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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, by Act 220, Session Laws of  
2 Hawaii 2018, enacted chapter 139, Hawaii Revised Statutes, to  
3 create a law enforcement standards board for the certification  
4 of law enforcement officers, including county police officers,  
5 state public safety officers, and employees with police powers  
6 at the department of transportation, department of land and  
7 natural resources, department of the attorney general, and  
8 department of taxation.

9           The board is responsible for establishing minimum standards  
10 for employment as a law enforcement officer and certifying  
11 persons qualified as law enforcement officers. It is also  
12 responsible for establishing minimum criminal justice curriculum  
13 requirements for basic, specialized, and in-service courses and  
14 programs for the training of law enforcement officers. It must  
15 consult and cooperate with the counties, state agencies, other  
16 governmental agencies, universities and colleges, and other



1 institutions, concerning the development of law enforcement  
2 officer training schools and programs. The board is also  
3 responsible for regulating and enforcing the certification  
4 requirements of law enforcement officers.

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

16       Such evaluation should include consideration of the study  
17 conducted by the legislative reference bureau pursuant to Act  
18 124, Session Laws of Hawaii 2018, and any additional study  
19 necessary to determine the impact of uniform standards,  
20 certification, and training for all law enforcement.



1 The board has determined that it will need significantly more  
2 time and funds to accomplish its mission.

3 The purpose of this Act is to:

- 4 (1) Clarify membership requirements for the law  
5 enforcement standards board to facilitate  
6 participation and representation;
- 7 (2) Enable the board to research the impact of uniform  
8 standards, certification, and training on existing  
9 legal requirements;
- 10 (3) Establish new deadlines for the completion of the  
11 board's significant responsibilities; and
- 12 (4) Appropriate funds to enable the board to accomplish  
13 its mission.

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

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

- 20 (1) Commissioned and enlisted personnel of the Hawaii  
21 National Guard as such, and positions in the Hawaii



1 National Guard that are required by state or federal  
2 laws or regulations or orders of the National Guard to  
3 be filled from those commissioned or enlisted  
4 personnel;

5 (2) Positions filled by persons employed by contract where  
6 the director of human resources development has  
7 certified that the service is special or unique or is  
8 essential to the public interest and that, because of  
9 circumstances surrounding its fulfillment, personnel  
10 to perform the service cannot be obtained through  
11 normal civil service recruitment procedures. Any such  
12 contract may be for any period not exceeding one year;

13 (3) Positions that must be filled without delay to comply  
14 with a court order or decree if the director  
15 determines that recruitment through normal recruitment  
16 civil service procedures would result in delay or  
17 noncompliance, such as the Felix-Cayetano consent  
18 decree;

19 (4) Positions filled by the legislature or by either house  
20 or any committee thereof;



- 1 (5) Employees in the office of the governor and office of  
2 the lieutenant governor, and household employees at  
3 Washington Place;
- 4 (6) Positions filled by popular vote;
- 5 (7) Department heads, officers, and members of any board,  
6 commission, or other state agency whose appointments  
7 are made by the governor or are required by law to be  
8 confirmed by the senate;
- 9 (8) Judges, referees, receivers, masters, jurors, notaries  
10 public, land court examiners, court commissioners, and  
11 attorneys appointed by a state court for a special  
12 temporary service;
- 13 (9) One bailiff for the chief justice of the supreme court  
14 who shall have the powers and duties of a court  
15 officer and bailiff under section 606-14; one  
16 secretary or clerk for each justice of the supreme  
17 court, each judge of the intermediate appellate court,  
18 and each judge of the circuit court; one secretary for  
19 the judicial council; one deputy administrative  
20 director of the courts; three law clerks for the chief  
21 justice of the supreme court, two law clerks for each



1 associate justice of the supreme court and each judge  
2 of the intermediate appellate court, one law clerk for  
3 each judge of the circuit court, two additional law  
4 clerks for the civil administrative judge of the  
5 circuit court of the first circuit, two additional law  
6 clerks for the criminal administrative judge of the  
7 circuit court of the first circuit, one additional law  
8 clerk for the senior judge of the family court of the  
9 first circuit, two additional law clerks for the civil  
10 motions judge of the circuit court of the first  
11 circuit, two additional law clerks for the criminal  
12 motions judge of the circuit court of the first  
13 circuit, and two law clerks for the administrative  
14 judge of the district court of the first circuit; and  
15 one private secretary for the administrative director  
16 of the courts, the deputy administrative director of  
17 the courts, each department head, each deputy or first  
18 assistant, and each additional deputy, or assistant  
19 deputy, or assistant defined in paragraph (16);  
20 (10) First deputy and deputy attorneys general, the  
21 administrative services manager of the department of



