

ACT 247

H.B. NO. 2352

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 section 139-2, Hawaii Revised Statutes, established a law enforcement standards board for the certification of law enforcement officers, including county police officers and law enforcement officers of the departments of law enforcement, land and natural resources, taxation, and attorney general.

The law enforcement standards board is responsible for establishing minimum standards for employment as a law enforcement officer and certifying persons qualified as law enforcement officers. It is also responsible for establishing minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for the training of law enforcement officers. It must consult and cooperate with the counties, state agencies, other governmental agencies, universities and colleges, and other institutions concerning the development of law enforcement officer training schools and programs. The board is also responsible for regulating and enforcing the certification requirements of law enforcement officers.

These are important and substantial duties that require evaluation to ensure that existing legal obligations are not compromised. Before imposing new standards impacting the employment of law enforcement officers, the board must consider collective bargaining and other employment requirements. At a minimum, the board must evaluate how probationary periods; training requirements, including the types of training; the number of hours of training; the availability of training facilities; and the issuance, suspension, and revocation of certification, will impact obligations already established by law.

This evaluation should include consideration of the study conducted by the legislative reference bureau pursuant to Act 124, Session Laws of Hawaii 2018, and any additional study necessary to determine the impact of uniform standards, certification, and training for all law enforcement officers. The board has determined that it will need significantly more time and resources to accomplish its mission.

The purpose of this Act is to:

- (1) Exempt the administrator of the law enforcement standards board from civil service laws;
- (2) Amend the membership requirements for the law enforcement standards board to facilitate more meaningful participation and representation;
- (3) Require the board to consider studies relevant to its objectives and conduct its own study on how to satisfy its duties; and
- (4) Establish new deadlines for the completion of the board's significant responsibilities.

SECTION 2. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii National Guard [~~as such,~~] and positions in the Hawaii National Guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any [~~such~~] contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional

- law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
 - (11) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, no more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
 - (B) Effective July 1, 2003, teaching assistants, educational assistants, ~~[bilingual/bicultural]~~ bilingual or bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school ~~[educational/supportive]~~ educational or supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
 - (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
 - (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
 - (12) Employees engaged in special, research, or demonstration projects approved by the governor;
 - (13) (A) Positions filled by inmates, patients of state institutions, and persons with severe physical or mental disabilities participating in the work experience training programs;
 - (B) Positions filled with students in accordance with guidelines for established state employment programs; and
 - (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;
 - (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
 - (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracti-

- cable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy in the department of human services either in charge of welfare or other functions within the department as may be assigned by the director of human services; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; two additional deputies in charge of the law enforcement programs, administration, or other functions within the department of law enforcement as may be assigned by the director of law enforcement, with the approval of the governor; three additional deputies each in charge of the correctional institutions, rehabilitation services and programs, and administration or other functions within the department of corrections and rehabilitation as may be assigned by the director ~~of~~ of corrections and rehabilitation, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
 - (17) Positions specifically exempted from this part by any other law; provided that:
 - (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
 - (B) All of the positions defined by paragraph (9) shall be included in the position classification plan;
 - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
 - (19) Household employees at the official residence of the president of the University of Hawaii;
 - (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
 - (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that ~~not~~ no more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
 - (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
 - (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
 - (24) The sheriff;

