

## ACT 132

H.B. NO. 2458

A Bill for an Act Relating to the Department Of Law Enforcement.

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

SECTION 1. The legislature finds that Act 278, Session Laws of Hawaii 2022, established a new department of law enforcement to consolidate and administer state criminal law enforcement and investigations of various state departments. The legislature further finds that for the department of law enforcement to fully exercise investigative powers, it must have subpoena powers.

The purpose of this Act is to:

- (1) Require the director of law enforcement to investigate alleged violations of the law when directed to do so by the governor or when the director determines that an investigation would be in the public interest; and
- (2) Authorize the director of law enforcement to issue subpoenas as part of the investigative powers of the department of law enforcement.

SECTION 2. Chapter 353C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§353C- Investigations.** (a) The director shall investigate alleged violations of the law when directed to do so by the governor or when the director determines that an investigation would be in the public interest.

(b) The director, when conducting a civil, administrative, or criminal investigation, may, subject to the privileges enjoyed by all witnesses in the State, subpoena witnesses, examine them under oath, and require the production of any books, papers, documents, or other objects designated therein or any other record however maintained, including those electronically stored that are relevant or material to the investigation.

(c) A subpoena issued under subsection (b):

- (1) Shall state the name of the issuing authority and command each person to whom it is directed to attend and give testimony at the time and place specified therein, and may also command the person to whom it is directed to produce books, papers, documents, or other objects specifically designated therein;
- (2) May be served by any law enforcement officer as defined in section 139-1 at any place within the State but subject to the jurisdiction of the issuing law enforcement officer serving the subpoena;
- (3) Shall require attendance of the witness only in the county wherein the witness is served with the subpoena or at any other place as is agreed upon by the witness and department; provided that, if the subpoena is served in a county other than that in which the witness resides, is employed, or transacts the witness' business in person, the department shall bear the expense of travel by the witness to and attendance at the place named in the subpoena to the same extent as provided by the rules of court; and
- (4) Shall contain a short, plain statement of the recipient's rights and the procedure for enforcing and contesting the subpoena.

(d) The department shall pay to a financial institution that is served a subpoena issued under this section a fee for reimbursement of the costs as are necessary and that have been directly incurred in searching for, reproducing, or transporting books, papers, documents, or other objects designated by the subpoena. Reimbursement shall be paid at the rate of \$15 per hour for research time and 50 cents per page for reproduction.

(e) Upon application by the attorney general on behalf of the department, a circuit court of the county wherein the witness resides or is found may compel obedience to the subpoena; provided that the court, on motion promptly made, may quash or modify the subpoena if compliance would be unreasonable, oppressive, or violate any privilege the witness may be entitled to exercise in a court proceeding.

(f) Compliance with a subpoena issued pursuant to this section shall not give rise to a civil action for damages by an individual or entity as to whom testimony has been given or books, papers, documents, or other objects provided in compliance with the subpoena.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2024.

(Approved July 1, 2024.)

**Note**

1. Edited pursuant to HRS §23G-16.5.