

ACT 220

H.B. NO. 2071

A Bill for an Act Relating to Law Enforcement.

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

SECTION 1. The legislature finds that it is the role of the State to oversee and regulate those professions and occupations that have a significant impact on society. The Hawaii Revised Statutes regulate private security guards. Law enforcement is another area in which the State should do more to provide statewide standards and uniformity.

The legislature further finds that the State and counties grant to police, sheriffs, and other law enforcement officers immense powers, such as the authority to search, arrest, and use deadly force. Hawaii is the only state in the country without any state-level regulation of police. Regulation is left to the counties. Hawaii is only one of a handful of states that does not establish minimum standards required to be a police officer and does not have any procedure for revoking a police officer's certification for serious misconduct.

The legislature further finds that the consequences of a lack of statewide oversight of police are a matter of serious public concern. Several recent incidents have highlighted a need for greater oversight. For example, a former Honolulu police officer was recently sentenced to prison for using unreasonable force to violate the civil rights of two men. In another incident, a Honolulu police sergeant was caught on video engaged in a violent physical fight in public with the police sergeant's girlfriend. In yet another example, the former chief of police of the city and county of Honolulu faces federal prosecution for alleged criminal violations. Numerous local media stories have reported on the Honolulu police commission's lack of power to implement meaningful disciplinary actions for its police officers.

The legislature further finds that the State must enact a law that certifies law enforcement officers to ensure the highest standards of professionalism, uniformity of standards, and accountability throughout our islands.

The purpose of this Act is to establish a law enforcement standards board for the certification of county police officers, state public safety officers, and employees of the departments of transportation, land and natural resources, attorney general, and taxation with police powers.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
LAW ENFORCEMENT STANDARDS**

§ -1 **Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

“Board” means the law enforcement standards board.

“Law enforcement officer” means:

- (1) A police officer employed by a county police department;

- (2) A public safety officer employed by the department of public safety; or
- (3) An employee of the department of transportation, department of land and natural resources, department of taxation, or department of the attorney general who is conferred by law with general police powers.

§ -2 **Law enforcement standards board; establishment.** (a) There is established the law enforcement standards board within the department of the attorney general for administrative purposes only. The purpose of the board shall be to provide programs and standards for training and certification of law enforcement officers. The law enforcement standards board shall consist of the following voting members: nine ex officio individuals, two law enforcement officers, and four members of the public.

- (1) The nine ex officio members of the board shall consist of the:
 - (A) Attorney general;
 - (B) Director of public safety;
 - (C) Director of transportation or the director's designee;
 - (D) Chairperson of the board of land and natural resources or chairperson's designee;
 - (E) Director of taxation or the director's designee; and
 - (F) Chiefs of police of the four counties;
- (2) The two law enforcement officers shall each have at least ten years of experience as a law enforcement officer and shall be appointed by the governor; and
- (3) The four members of the public shall consist of one member of the public from each of the four counties and shall be appointed by the governor. At least two of the four members of the public holding a position on the board at any given time shall:
 - (A) Possess a master's or doctorate degree related to criminal justice;
 - (B) Possess a law degree and have experience:
 - (i) Practicing in Hawaii as a deputy attorney general, a deputy prosecutor, deputy public defender, or private criminal defense attorney; or
 - (ii) Litigating constitutional law issues in Hawaii;
 - (C) Be a recognized expert in the field of criminal justice, policing, or security; or
 - (D) Have work experience in a law enforcement capacity; provided that experience in a county police department shall not itself be sufficient to qualify under this paragraph.

(b) The law enforcement officers and the members of the public on the board shall serve for a term of three years, provided that the initial terms shall be staggered, as determined by the governor.

(c) The law enforcement officers and the members of the public on the board shall receive no salary for their duties as members of the board, but shall be entitled to reimbursement for expenses, including travel expenses, necessary for the performance of their duties as board members.

