

JAN 17 2014

S.B. NO. 2589

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## A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1.   Section 26-14.6, Hawaii Revised Statutes, is  
2   amended to read as follows:

3       "**§26-14.6   Department of public safety.**   (a)   The  
4   department of public safety shall be headed by a single  
5   executive to be known as the director of public safety.

6       (b)   The department of public safety shall be responsible  
7   for the formulation and implementation of state policies and  
8   objectives for correctional, security, law enforcement, and  
9   public safety programs and functions, for the administration and  
10   maintenance of all public or private correctional facilities and  
11   services, for the service of process, and for the security of  
12   state buildings.

13       (c)   Effective July 1, 1990, the Hawaii paroling authority  
14   and the crime victim compensation commission are placed within  
15   the department of public safety for administrative purposes  
16   only.

17       (d)   Effective July 1, 1990, the functions and authority  
18   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, 105-4, 134-51, 183D-11, 187A-14, 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9, 353-11, 356D-54, 356D-94, 383-71, 438-5, 445-37, 482E-4,



1 485A-202, 501-42, 501-171, 501-218, 521-78, 578-4, 584-6,  
2 587-33, 603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8,  
3 634-11, 634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2,  
4 655-2, 657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35,  
5 804-14, 804-18, 804-41, 805-1, 806-71, and 832-23 shall be  
6 exercised to the same extent by the department of public safety.

7 (g) Effective January 1, 1993, the functions and authority  
8 heretofore exercised by the attorney general and the department  
9 of the attorney general relating to the executive security  
10 officers shall be transferred to the department of public  
11 safety.

12 (h) Effective July 1, 1999, the functions and authority  
13 heretofore exercised by the director of public safety and the  
14 department of public safety relating to after hours security  
15 contracts at department of education facilities, except for the  
16 security functions being performed by employees of the public  
17 library system as well as the contractual security services for  
18 the libraries, shall be transferred to the department of  
19 education.

20 (i) Effective January 1, 1993, the functions and authority  
21 heretofore exercised by the director of health and the  
22 department of health relating to uniformed security employees



1 and security contracts at various state hospitals throughout the  
2 State shall be transferred to the department of public safety.  
3 Effective July 1, 2005, the functions, authority, and employee  
4 positions of the department of public safety relating to  
5 uniformed security employees and security contracts at health  
6 facilities that are under the operation, management, and control  
7 of the Hawaii health systems corporation shall be transferred to  
8 the Hawaii health systems corporation.

9 (j) Effective January 1, 1993, the functions and authority  
10 heretofore exercised by the director of human services and the  
11 department of human services relating to contractual security  
12 guard services shall be transferred to the department of public  
13 safety.

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

19 (l) Effective July 1, 2002, the functions and authority  
20 heretofore exercised by the director of public safety and the  
21 department of public safety relating to after hours security  
22 contracts at department of education facilities, including all



1 security functions being performed by employees of the public  
2 library system, as well as the contractual security services for  
3 the libraries, shall be transferred to the department of  
4 education and the public library system as appropriate.

5 (m) Effective July 1, 2016, there shall be established a  
6 Hawaii state sheriff, harbors division. Effective July 1, 2016,  
7 the functions and authority heretofore exercised by the director  
8 of transportation relating to harbors law enforcement shall be  
9 transferred to the department of public safety, sheriff  
10 division. Harbor police as of July 1, 2016, shall meet the  
11 qualifications of the sheriff division."

12 SECTION 2. Section 26-19, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§26-19 Department of transportation.** The department of  
15 transportation shall be headed by a single executive to be known  
16 as the director of transportation. The department shall  
17 establish, maintain, and operate transportation facilities of  
18 the State, including highways, airports, harbors, and such other  
19 transportation facilities and activities as may be authorized by  
20 law.

21 The department shall plan, develop, promote, and coordinate  
22 various transportation systems management programs that shall



1 include, but not be limited to, alternate work and school hours  
2 programs, bicycling programs, and ridesharing programs.

3 The department shall develop and promote ridesharing  
4 programs which shall include but not be limited to, carpool and  
5 vanpool programs, and may assist organizations interested in  
6 promoting similar programs, arrange for contracts with private  
7 organizations to manage and operate these programs, and assist  
8 in the formulation of ridesharing arrangements. Ridesharing  
9 programs include informal arrangements in which two or more  
10 persons ride together in a motor vehicle.

11 The functions and authority heretofore exercised by the  
12 department of public works with respect to highways are  
13 transferred to the department of transportation established by  
14 this chapter.

15 No later than July 1, 2016, the harbors law enforcement  
16 functions of the department of transportation shall be  
17 transferred to the department of public safety.

18 On July 1, 1961, the Hawaii aeronautics commission, the  
19 board of harbor commissioners and the highway commission shall  
20 be abolished and their remaining functions, duties, and powers  
21 shall be transferred to the department of transportation."



SECTION 3. Section 266-29, Hawaii Revised Statutes, is amended to read as follows:

"[+]§266-29[+] State harbors civil violations system; authorization. (a) There is established, within the department of transportation, a state harbors civil violations system, whose purpose shall be to process violations of departmental regulations for which administrative penalties have been authorized by law or rules adopted thereunder.

(b) The department of transportation shall adopt, amend, and repeal rules, subject to chapter 91, for the purposes of this section.