1 the attorney general, one secretary for the  
2 administrative services manager, an administrator and  
3 any support staff for the criminal and juvenile  
4 justice resources coordination functions, and law  
5 clerks;

6 (11) (A) Teachers, principals, vice-principals, complex  
7 area superintendents, deputy and assistant  
8 superintendents, other certificated personnel,  
9 not more than twenty noncertificated  
10 administrative, professional, and technical  
11 personnel not engaged in instructional work;

12 (B) Effective July 1, 2003, teaching assistants,  
13 educational assistants, bilingual/bicultural  
14 school-home assistants, school psychologists,  
15 psychological examiners, speech pathologists,  
16 athletic health care trainers, alternative school  
17 work study assistants, alternative school  
18 educational/supportive services specialists,  
19 alternative school project coordinators, and  
20 communications aides in the department of  
21 education;



1 (C) The special assistant to the state librarian and  
2 one secretary for the special assistant to the  
3 state librarian; and

4 (D) Members of the faculty of the University of  
5 Hawaii, including research workers, extension  
6 agents, personnel engaged in instructional work,  
7 and administrative, professional, and technical  
8 personnel of the university;

9 (12) Employees engaged in special, research, or  
10 demonstration projects approved by the governor;

11 (13) (A) Positions filled by inmates, patients of state  
12 institutions, persons with severe physical or  
13 mental disabilities participating in the work  
14 experience training programs;

15 (B) Positions filled with students in accordance with  
16 guidelines for established state employment  
17 programs; and

18 (C) Positions that provide work experience training  
19 or temporary public service employment that are  
20 filled by persons entering the workforce or  
21 persons transitioning into other careers under



1 programs such as the federal Workforce Investment  
2 Act of 1998, as amended, or the Senior Community  
3 Service Employment Program of the Employment and  
4 Training Administration of the United States  
5 Department of Labor, or under other similar state  
6 programs;

7 (14) A custodian or guide at Iolani Palace, the Royal  
8 Mausoleum, and Hulihee Palace;

9 (15) Positions filled by persons employed on a fee,  
10 contract, or piecework basis, who may lawfully perform  
11 their duties concurrently with their private business  
12 or profession or other private employment and whose  
13 duties require only a portion of their time, if it is  
14 impracticable to ascertain or anticipate the portion  
15 of time to be devoted to the service of the State;

16 (16) Positions of first deputies or first assistants of  
17 each department head appointed under or in the manner  
18 provided in section 6, article V, of the Hawaii State  
19 Constitution; three additional deputies or assistants  
20 either in charge of the highways, harbors, and  
21 airports divisions or other functions within the



1 department of transportation as may be assigned by the  
2 director of transportation, with the approval of the  
3 governor; four additional deputies in the department  
4 of health, each in charge of one of the following:  
5 behavioral health, environmental health, hospitals,  
6 and health resources administration, including other  
7 functions within the department as may be assigned by  
8 the director of health, with the approval of the  
9 governor; an administrative assistant to the state  
10 librarian; and an administrative assistant to the  
11 superintendent of education;

12 (17) Positions specifically exempted from this part by any  
13 other law; provided that:

14 (A) Any exemption created after July 1, 2014, shall  
15 expire three years after its enactment unless  
16 affirmatively extended by an act of the  
17 legislature; and

18 (B) All of the positions defined by paragraph (9)  
19 shall be included in the position classification  
20 plan;



- 1       (18) Positions in the state foster grandparent program and  
2           positions for temporary employment of senior citizens  
3           in occupations in which there is a severe personnel  
4           shortage or in special projects;
- 5       (19) Household employees at the official residence of the  
6           president of the University of Hawaii;
- 7       (20) Employees in the department of education engaged in  
8           the supervision of students during meal periods in the  
9           distribution, collection, and counting of meal  
10          tickets, and in the cleaning of classrooms after  
11          school hours on a less than half-time basis;
- 12       (21) Employees hired under the tenant hire program of the  
13          Hawaii public housing authority; provided that not  
14          more than twenty-six per cent of the authority's  
15          workforce in any housing project maintained or  
16          operated by the authority shall be hired under the  
17          tenant hire program;
- 18       (22) Positions of the federally funded expanded food and  
19          nutrition program of the University of Hawaii that  
20          require the hiring of nutrition program assistants who  
21          live in the areas they serve;



