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

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

16           The legislature further finds that the consequences of a  
17 lack of statewide oversight of police are a matter of serious



1 public concern. Several recent incidents have highlighted a  
2 need for greater oversight. For example, a former Honolulu  
3 police officer was recently sentenced to prison for using  
4 unreasonable force to violate the civil rights of two men. In  
5 another incident, a Honolulu police sergeant was caught on video  
6 engaged in a violent physical fight in public with the police  
7 sergeant's girlfriend. In yet another example, the former chief  
8 of police of the city and county of Honolulu faces federal  
9 prosecution for alleged criminal violations. Numerous local  
10 media stories have reported on the Honolulu police commission's  
11 lack of power to implement meaningful disciplinary actions for  
12 its police officers.

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

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



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

4 "CHAPTER

5 LAW ENFORCEMENT STANDARDS

6 § -1 Definitions. As used in this chapter, unless the  
7 context clearly indicates otherwise:

8 "Board" means the law enforcement standards board.

9 "Law enforcement officer" means:

- 10 (1) A police officer employed by a county police
- 11 department;
- 12 (2) A public safety officer employed by the department of
- 13 public safety; or
- 14 (3) An employee of the department of transportation,
- 15 department of land and natural resources, department
- 16 of taxation, or department of the attorney general who
- 17 is conferred by law with general police powers.

18 § -2 Law enforcement standards board; establishment.

19 (a) There is established the law enforcement standards board  
20 within the department of the attorney general for administrative  
21 purposes only. The purpose of the board shall be to provide



1 programs and standards for training and certification of law  
2 enforcement officers. The law enforcement standards board shall  
3 consist of the following voting members: eight ex officio  
4 individuals, two law enforcement officers, and four members of  
5 the public.

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

8 (A) Attorney general;

9 (B) Director of public safety;

10 (C) Director of transportation;

11 (D) Chairperson of the board of land and natural  
12 resources; and

13 (E) Chiefs of police of the four counties;

14 (2) The two law enforcement officers shall each have at  
15 least ten years of experience as a law enforcement  
16 officer and shall be appointed by the governor; and

17 (3) The four members of the public shall consist of one  
18 member of the public from each of the four counties  
19 and shall be appointed by the governor. At least two  
20 of the four members of the public holding a position  
21 on the board at any given time shall:



- 1 (A) Possess a master's or doctorate degree related to
- 2 criminal justice;
- 3 (B) Possess a law degree and have experience:
- 4 (i) Practicing in Hawaii as a deputy attorney
- 5 general, a deputy prosecutor, deputy public
- 6 defender, or private criminal defense
- 7 attorney; or
- 8 (ii) Litigating constitutional law issues in
- 9 Hawaii;
- 10 (C) Be a recognized expert in the field of criminal
- 11 justice, policing, or security; or
- 12 (D) Have work experience in a law enforcement
- 13 capacity; provided that experience in a county
- 14 police department shall not itself be sufficient
- 15 to qualify under this subparagraph.

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

21 § -3 Powers and duties of the board. The board shall:



- 1           (1) Adopt rules in accordance with chapter 91 to implement  
2           this chapter;
- 3           (2) Establish minimum standards for employment as a law  
4           enforcement officer and to certify persons to be  
5           qualified as law enforcement officers;
- 6           (3) Establish criteria and standards by which a person who  
7           has been denied certification, whose certification has  
8           been revoked by the board, or whose certification has  
9           lapsed may reapply for certification;
- 10          (4) Establish minimum criminal justice curriculum  
11          requirements for basic, specialized, and in-service  
12          courses and programs for schools operated by or for  
13          the State or a county for the specific purpose of  
14          training law enforcement officers;
- 15          (5) Consult and cooperate with the counties, agencies of  
16          the State, other governmental agencies, universities,  
17          colleges, and other institutions concerning the  
18          development of law enforcement officer training  
19          schools and programs of criminal justice instruction;



- 1           (6)   Employ, subject to chapter 76, an administrator and  
2                   other persons necessary to carry out its duties under  
3                   this chapter;
- 4           (7)   Investigate when there is reason to believe that a law  
5                   enforcement officer does not meet the minimum  
6                   standards for employment, and in so doing, may:
  - 7                   (A)   Subpoena persons, books, records, or documents;
  - 8                   (B)   Require answers in writing under oath to  
9                   questions asked by the board; and
  - 10                  (C)   Take or cause to be taken depositions as needed  
11                   in investigations, hearings, and other  
12                   proceedings,  
13                   related to the investigation;
- 14          (8)   Establish and require participation in continuing  
15                   education programs for law enforcement officers;
- 16          (9)   Have the authority to charge and collect fees for  
17                   applications for certification as a law enforcement  
18                   officer; and
- 19          (10)  Establish procedures and criteria for the revocation  
20                   of certification issued by the board.