§ -3 **Powers and duties of the board.** The board shall:

- (1) Adopt rules in accordance with chapter 91 to implement this chapter;

- (2) Establish minimum standards for employment as a law enforcement officer and to certify persons to be qualified as law enforcement officers;
- (3) Establish criteria and standards in which a person who has been denied certification, whose certification has been revoked by the board, or whose certification has lapsed may reapply for certification;
- (4) Establish minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for schools operated by or for the State or a county for the specific purpose of training law enforcement officers;
- (5) Consult and cooperate with the counties, agencies of the State, other governmental agencies, universities, colleges, and other institutions concerning the development of law enforcement officer training schools and programs of criminal justice instruction;
- (6) Employ, subject to chapter 76, an administrator and other persons necessary to carry out its duties under this chapter;
- (7) Investigate when there is reason to believe that a law enforcement officer does not meet the minimum standards for employment, and in so doing, may:
 - (A) Subpoena persons, books, records, or documents;
 - (B) Require answers in writing under oath to questions asked by the board; and
 - (C) Take or cause to be taken depositions as needed in investigations, hearings, and other proceedings, related to the investigation;
- (8) Establish and require participation in continuing education programs for law enforcement officers;
- (9) Have the authority to charge and collect fees for applications for certification as a law enforcement officer; and
- (10) Establish procedures and criteria for the revocation of certification issued by the board.

§ -4 Law enforcement standards board special fund; established. There is established in the state treasury the law enforcement standards board special fund. The revenues of the special fund shall consist of appropriations made by the legislature, fees charged by the board, grants, gifts, and interest on moneys deposited in the special fund. The special fund shall be used to defray the expenses of the board.

§ -5 Training programs. The board shall establish and maintain law enforcement training programs through agencies and institutions deemed appropriate by the board for applications for certification.

§ -6 Standards; certification. (a) No person may be appointed as a law enforcement officer unless the person:

- (1) Has satisfactorily completed a basic program of law enforcement training approved by the board; and
- (2) Possesses other qualifications as prescribed by the board for the employment of law enforcement officers, including minimum age, education, physical and mental standards, citizenship, good conduct, moral character, and experience.

(b) The board shall issue a certification to an applicant who meets the requirements of subsection (a) or who has satisfactorily completed a program or

course of instruction in another jurisdiction that the board deems to be equivalent in content and quality to the requirements of subsection (a).

(c) The board may deny or revoke the certification of an applicant or law enforcement officer who fails to meet or maintain the standards required under subsection (a).

§ -7 Employment of law enforcement officers. (a) No person shall be appointed or employed as a law enforcement officer by any county police department, the department of public safety, the department of transportation, the department of land and natural resources, the department of taxation, or the department of the attorney general, unless the person possesses a valid certification issued by the board pursuant to section -6(b).

(b) This section shall not apply to a person employed on a probationary basis, except that employment on a probationary basis may not exceed the period authorized for probationary employment as determined by the board.

§ -8 Revocation or denial of certification. (a) The board shall adopt rules, pursuant to chapter 91, that establish criteria for the denial, suspension, or revocation of a law enforcement officer's certification, including upon a finding by the board that the law enforcement officer:

- (1) Knowingly falsified or omitted material information on the law enforcement officer's application for training or certification to the board;
- (2) Has been convicted at any time of a felony offense under the laws of this State or has been convicted of a federal or out-of-state offense comparable to a felony under the laws of this State; provided that if a law enforcement officer was convicted of a felony before being employed as a law enforcement officer, and the circumstances of the prior felony conviction were fully disclosed to the employer of the law enforcement officer before being hired, the board may revoke certification only with the agreement of the employing law enforcement agency;
- (3) Interfered with an investigation or action for denial or revocation of certification by:
 - (A) Knowingly making a materially false statement to the board; or
 - (B) In any matter under investigation by or otherwise before the board, tampering with evidence or tampering with or intimidating any witness; or
- (4) Has taken other prohibited action as established by the board, by rule.

(b) The board may investigate whether a law enforcement officer no longer meets the standards for certification under section -6(a).

(c) Any proceeding to revoke a certification shall be conducted by the board in accordance with chapter 91.

§ -9 Annual report. No later than twenty days prior to the convening of each regular session, the board shall submit a report to the legislature that includes:

- (1) A description of the activities of the board;
- (2) An accounting of the expenditures from the law enforcement standards board special fund in the previous fiscal year and the remaining balance of the fund; and
- (3) Recommended legislation, if any."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2018-2019 for deposit into the law enforcement standards board special fund.

SECTION 4. There is appropriated out of the law enforcement standards board special fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2018-2019 for the purposes of this Act.

The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. This Act shall take effect on July 1, 2018; provided that the law enforcement standards board established under this Act shall finalize its standards and certification process by July 1, 2019.

(Became law on July 10, 2018, without the governor's signature, pursuant to Art. III, §16, State Constitution.)