- 1           (23) Positions filled by persons with severe disabilities  
2                    who are certified by the state vocational  
3                    rehabilitation office that they are able to perform  
4                    safely the duties of the positions;
- 5           (24) The sheriff;
- 6           (25) A gender and other fairness coordinator hired by the  
7                    judiciary;
- 8           (26) Positions in the Hawaii National Guard youth and adult  
9                    education programs;
- 10          (27) In the state energy office in the department of  
11                    business, economic development, and tourism, all  
12                    energy program managers, energy program specialists,  
13                    energy program assistants, and energy analysts;
- 14          (28) Administrative appeals hearing officers in the  
15                    department of human services;
- 16          (29) In the Med-QUEST division of the department of human  
17                    services, the division administrator, finance officer,  
18                    health care services branch administrator, medical  
19                    director, and clinical standards administrator;
- 20          (30) In the director's office of the department of human  
21                    services, the enterprise officer, information security



1 and privacy compliance officer, security and privacy  
2 compliance engineer, and security and privacy  
3 compliance analyst; [~~and~~]

4 [~~+~~] (31) [~~+~~] The Alzheimer's disease and related dementia services  
5 coordinator in the executive office on aging [~~-~~]; and  
6 (32) The administrator for the law enforcement standards  
7 board.

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

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

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

14 "(a) There is established the law enforcement standards  
15 board within the department of the attorney general for  
16 administrative purposes only. The purpose of the board shall be  
17 to provide programs and standards for training and certification  
18 of law enforcement officers. The law enforcement standards  
19 board shall consist of the following voting members: nine ex  
20 officio individuals [~~-two~~] or their designees, five law  
21 enforcement officers, and four members of the public.



1 (1) The nine ex officio members of the board shall consist  
2 of the:

3 (A) Attorney general [↗] or the attorney general's  
4 designee;

5 (B) Director of public safety [↗] or the director's  
6 designee;

7 (C) Director of transportation or the director's  
8 designee;

9 (D) Chairperson of the board of land and natural  
10 resources or the chairperson's designee;

11 (E) Director of taxation or the director's designee;  
12 and

13 (F) Chiefs of police of the four counties [↗] or the  
14 designees of each of the chiefs of police;

15 (2) The [~~two~~] five law enforcement officers shall [~~each~~]  
16 be persons other than the chiefs of police or  
17 designees described in paragraph (1) (F) and shall  
18 consist of:

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

21 (B) One state law enforcement officer.



1           Each law enforcement officer described in this  
2           paragraph shall have at least ten years of experience  
3           as a law enforcement officer [~~and~~], shall be appointed  
4           by the governor[+], and, notwithstanding section 26-  
5           34, shall serve without the advice and consent of the  
6           senate; and

7           (3) The [~~four members of the~~] public members shall consist  
8           of one member [~~of the public~~] from each of the four  
9           counties [~~and~~], each of whom shall be appointed by the  
10          governor[-], and, notwithstanding section 26-34, shall  
11          serve without the advice and consent of the senate.

12          At least two of the four members of the public holding  
13          a position on the board at any given time shall:

14          (A) Possess a master's or doctorate degree related to  
15              criminal justice;

16          (B) Possess a law degree and have experience:

17              (i) Practicing in Hawaii as a deputy attorney  
18                  general, a deputy prosecutor, a deputy  
19                  public defender, or a private criminal  
20                  defense attorney; or



- 1                   (ii) Litigating constitutional law issues in
- 2                               Hawaii;
- 3                   (C) Be a recognized expert in the field of criminal
- 4                               justice, policing, or security; or
- 5                   (D) Have work experience in a law enforcement
- 6                               capacity[~~; provided that experience in a county~~
- 7                               ~~police department shall not itself be sufficient~~
- 8                               ~~to qualify under this paragraph]~~.

9           (b) The law enforcement officers and the members of the  
10 public on the board shall serve for a term of [~~three~~] four  
11 years, provided that the initial terms shall be staggered, as  
12 determined by the governor."

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

15           "**§139-3 Powers and duties of the board.** The board shall:

- 16           (1) Adopt rules in accordance with chapter 91 to implement
- 17                       this chapter;
- 18           (2) Establish minimum standards for employment as a law
- 19                       enforcement officer and to certify persons to be
- 20                       qualified as law enforcement officers;



