

ACT 177

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H.B. NO. 2320-84

A Bill for an Act Relating to the Hawaii Crime Commission.

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

SECTION 1. Chapter 843, Hawaii Revised Statutes, is amended to read as follows:

**“CHAPTER 843
HAWAII [CRIME] CRIMINAL JUSTICE COMMISSION**

[§843-1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

“Commission” means the Hawaii crime commission established by this chapter.

“Executive committee” means the executive committee of the Hawaii crime commission established by section 843-4.]

[§843-2] **§843-1 Hawaii [crime] criminal justice commission.** (a) Commencing on July 1, [1981,] 1985, there is established within the office of the lieutenant governor, for administrative purposes only, the Hawaii [crime] criminal justice commission. This commission shall have its existence terminated, if not renewed by the legislature, on June 30, [1984.] 1988.

For a twelve-month period commencing July 1, 1984, and ending on June 30, 1985, the presently existing Hawaii crime commission shall remain in existence as established in the office of the lieutenant governor, for administrative purposes only.

(b) The commission shall be composed of nine members, all of whom shall be appointed by the governor, with the advice and consent of the senate. The term for each member shall be for four years. The governor shall appoint a [chairman] chairperson with the advice and consent of the senate. All vacancies on the commission shall be filled for the unexpired term by the governor, with the senate’s advice and consent. A vacancy in the [chairman’s] chairperson’s position shall be filled by the governor in the same manner as an initial appointment. The commission, by a two-thirds vote, may initiate the removal or suspension of the [chairman] chairperson from office, but only for neglect of duty, misconduct, or disability. The governor shall act upon the vote of the commission to remove or suspend the [chairman]. The chairman shall have the power to vote only in the event of a tie vote.

(c) Each nominee appointed by the governor shall undergo security screening by the attorney general. The attorney general shall obtain each nominee’s “criminal history record information,” as defined in section 846-1(3), and provide such information to the governor and the senate.] chairperson.

[(d)] (c) The members of the commission except the [chairman] chairperson shall not be compensated for their services but the members and the [chairman] chairperson shall be reimbursed for reasonable expenses necessary to the performance of their duties, including travel expenses.

[(e) The governor may remove or suspend for cause any member of the commission except the chairman after due notice and public hearing conducted under chapter 91.

(f) (d) The commission may receive and use gifts, money, services, or assistance from any federal, state, county, or private source for the implementation of the purposes of the Hawaii [crime] criminal justice commission.

[§843-3] §843-2 Hawaii [crime] criminal justice commission, [chairman,] chairperson, staff. The [chairman] chairperson shall serve as the executive officer of the commission, and shall be vested with responsibility for the administrative function of the commission and shall authorize preliminary inquiry into [research, investigation incident to research, and other] its projects. The [chairman] chairperson shall be compensated at the rate of \$75 a day for each day's actual attendance at a meeting and each day during which [he] the chairperson spends four or more hours on commission business. There shall be such additional necessary staff to carry out the functions of the commission, who shall be hired by and serve at the pleasure of the [chairman] chairperson without regard to chapters 76 and 77. The persons so hired shall be entitled to participate in any employee benefit plan normally inuring to civil service employees, but shall not be considered civil service employees. This provision shall not affect the right of the [chairman] chairperson or commission to contract independently for services.

[§843-4 Committees. (a) There shall be an executive committee of the commission which shall consist of two persons who shall be elected by the commission from among its members. It shall include, in addition, the chairman of the commission, and shall develop and identify general areas for commission study and review, and generally direct the work and activities of the commission.

(b) There shall be, in addition, other special and standing committees of the commission which shall address specific areas or tasks as assigned by the executive committee or by other agreement of the commission.]

[§843-5] §843-3 Commission, functions. The commission shall have the following functions and shall perform the following duties:

- (1) Research and collect information regarding crime in Hawaii;
- (2) Investigate incident to research in order to study crime, criminal activity, and the operation of the criminal justice system;
- (3) Evaluate and make recommendations regarding the operations of existing programs, agencies, and other projects relating to crime, including but not necessarily related to the courts, police, and prosecutorial agencies;
- (4) Review and make recommendations regarding existing substantive laws;

