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# A BILL FOR AN ACT

RELATING TO LIFEGUARDS.

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

1           SECTION 1. The legislature finds that the State contracts  
2 with the counties to provide lifeguards at various state beach  
3 parks. These lifeguards provide a valuable service as first  
4 responders to residents and tourists alike. The legislature  
5 additionally finds that state law currently authorizes the  
6 attorney general to defend county lifeguards posted at  
7 designated state beach parks and the respective county against  
8 lawsuits, though this does not completely eliminate the risk to  
9 the lifeguard or county.

10           The purpose of this Act is for the State to more fully  
11 assume the risk of posting county lifeguards at designated state  
12 beach parks under an agreement between the State and a county by  
13 requiring, instead of authorizing, the attorney general to  
14 defend the lifeguards and the employing counties against civil  
15 lawsuits for injuries that result from acts or omissions while  
16 the lifeguard is acting within the scope of the lifeguard's  
17 employment. The legislature notes that state law requires all



1 first responders, including emergency medical technicians,  
2 police officers, and firefighters, as well as lifeguards, to  
3 meet a negligence standard of care and perform their jobs with  
4 reasonable care under the circumstances. This Act is not  
5 intended to alter the current standard of care nor require the  
6 State to defend against claims that result from a lifeguard's  
7 gross negligence or wanton act or omission.

8 SECTION 2. Section 662-16, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§662-16 **Defense of state employees.** The attorney general  
11 may defend any civil action or proceeding brought in any court  
12 against any employee of the State, not including a county  
13 lifeguard providing lifeguard services at a designated state  
14 beach park under an agreement between the State and a county,  
15 for damage to property or for personal injury, including death,  
16 resulting from the act or omission of any state employee while  
17 acting within the scope of the employee's employment. The  
18 attorney general shall defend any civil action or proceeding  
19 brought in any court against any person employed by a county as  
20 a lifeguard and designated to provide lifeguard services at a  
21 designated state beach park under an agreement between the State



1 and a county; provided that the attorney general shall have no  
2 obligation to defend when the civil action or proceeding results  
3 from a county lifeguard's gross negligence or wanton act or  
4 omission. The employee against whom [~~such~~] a civil action or  
5 proceeding is brought shall deliver, within the time after the  
6 date of service or knowledge of service as determined by the  
7 attorney general, all process or complaint served upon the  
8 employee or an attested true copy thereof to the employee's  
9 immediate superior or to whomever was designated by the head of  
10 the employee's department to receive [~~such~~] the papers, and  
11 [~~such~~] the person shall promptly furnish copies of the pleadings  
12 and process therein to the department of the attorney general.

13 No judgment by default shall be entered against a state  
14 employee based on a cause of action arising out of an act or  
15 omission of such employee while acting within the scope of the  
16 employee's employment unless the department of the attorney  
17 general has received a copy of the complaint or other relevant  
18 pleadings and a period of twenty days has elapsed from the date  
19 of [~~such~~] the receipt.

20 The attorney general [~~may~~] shall also defend any civil  
21 action or proceeding brought in any court against a county based



1 on an allegedly negligent or wrongful act or omission of persons  
2 employed by a county as lifeguards and designated to provide  
3 lifeguard services at a designated state beach park under an  
4 agreement between the State and a county[-]; provided that the  
5 attorney general shall have no obligation to defend when the  
6 civil action or proceeding results from a county lifeguard's  
7 gross negligence or wanton act or omission.

8 The attorney general may also defend any civil action or  
9 proceeding brought in any court against any provider of medical,  
10 dental, or psychological services pursuant to contract with the  
11 department of public safety when the provider is sued for acts  
12 or omissions within the contract's scope of work."

13 SECTION 3. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$1,000,000 or so much  
15 thereof as may be necessary for fiscal year 2018-2019 for the  
16 department of land and natural resources division of state parks  
17 to hire lifeguards to monitor state beach parks.

18 The sum appropriated shall be expended by the department of  
19 land and natural resources for the purposes of this Act.

20 SECTION 4. There is appropriated out of the tourism  
21 special fund the sum of \$1,000,000 or so much thereof as may be



1 necessary for fiscal year 2018-2019 for the department of land  
2 and natural resources division of state parks to hire lifeguards  
3 to monitor state beach parks.

4 The sum appropriated shall be expended by the department of  
5 land and natural resources for the purposes of this Act.

6 SECTION 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect on July 1, 2018.



# H.B. NO.

2097  
H.D. 1  
S.D. 1  
PROPOSED

**Report Title:**

Lifeguards; Tort Liability; AG; DLNR; Appropriation

**Description:**

Requires the Attorney General to defend any civil action or proceeding against a county and any person employed by the county to provide lifeguard services at a designated state beach park under an agreement between the State and the county. Appropriates funds to the Department of Land and Natural Resources to hire lifeguards to monitor state beach parks. (SD1 Proposed)

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