to law enforcement, including the use of
17 force[-];
18 (13) Consider studies relevant to the board's objectives,
19 including the study that examines consolidating the
20 law enforcement activities and responsibilities of
21 various state divisions and agencies under a single,
22 centralized state enforcement division or agency,

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1 conducted pursuant to Act 124, Session Laws of Hawaii
2 2018; and
3 (14) Conduct its own study to evaluate how to efficiently
4 and effectively satisfy its duties in accordance with
5 the law."

6 SECTION 5. Section 139-6, Hawaii Revised Statutes, is
7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) No person may be appointed as a law enforcement
9 officer after June 30, 2026, unless the person:

- 10 (1) Has satisfactorily completed a basic program of law
11 enforcement training approved by the board;
- 12 (2) Has received training designed to minimize the use of
13 excessive force, including legal standards, de-
14 escalation techniques, crisis intervention tactics,
15 mental health response, implicit bias, and first aid;
16 and
- 17 (3) Possesses other qualifications as prescribed by the
18 board for the employment of law enforcement officers,
19 including minimum age, education, physical and mental
20 standards, citizenship, good conduct, moral character,
21 and experience.

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1 (b) [The] Beginning on July 1, 2026, the board shall issue
2 a certification to an applicant who meets the requirements of
3 subsection (a) or who has satisfactorily completed a program or
4 course of instruction in another jurisdiction that the board
5 deems to be equivalent in content and quality to the
6 requirements of subsection (a)."

7 SECTION 6. Section 139-7, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§139-7 **Employment of law enforcement officers.** (a) No
10 person shall be appointed or employed as a law enforcement
11 officer by any county police department, the department of law
12 enforcement, the department of land and natural resources, the
13 department of taxation, or the department of the attorney
14 general, after June 30, 2026, unless the person possesses a
15 valid certification issued by the board pursuant to section 139-
16 6(b).

17 (b) This section shall not apply to a person [~~employed~~]:

18 (1) Employed on a probationary basis, except that
19 employment on a probationary basis may not exceed the
20 period authorized for probationary employment as
21 determined by the board[-]; or

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1 (2) Who entered into employment with the applicable county
2 police department or state department before July 1,
3 2026, and termination of employment would violate any
4 valid collective bargaining agreement."

5 SECTION 7. Act 220, Session Laws of Hawaii 2018, as
6 amended by section 5 of Act 47, Session Laws of Hawaii 2020, is
7 amended by amending section 6 to read as follows:

8 "SECTION 6. This Act shall take effect on July 1, 2018[~~+~~
9 ~~provided that the law enforcement standards board established~~
10 ~~under this Act shall finalize its standards and certification~~
11 ~~process by December 31, 2021]~~."

12 SECTION 8. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun, before the effective date of this Act.

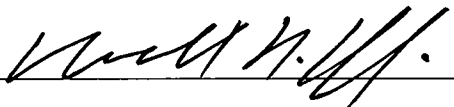
15 SECTION 9. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect upon its approval.

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INTRODUCED BY: 

BY REQUEST

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Report Title:

Law Enforcement Standards Board; Civil Service; Exemption

Description:

Clarifies membership and certain powers and duties of the Law Enforcement Standards Board and establishes new deadlines for the completion of board responsibilities.

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

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

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

PURPOSE: To clarify membership requirements for the law enforcement standards board, to enable the board to research the impact of establishing new standards, certification, and training requirements on existing legal requirements, to establish new deadlines for the completion of the board's responsibilities, and to exempt the board administrator position from the civil service.

MEANS: Amend sections 76-16(b), 139-2(a) and (b), 139-3, 139-6(a) and (b), and 139-7, Hawaii Revised Statutes (HRS), and section 6 of Act 220, Session Laws of Hawaii 2018, as amended by section 5 of Act 47, Session Laws of Hawaii 2020.

JUSTIFICATION: The Law Enforcement Standards Board is established by section 139-2, HRS. The board is responsible for establishing minimum standards for employment as a law enforcement officer and certifying persons qualified as law enforcement officers. It is also responsible for establishing minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for the training of law enforcement officers. It must consult and cooperate with the counties, state agencies, other governmental agencies, universities and colleges, and other institutions, concerning the development of law enforcement officer training schools and programs.

Currently, section 139-2 only allows designees for two of the eight ex-officio members. This bill authorizes all ex-officio members to use designees, and

increases the size of the board. Doing so will provide better operational flexibility and expand the perspective of the board.

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

The bill exempts the board administrator position from civil service because the new board requires flexibility to meet its broad duties and responsibilities and tight deadlines. The board's role, and that of the administrator, are unique and not within the traditional civil service classification system. The board needs the discretion to hire or terminate without the burden of complying with civil service requirements.

Only recently has the board been given funding for the administrator and an office assistant position, and the board is actively seeking to fill those positions. Due to the lack of staffing (and other resources), the board needs and asks for an extension of its statutory deadlines.

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

Impact on the department and other agencies:
Enactment of this bill will have a direct

positive effect on the board's ability to execute its responsibilities.

Additionally, county police officers and employees with police powers at the Department of Law Enforcement, the Department of Land and Natural Resources, the Department of the Attorney General, and the Department of Taxation will all benefit from better standards, certification, and training requirements.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Department of Law Enforcement, Department of Land and Natural Resources, Department of Taxation, and county police departments.

EFFECTIVE DATE: Upon approval.