

**ACT 128**

H.B. NO. 3534

A Bill for an Act Relating to Enforcement.

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

SECTION 1. The purpose of this Act is to integrate the harbor patrol program into the statewide commercial harbors program by transferring those functions from the department of public safety to the department of transportation.

SECTION 2. Section 26-14.6, Hawaii Revised Statutes, is amended to read as follows:

**“§26-14.6 Department of public safety.** (a) The department of public safety shall be headed by a single executive to be known as the director of public safety.

(b) The department of public safety shall be responsible for the formulation and implementation of state policies and objectives for correctional, security, law enforcement, and public safety programs and functions, for the administration and maintenance of all correctional facilities and services, for the service of process, and for the security of state buildings.

(c) Effective July 1, 1990, the Hawaii paroling authority and the criminal injuries compensation commission are placed within the department of public safety for administrative purposes only.

(d) Effective July 1, 1990, the functions and authority heretofore exercised by:

- (1) The department of corrections relating to adult corrections and the intake service centers;
- (2) The judiciary relating to the sheriff’s office and judiciary security personnel; and
- (3) The department of the attorney general relating to state law enforcement officers and narcotics enforcement investigators with the narcotics enforcement division,

shall be transferred to the department of public safety.

(e) Effective July 1, 1990, the functions and authority heretofore exercised by the department of health pursuant to chapters 329 and 329C, with the exception of sections 329-2, 329-3, and 329-4(3) to (8), shall be transferred to the department of public safety.

(f) Effective July 1, 1990, the functions, authority, and obligations, together with the limitations imposed thereon and the privileges and immunities conferred thereby, exercised by a “sheriff”, “sheriffs”, a “sheriff’s deputy”, “sheriff’s deputies”, a “deputy sheriff”, “deputy sheriffs”, or a “deputy”, under sections 21-8, 47-18, 88-51, 105-4, 134-11, 134-51, 183D-11, 187A-14, 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9, 325-80, 353-11, 360-5, 360-14, 383-71, 438-5, 445-37, 482E-4, 485-6, 501-42, 501-171, 501-218, 521-78, 578-4, 584-6, 587-33, 603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8, 634-11, 634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2, 655-2, 657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35, 804-14, 804-18, 804-41, 805-1, 806-71, and 832-23 shall be exercised to the same extent by the department of public safety.

[(g) Effective July 1, 1991, the functions and authority heretofore exercised by the director of transportation and the department of transportation related to law enforcement, including those pertaining to parking at its facilities and security, shall be transferred to the department of public safety, except that law enforcement for airports and for parking facilities at airports shall continue to be under the jurisdiction of the department of transportation.

(h) [(g)] Effective January 1, 1993, the functions and authority heretofore exercised by the attorney general and the department of the attorney general relating to the executive security officers shall be transferred to the department of public safety.

[(i)] [(h)] Effective January 1, 1993, the functions and authority heretofore exercised by the superintendent of education and the department of education relating to after hours security contracts at its facilities, including the security functions being performed by employees of the public library system as well as the contractual security services for the libraries, shall be transferred to the department of public safety.

[(j)] [(i)] Effective January 1, 1993, the functions and authority heretofore exercised by the director of health and the department of health relating to uniformed

security employees and security contracts at various state hospitals throughout the State shall be transferred to the department of public safety.

[(k)] (j) Effective January 1, 1993, the functions and authority heretofore exercised by the director of human services and the department of human services relating to contractual security guard services shall be transferred to the department of public safety.

[(l)] (k) Effective July 1, 1994, the functions and authority heretofore exercised by the adjutant general relating to security for national guard and state civil defense facilities in the Diamond Head complex, for after work hours, shall be transferred to the department of public safety.”

SECTION 3. Section 266-24, Hawaii Revised Statutes, is amended to read as follows:

**“§266-24 Enforcement.** (a) For the purpose of the enforcement of this chapter and of all rules adopted pursuant to this chapter, the powers of police officers are conferred upon the director of transportation and any officer, employee, or representative of the department of transportation. Without limiting the generality of the foregoing, the director and any person appointed by the director hereunder may serve and execute warrants, arrest offenders, and serve notices and orders. [Every] The director of transportation and any employee, agent, or representative of the department of transportation appointed as enforcement officers by the director, and every state and county officer charged with the enforcement of [laws and ordinances] any law, statute, rule, regulation, ordinance, or order, shall enforce and assist in the enforcement of this chapter and of all rules [adopted pursuant to this chapter.] and orders issued pursuant thereto, and in carrying out the responsibilities hereunder, each shall be specifically authorized to:

- (1) Conduct any enforcement action hereunder in any commercial harbor area and any area over which the department of transportation and the director of transportation has jurisdiction under this chapter;
- (2) Inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where harbors or harbor facilities are situated, or where harbor-related activities are operated or conducted; and
- (3) Subject to limitations as may be imposed by the director of transportation, serve and execute warrants, arrest offenders, and serve notices and orders.

For purposes of this subsection, the term “agents and representatives” includes persons performing services at harbors or harbor areas under contract with the department of transportation.

(b) The department of transportation, in the name of the State, may enforce this chapter and the rules and orders issued pursuant thereto by injunction or other legal process in the courts of the State.”

SECTION 4. All rights, powers, functions, and duties of the department of public safety relating to the harbor patrol program shall be transferred to the department of transportation.

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; provided, however, nothing in this Act shall be construed to exempt any officer or employee of the State involved in this

transfer from any type of employment action, including, without limitation, any reduction in force.

SECTION 5. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of public safety relating to the harbor patrol program relating to the functions transferred to the department of transportation shall be transferred with the functions to which they relate.

SECTION 6. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 1996.

(Approved June 12, 1996.)