(c) Rules adopted pursuant to subsection (b) may include, but are not limited to, the following:

- (1) Requirements for notice of state harbors infraction;
- (2) A form of the answer that shall be made pursuant to a notice of state harbors infraction, which answer may be an admission of the infraction, a denial of the infraction, or an admission of the infraction with mitigating circumstances;
- (3) The action to be taken after an answer is received or when a person fails to answer the notice of state harbors infraction;



(4) Procedures for administrative hearings under this section;

(5) The imposition and enforcement of monetary assessments made pursuant to this section; and

(6) Means of assuring that the alleged violator who answers the notice of state harbors infraction by an admission of the infraction or an admission of the infraction with mitigating circumstances has knowingly and voluntarily elected to use the state harbors civil violations system and waive the appeal provided for in section 91-14.

(d) Notwithstanding any other provision of law to the contrary, all state harbors infractions that the department of transportation identifies as subject to administrative penalties may be adjudicated pursuant to this section.

(e) Effective July 1, 2016, the enforcement of this section shall be under the jurisdiction of the department of public safety, sheriff division."

SECTION 4. Section 353C-2, Hawaii Revised Statutes, is amended to read as follows:

**"§353C-2 Director of public safety; powers and duties.**

[+](a) [+] The director of public safety shall administer the





1 public safety programs of the department of public safety and  
2 shall be responsible for the formulation and implementation of  
3 state goals and objectives for correctional and law enforcement  
4 programs, including ensuring that correctional facilities and  
5 correctional services meet the present and future needs of  
6 persons committed to the correctional facilities. In the  
7 administration of these programs, the director may:

8 (1) Preserve the public peace, prevent crime, detect and  
9 arrest offenders against the law, protect the rights  
10 of persons and property, and enforce and prevent  
11 violation of all laws and administrative rules of the  
12 State as the director deems to be necessary or  
13 desirable or upon request, to assist other state  
14 officers or agencies that have primary administrative  
15 responsibility over specific subject matters or  
16 programs;

17 (2) Train, equip, maintain, and supervise the force of  
18 public safety officers, including law enforcement and  
19 correctional personnel, and other employees of the  
20 department;

21 (3) Serve process both in civil and criminal proceedings;

22 (4) Perform other duties as may be required by law;



(5) Adopt, pursuant to chapter 91, rules that are necessary or desirable for the administration of public safety programs; and

(6) Enter into contracts in behalf of the department and take all actions deemed necessary and appropriate for the proper and efficient administration of the department.

(b) Effective July 1, 2016, there shall be established a Hawaii state sheriffs, harbors division. Effective July 1, 2016, the functions and authority heretofore exercised by the director of transportation relating to harbors law enforcement shall be transferred to the department of public safety, sheriff division. Harbors police as of July 1, 2016, shall meet the qualifications of the sheriff division.

~~(b)~~ (c) The department of public safety shall report to the legislature not later than twenty days prior to the commencement of the 2008 regular session, and every session thereafter, with its achievements, continuing improvements, and ongoing problems in providing the appropriate mental health care to committed persons under its jurisdiction."

SECTION 5. All rights, powers, functions, and duties of law enforcement of the department of department of



1 transportation, harbors division, are transferred to the  
2 department of public safety.

3 All employees who occupy civil service positions and whose  
4 functions are transferred to the department of public safety by  
5 this Act shall retain their civil service status, whether  
6 permanent or temporary. Employees shall be transferred without  
7 loss of salary, seniority (except as prescribed by applicable  
8 collective bargaining agreements), retention points, prior  
9 service credit, any vacation and sick leave credits previously  
10 earned, and other rights, benefits, and privileges, in  
11 accordance with state personnel laws and this Act; provided that  
12 the employees possess the minimum qualifications and public  
13 employment requirements for the class or position to which  
14 transferred or appointed, as applicable; provided further that  
15 subsequent changes in status may be made pursuant to applicable  
16 civil service and compensation laws.

17 Any employee who, prior to this Act, is exempt from civil  
18 service and is transferred as a consequence of this Act may  
19 retain the employee's exempt status, but shall not be appointed  
20 to a civil service position as a consequence of this Act. An  
21 exempt employee who is transferred by this Act shall not suffer  
22 any loss of prior service credit, vacation or sick leave credits



1 previously earned, or other employee benefits or privileges as a  
2 consequence of this Act; provided that the employees possess  
3 legal and public employment requirements for the position to  
4 which transferred or appointed, as applicable; provided further  
5 that subsequent changes in status may be made pursuant to  
6 applicable employment and compensation laws. The director of  
7 public safety may prescribe the duties and qualifications of  
8 these employees and fix their salaries without regard to chapter  
9 76, Hawaii Revised Statutes.

10 SECTION 6. All appropriations, records, equipment,  
11 machines, files, supplies, contracts, books, papers, documents,  
12 maps, and other personal property heretofore made, used,  
13 acquired, or held by the department of transportation relating  
14 to the functions transferred to the department of public safety  
15 shall be transferred with the functions to which they relate.

16 SECTION 7. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect upon its approval.  
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INTRODUCED BY:

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**Report Title:**

Harbor Police; Department of Public Safety; Transfer

**Description:**

Transfers the law enforcement functions of the harbors division of the department of transportation to the department of public safety, effective July 1, 2016.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

