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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. The purpose of this Act is for the State to more fully  
4 assume the risk of posting county lifeguards at designated state  
5 beach parks under an agreement between the State and a county.  
6 This Act is not intended to alter the current standard of care  
7 nor require the State to defend against claims that result from  
8 a lifeguard's gross negligence or wanton act or omission.

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

11           "§662-16 Defense of state employees[-]; county lifeguards.

12           (a) The attorney general may defend any civil action or  
13 proceeding brought in any court against any employee of the  
14 State for damage to property or for personal injury, including  
15 death, resulting from the act or omission of any state employee  
16 while acting within the scope of the employee's employment.



1       (b) The attorney general shall defend any civil action or  
2 proceeding brought in any court against any person who is  
3 employed by a county as a lifeguard, designated to provide  
4 lifeguard services at a designated state beach park under an  
5 agreement between the State and a county, and acting within the  
6 scope of the county lifeguard's employment at a designated state  
7 beach park; provided that the attorney general shall have no  
8 obligation to defend when the civil action or proceeding results  
9 from a county lifeguard's gross negligence or wanton act or  
10 omission; provided further that the county lifeguard may employ  
11 an attorney, in lieu of the attorney general, to defend any  
12 civil action or proceeding brought in any court against the  
13 county lifeguard at the lifeguard's own expense.

14       (c) The employee against whom [such] a civil action or  
15 proceeding is brought under this section shall deliver, within  
16 the time after the date of service or knowledge of service as  
17 determined by the attorney general, all process or complaint  
18 served upon the employee or an attested true copy thereof to the  
19 employee's immediate superior or to whomever was designated by  
20 the head of the employee's department to receive [such] the  
21 papers, and [such] the person shall promptly furnish copies of



1 the pleadings and process therein to the department of the  
2 attorney general.

3 (d) No judgment by default shall be entered against a  
4 ~~[state employee]~~ person under this section based on a cause of  
5 action arising out of an act or omission of ~~[such employee]~~ the  
6 person while acting within the scope of the ~~[employee's]~~  
7 person's employment unless the department of the attorney  
8 general has received a copy of the complaint or other relevant  
9 pleadings and a period of twenty days has elapsed from the date  
10 of ~~[such]~~ the receipt.

11 (e) The attorney general ~~[may also]~~ shall defend any civil  
12 action or proceeding brought in any court against a county based  
13 on an allegedly negligent or wrongful act or omission of persons  
14 who are employed by a county as lifeguards ~~[and]~~, designated to  
15 provide lifeguard services at a designated state beach park  
16 under an agreement between the State and a county[-], and acting  
17 within the scope of their employment as county lifeguards at a  
18 designated state beach park; provided that the attorney general  
19 shall have no obligation to defend when the civil action or  
20 proceeding results from a county lifeguard's gross negligence or



1 wanton act or omission, or when claims are made against the  
2 county for its own negligence or wrongful acts or omissions.

3 (f) The attorney general may [~~also~~] defend any civil  
4 action or proceeding brought in any court against any provider  
5 of medical, dental, or psychological services pursuant to  
6 contract with the department of public safety when the provider  
7 is sued for acts or omissions within the contract's scope of  
8 work."

9 SECTION 3. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ or so  
11 much thereof as may be necessary for fiscal year 2018-2019 for  
12 the department of land and natural resources division of state  
13 parks to contract with the counties for county lifeguard  
14 services at designated state beach parks under an agreement  
15 between the State and a county.

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

18 SECTION 4. There is appropriated out of the tourism  
19 special fund the sum of \$ or so much thereof as may be  
20 necessary for fiscal year 2018-2019 for the department of land  
21 and natural resources division of state parks to contract with



1 the counties for county lifeguard services at designated state  
2 beach parks under an agreement between the State and a county.

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

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

7 SECTION 6. This Act shall take effect on July 1, 2035.



**Report Title:**

Lifeguards; Tort Liability; Attorney General; Department of Land and Natural Resources; 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 contract with the counties for county lifeguard services at designated state beach parks under an agreement between the State and a county. Effective 7/1/2035. (SD2)

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

