

## ACT 192

H.B. NO. 1784

A Bill for an Act Relating to the Sheriff.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** The purpose of this Act is to transfer the office of the sheriff from the department of the attorney general to the judiciary.

**SECTION 2.** Chapter 28, part II, Hawaii Revised Statutes, is repealed.

**SECTION 3.** Chapter 601, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . SHERIFF**

**Sec. 601- Office of sheriff created.** There shall be within the judiciary a division to be known as the office of sheriff, consisting of the sheriff, a first deputy sheriff and such additional deputies as the exigencies of the public service may require. They shall be subject to the supervision and control of the chief justice.

**Sec. 601- Appointment.** The chief justice shall appoint and commission and at his pleasure remove, without regard to chapters 76 and 77, the sheriff and deputy sheriffs.

**Sec. 601- Duties.** The sheriff and his deputies shall be charged with service of process and execution of any order of court. They shall also perform such other functions as the chief justice may direct in furtherance of the performance of the functions of the judiciary, other than the practice of law. In that connection, upon specific authorization and direction of the chief justice, the sheriff or a deputy sheriff shall have all of the powers of a police officer, including the power of arrest.

**Sec. 601- Special service of process.** Whenever any process issues out of any court of the State to be served on any island within the jurisdiction of the court where no serving officer is located or readily available, the chief justice shall specially deputize some suitable person on the island to make the service and return thereon. The actual expenses incurred in connection with the appointment and service, together with the serving officer's fee, shall be paid as costs by the party desiring such service.

**Sec. 601- Bonds.** The judiciary may exact from the sheriff and deputy sheriffs private bonds of indemnity, and shall be responsible for the official acts of such officers. The judiciary may pay over to a beneficial obligee, although not named in the bond, any moneys received from the surety on account of any injury or damage suffered by the beneficial obligee by acts or omissions of the obligor within the scope of activities covered by the bond. The

beneficial obligee may, if necessary, bring action on the bond in his own name.

**Sec. 601- Salaries, fee.** The salary of the sheriff shall be set by the legislature.

Effective July 1, 1970, the sheriff shall receive a salary of \$11,979 a year. The salary of the first deputy sheriff shall be set by the chief justice and shall not be more than eighty-five percent of the salary of the sheriff. The sheriff's deputies, other than the first deputy, shall receive in full payment of their services only such fees as are prescribed by law; provided that the legally prescribed fees for such service of summons, subpoena, attachment, execution, or other civil process of court as provided by sections 607-4 and 607-8, shall belong to the sheriff, deputy sheriff or other officer making such service.

**Sec. 601- Process addressed to whom.** Any process of any court of record shall be addressed to the sheriff or his deputy, or to a chief of police, except as may be otherwise provided by law or rule of court, and the sheriff or his deputy, or a chief of police, or any officer serving under them shall execute the same at their peril, according to the tenor thereof, and they shall not be liable for any damages resulting from the execution of the process.

**Sec. 601- Sheriff of Kalawao County.** No provision in this chapter shall apply to the sheriff of the county of Kalawao, except those charging him with the service of process and execution of any order of court and providing for payment of legally prescribed fees for the service."

**SECTION 4.** The function and duties of the office of the sheriff are transferred from the department of the attorney general to the judiciary.

**SECTION 5. Transfer of officers and employees.** All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which he is transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which he is transferred or appointed.

In the event that an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office

or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

**SECTION 6. Transfer of records and equipment.** All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps and other personal property heretofore made, used, acquired, or held by the department of the attorney general relating to the functions transferred to the judiciary shall be transferred with the functions to which they relate.

**SECTION 7.** This Act shall take effect upon its approval.

(Approved June 2, 1975.)