- (5) Develop, recommend, and where appropriate, implement public education programs relating to educating the public as to the nature of crime;
- (6) Develop, recommend, and where appropriate, implement programs of public education to provide defensive living education to the public, and information regarding affirmative steps which may be taken to avoid the occurrence of crime, eliminate the possibility of becoming a victim of crime, and other information designed to defend against any aspect of crime;
- (7) Study and make recommendations for facilitating the reduction and prevention of destruction of public property, school violence, business and other white collar crimes, and criminal activity;
- (8) Study, develop, and make recommendations for the protection of the community, including name check systems for businesses, and other measures designed to protect individuals and the State from crime and direct and indirect criminal influence;
- (9) Report, to the legislature prior to the convening of each legislative session, on its activities of the preceding year and on a program of action for the coming year;
- (10) Hold public and closed hearings;
- (11) Receive, manage, and tender funds for rewards for apprehension and conviction of criminals; and
- (12) Perform other functions and duties necessary to carry out the procedures established in section 843-6.]
 - (1) Research, evaluate, and make recommendations regarding the criminal justice system; and
 - (2) Develop, recommend, and implement public education programs relating to the criminal justice system.

[§843-6] **§843-4 Conduct of business, procedures.** (a) Except where specifically otherwise provided by this chapter, the business and activities of the commission shall be conducted consistent with chapters 91 and 92. The commission shall possess all powers conferred under such chapters, including the power to subpoena as set forth in subsection (c).

(b) The commission may hold closed hearings when matters are to be considered which, if made public, may threaten the effectiveness of a study of criminal activity or of the criminal justice system; provided that all other meetings or hearings shall be otherwise conducted in accordance with chapters 91 and 92.

(c) In performing the functions and duties under this chapter, the commission is empowered to subpoena witnesses as allowed by rules of court upon subpoena signed by the [chairman] chairperson or acting [chairman.] chairperson. The subpoena pursuant to section 92-16 shall be served in the same

manner, and the witnesses subpoenaed shall be entitled to the same witness fees, as in the case of a witness subpoenaed to testify before a circuit court. Any circuit court upon the written application of the [chairman] chairperson or acting [chairman] chairperson of the commission shall have power to enforce obedience to the subpoena by contempt proceedings. The [chairman] chairperson or acting [chairman] chairperson may administer oaths to witnesses and require the testimony of such witnesses on matters germane to the subject under inquiry at the hearing. Any party to the hearing upon request shall be allowed to be represented by counsel and be allowed reasonable rights of examination and cross-examination of witnesses. Any false swearing by a witness at the hearing upon any material issue or matter shall constitute perjury, and be punishable as such.

(d) Agencies of the state and county governments shall cooperate with the commission to the extent necessary for the commission to perform its duties.

[§843-7] **§843-5 Rules.** The commission may adopt, amend, or repeal rules it deems necessary for the performance of its functions and the implementation of the intent of this chapter. The rules shall be adopted in accordance with chapter 91.

[§843-8] **§843-6 Unauthorized disclosure; penalty.** Any commission member, except the [chairman,] chairperson, staff member, or employee who, without authorization of the commission, discloses or disseminates any confidential information or matter acquired by the commission during the course of any study or investigation shall be removed from the commission upon a finding by the majority vote of the commission members that [he] the commission member has made an unauthorized disclosure. Any commission member, including the [chairman,] chairperson, staff member, or employee who, without authorization of the commission, wilfully discloses or disseminates any confidential information or matter acquired by the commission during the course of any study or investigation shall be guilty of a [Class] class C felony and shall be removed, section [843-2(b)] 843-1(b) to the contrary notwithstanding in the case of the [chairman,] chairperson, or terminated in employment, as the case may be, in accordance with this section.

As used in this section, “confidential information or matter” means information or matter, the release of which constitutes a violation of the right of privacy, information or matter, the release of which would result in substantial detriment to the effectiveness of the commission or to its ability to secure information necessary to the performance of its functions, or information or matter, the release of which may endanger or otherwise compromise or prejudice the rights, interests, safety, or privacy of any person who has assisted the commission in its work.”

SECTION 2. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

“§103-3 Employment of attorneys. No department of the State other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the Hawaii housing authority or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund;
- (6) To the Hawaii [crime] criminal justice commission;
- (7) To grand jury counsel;
- (8) To the office of Hawaiian affairs;
- (9) To the department of commerce and consumer affairs; provided that such attorney shall be responsible for the prosecution of consumer complaints[.]; and
- (10) In the event the attorney general, for reasons deemed by [him] the attorney general good and sufficient, declines such representation or counsel, or approves such department's expenditures; provided the governor thereupon waives the provision of this section.

For the purpose of this section the term “department of the State” means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed by the Hawaii [crime] criminal justice commission or as a grand jury counsel, or the department of commerce and consumer affairs in prosecution of consumer complaints, shall become a deputy attorney general.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$302,000 for fiscal year 1984-85, or so much thereof as may be necessary for the purposes of this Act. The sum appropriated shall be expended by the office of the lieutenant governor for the purposes of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 26, 1984.)