- 1           (3) Establish criteria and standards in which a person who  
2           has been denied certification, whose certification has  
3           been revoked by the board, or whose certification has  
4           lapsed may reapply for certification;
- 5           (4) Establish minimum criminal justice curriculum  
6           requirements for basic, specialized, and in-service  
7           courses and programs for schools operated by or for  
8           the State or a county for the specific purpose of  
9           training law enforcement officers;
- 10          (5) Consult and cooperate with the counties, agencies of  
11          the State, other governmental agencies, universities,  
12          colleges, and other institutions concerning the  
13          development of law enforcement officer training  
14          schools and programs of criminal justice instruction;
- 15          (6) Employ [~~subject to chapter 76,~~] an administrator,  
16          without regard to chapter 76, and other persons  
17          necessary to carry out its duties under this chapter;
- 18          (7) Investigate when there is reason to believe that a law  
19          enforcement officer does not meet the minimum  
20          standards for employment, and in so doing, may:
- 21            (A) Subpoena persons, books, records, or documents;



- 1 (B) Require answers in writing under oath to  
2 questions asked by the board; and
- 3 (C) Take or cause to be taken depositions as needed  
4 in investigations, hearings, and other  
5 proceedings,  
6 related to the investigation;
- 7 (8) Establish and require participation in continuing  
8 education programs for law enforcement officers;
- 9 (9) Have the authority to charge and collect fees for  
10 applications for certification as a law enforcement  
11 officer;
- 12 (10) Establish procedures and criteria for the revocation  
13 of certification issued by the board;
- 14 (11) Have the authority to revoke certifications; [~~and~~]
- 15 (12) Review and recommend statewide policies and procedures  
16 relating to law enforcement, including the use of  
17 force [-];
- 18 (13) Consider studies relevant to the board's objectives,  
19 including but not limited to the study that examines  
20 consolidating the law enforcement activities and  
21 responsibilities of various state divisions and



1           agencies under a single, centralized state enforcement  
2           division or agency, conducted pursuant to Act 124,  
3           Session Laws of Hawaii 2018; and  
4           (14) Conduct its own study to evaluate how to efficiently  
5           and effectively satisfy its duties in accordance with  
6           the law."

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

9           "(a) No person may be appointed as a law enforcement  
10 officer after June 30, 2023, unless the person:

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

18           (b) [~~The~~] Beginning on July 1, 2023, the board shall issue  
19 a certification to an applicant who meets the requirements of  
20 subsection (a) or who has satisfactorily completed a program or  
21 course of instruction in another jurisdiction that the board



1 deems to be equivalent in content and quality to the  
2 requirements of subsection (a)."

3 SECTION 6. Section 139-7, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§139-7[+] **Employment of law enforcement officers.** (a)

6 No person shall be appointed or employed as a law enforcement  
7 officer by any county police department, the department of  
8 public safety, the department of transportation, the department  
9 of land and natural resources, the department of taxation, or  
10 the department of the attorney general, after June 30, 2023,  
11 unless the person possesses a valid certification issued by the  
12 board pursuant to section 139-6(b).

13 (b) This section shall not apply to a person [~~employed~~]:

14 (1) Employed on a probationary basis, except that  
15 employment on a probationary basis may not exceed the  
16 period authorized for probationary employment as  
17 determined by the board[-]; or

18 (2) Who entered into employment with the applicable county  
19 police department or state department before July 1,  
20 2023, and termination of employment would violate any  
21 valid collective bargaining agreement."



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

4 "SECTION 6. This Act shall take effect on July 1, 2018 [~~7~~  
5 ~~provided that the law enforcement standards board established~~  
6 ~~under this Act shall finalize its standards and certification~~  
7 ~~process by December 31, 2021]~~."

8 SECTION 8. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$292,500 or so much  
10 thereof as may be necessary for fiscal year 2021-2022 for  
11 deposit into the law enforcement standards board special fund.

12 SECTION 9. There is appropriated out of the law  
13 enforcement standards board special fund the sum of \$292,500 or  
14 so much thereof as may be necessary for fiscal year 2021-2022  
15 for:

16 (1) One permanent full-time equivalent (1.0 FTE)  
17 administrator position exempt from chapter 76, Hawaii  
18 Revised Statutes, and one permanent full-time  
19 equivalent (1.0 FTE) clerical position subject to  
20 chapter 76, Hawaii Revised Statutes; and



1           (2) Copying and supply costs of the law enforcement  
2                   standards board.

3           The sum appropriated shall be expended by the department of  
4 the attorney general, on behalf of the law enforcement standards  
5 board.

6           SECTION 10. This Act does not affect rights and duties  
7 that matured, penalties that were incurred, and proceedings that  
8 were begun, before the effective date of this Act.

9           SECTION 11. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11          SECTION 12. This Act shall take effect upon its approval.



**Report Title:**

Law Enforcement Standards Board; Appropriation

**Description:**

Clarifies membership and certain powers and duties of the Law Enforcement Standards Board, establishes new deadlines for the completion of board responsibilities, and provides appropriate funds and resources to enable the board to accomplish its mission. (SD1)

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