- (25) A gender and other fairness coordinator hired by the judiciary;
- (26) Positions in the Hawaii National Guard youth and adult education programs;
- (27) In the Hawaii state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts;
- (28) Administrative appeals hearing officers in the department of human services;
- (29) In the Med-QUEST division of the department of human services, the division administrator, finance officer, health care services branch administrator, medical director, and clinical standards administrator;
- (30) In the director's office of the department of human services, the enterprise officer, information security and privacy compliance officer, security and privacy compliance engineer, security and privacy compliance analyst, information technology implementation manager, assistant information technology implementation manager, resource manager, ~~[community/project]~~ community or project development director, policy director, special assistant to the director, and limited English proficiency project ~~[manager/coordinator;]~~ manager or coordinator;
- (31) The Alzheimer's disease and related dementia services coordinator in the executive office on aging;
- (32) In the Hawaii emergency management agency, the executive officer, public information officer, civil defense administrative officer, branch chiefs, and emergency operations center state warning point personnel; provided that for state warning point personnel, the director shall determine that recruitment through normal civil service recruitment procedures would result in delay or noncompliance;
- (33) The executive director and seven full-time administrative positions of the school facilities authority;
- (34) Positions in the Mauna Kea stewardship and oversight authority;
- (35) In the office of homeland security of the department of law enforcement, the statewide interoperable communications coordinator; ~~[and]~~
- (36) In the social services division of the department of human services, the business technology analyst~~[-];~~ and
- (37) The administrator for the law enforcement standards board.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 3. Section 139-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) There ~~[is]~~ shall be 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: eight ex officio individuals~~[-];~~ two] or their designees, five law enforcement officers, ~~[and]~~ four members of the public~~[-];~~ and one member selected by the union representing police officers in the State; provided that:

- (1) The eight ex officio members of the board shall consist of the:

- (A) Attorney general[;] or the attorney general's designee;
 - (B) Director of law enforcement[;] or the director's designee;
 - (C) Chairperson of the board of land and natural resources or the chairperson's designee;
 - (D) Director of taxation or the director's designee; and
 - (E) Chiefs of police of the four counties[;] or the designees of each of the chiefs of police;
- (2) The ~~two~~ five law enforcement officers shall ~~each~~ be persons other than the chiefs of police or designees described in paragraph (1)(E) and shall consist of:

(A) One county law enforcement officer from each of the four counties; and

(B) One state law enforcement officer.

Each law enforcement officer described in this paragraph shall have at least ten years of experience as a law enforcement officer [and], shall be appointed by the governor[;], and, notwithstanding section 26-34, shall be appointed without the advice and consent of the senate; and

- (3) The ~~four members of the~~ public members shall consist of one member ~~[of the public]~~ from each of the four counties ~~[and], each of whom shall be appointed by the governor[;], and, notwithstanding section 26-34, shall be appointed without the advice and consent of the senate.~~ 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, 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, member selected by the union representing police officers in the State, and the members of the public on the board shall serve for a term of ~~three~~ four years[;]; provided that the initial terms for the law enforcement officers and the public members shall be staggered, as determined by the governor."

SECTION 4. Section 139-3, Hawaii Revised Statutes, is amended to read as follows:

"§139-3 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, without regard to chapter 76, 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;
- (10) Establish procedures and criteria for the revocation of certification issued by the board;
- (11) Have the authority to revoke certifications; ~~[and]~~
- (12) Review and recommend statewide policies and procedures relating to law enforcement, including the use of force~~[-]~~;
- (13) Consider studies relevant to the board's objectives, including the study that examines consolidating the law enforcement activities and responsibilities of various state divisions and agencies under a single, centralized state enforcement division or agency, conducted pursuant to Act 124, Session Laws of Hawaii 2018; and
- (14) Conduct its own study to evaluate how to efficiently and effectively satisfy its duties in accordance with the law."

SECTION 5. Section 139-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) No person may be appointed or employed as a law enforcement officer after June 30, 2026, unless the person:

- (1) Has satisfactorily completed a basic program of law enforcement training approved by the board;
- (2) Has received training designed to minimize the use of excessive force, including legal standards, de-escalation techniques, crisis intervention tactics, mental health response, implicit bias, and first aid; and
- (3) 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]~~ Beginning on July 1, 2026, the board shall issue a certification to an applicant or law enforcement officer who meets the requirements of subsection (a) or who has satisfactorily completed a program or course of instruc-

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

SECTION 6. Section 139-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall be appointed or employed as a law enforcement officer by any county police department, the department of law enforcement, the department of land and natural resources, the department of taxation, or the department of the attorney general~~[;]~~ after June 30, 2026, unless the person possesses a valid certification issued by the board pursuant to section 139-6(b).”

SECTION 7. Act 220, Session Laws of Hawaii 2018, as amended by section 5 of Act 47, Session Laws of Hawaii 2020, is amended by amending section 6 to read as follows:

~~“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 December 31, 2021.~~”

SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved July 9, 2024.)