1           §   -4 Law enforcement standards board special fund;  
2 established. There is established in the state treasury the law  
3 enforcement standards board special fund. The revenues of the  
4 special fund shall consist of appropriations made by the  
5 legislature, fees charged by the board, grants, gifts, and  
6 interest on moneys deposited in the special fund. The special  
7 fund shall be used to defray the expenses of the board.

8           §   -5 Training programs. The board shall establish and  
9 maintain law enforcement training programs through agencies and  
10 institutions deemed appropriate by the board for applications  
11 for certification.

12           §   -6 Standards; certification. (a) No person may be  
13 appointed as a law enforcement officer unless the person:

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



1 (b) The board shall issue a certification to an applicant  
2 who meets the requirements of subsection (a) or who has  
3 satisfactorily completed a program or course of instruction in  
4 another jurisdiction that the board deems to be equivalent in  
5 content and quality to the requirements of subsection (a).

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

9 § -7 **Employment of law enforcement officers.** (a) No  
10 person shall be appointed or employed as a law enforcement  
11 officer by any county police department, the department of  
12 public safety, the department of transportation, the department  
13 of land and natural resources, the department of taxation, or  
14 the department of the attorney general, unless the person  
15 possesses a valid certification issued by the board pursuant to  
16 section -6(b).

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



1           §   -8 Denial, suspension, or revocation of certification.

2   (a) The board shall adopt rules, pursuant to chapter 91, that  
3 establish criteria for the denial, suspension, or revocation of  
4 a law enforcement officer's certification. The criteria shall  
5 include a finding by the board that the law enforcement officer:

6           (1) Knowingly falsified or omitted material information on  
7 the law enforcement officer's application for training  
8 or certification to the board;

9           (2) Has been convicted at any time of a felony offense  
10 under the laws of this State or has been convicted of  
11 a federal or out-of-state offense comparable to a  
12 felony under the laws of this State; provided that if  
13 a law enforcement officer was convicted of a felony  
14 before being employed as a law enforcement officer,  
15 and the circumstances of the prior felony conviction  
16 were fully disclosed to the employer of the law  
17 enforcement officer before being hired, the board may  
18 revoke certification only with the agreement of the  
19 employing law enforcement agency;

20           (3) Interfered with an investigation or action for denial  
21 or revocation of certification by:



1 (A) Knowingly making a materially false statement to  
2 the board; or

3 (B) In any matter under investigation by or otherwise  
4 before the board, tampering with evidence or  
5 tampering with or intimidating any witness; or

6 (4) Has taken other prohibited action as established by  
7 the board, by rule.

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

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

13 § -9 Annual report. No later than twenty days prior to  
14 the convening of each regular session, the board shall submit a  
15 report to the legislature that includes:

- 16 (1) A description of the activities of the board;
- 17 (2) An accounting of the expenditures from the law  
18 enforcement standards board special fund in the  
19 previous fiscal year and the remaining balance of the  
20 fund; and

21 (3) Recommended legislation, if any."



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

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

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

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

14 SECTION 6. This Act shall take effect on July 1, 2075;  
15 provided that the prohibition against the employment of  
16 noncertificated law enforcement officers established under  
17 section -6, Hawaii Revised Statutes, in section 2 of this Act  
18 shall take effect on July 1, 2019.

19



**Report Title:**

Law Enforcement Standards Board; Police; Special Fund;  
Regulation; Appropriation

**Description:**

Establishes 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, Taxation, and Attorney General with police powers. Prohibits employment of non-certified law enforcement officers beginning on 7/1/2019. Establishes the law enforcement standards board special fund. Appropriates funds. Takes effect 7/1/2075. (SD1)

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