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# A BILL FOR AN ACT

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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       This 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) Repeal the December 31, 2021, deadline for the  
11 completion of the board's standards and certification  
12 processes; and
- 13 (4) Appropriate funds to enable the board to accomplish  
14 its mission.

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

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



- 1           (1) Commissioned and enlisted personnel of the Hawaii  
2           National Guard [~~as such~~], and positions in the Hawaii  
3           National Guard that are required by state or federal  
4           laws or regulations or orders of the National Guard to  
5           be filled from those commissioned or enlisted  
6           personnel;
- 7           (2) Positions filled by persons employed by contract where  
8           the director of human resources development has  
9           certified that the service is special or unique or is  
10          essential to the public interest and that, because of  
11          circumstances surrounding its fulfillment, personnel  
12          to perform the service cannot be obtained through  
13          normal civil service recruitment procedures. Any  
14          [~~such~~] contract described herein may be for any period  
15          not exceeding one year;
- 16          (3) Positions that must be filled without delay to comply  
17          with a court order or decree if the director  
18          determines that recruitment through normal recruitment  
19          civil service procedures would result in delay or  
20          noncompliance, [~~such as~~] including the Felix-Cayetano  
21          consent decree;



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



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



1       (10) First deputy and deputy attorneys general, the  
2       administrative services manager of the department of  
3       the attorney general, one secretary for the  
4       administrative services manager, an administrator and  
5       any support staff for the criminal and juvenile  
6       justice resources coordination functions, and law  
7       clerks;

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

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



1           communications aides in the department of  
2           education;

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

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

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

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

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

20       (C) Positions that provide work experience training  
21       or temporary public service employment that are





1 filled by persons entering the workforce or  
2 persons transitioning into other careers under  
3 programs [~~such as~~] including the federal  
4 Workforce Investment Act of 1998, as amended, or  
5 the Senior Community Service Employment Program  
6 of the Employment and Training Administration of  
7 the United States Department of Labor, or under  
8 other similar state programs;

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

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

18 (16) Positions of first deputies or first assistants of  
19 each department head appointed under or in the manner  
20 provided in section 6, article V, of the Hawaii State  
21 Constitution; three additional deputies or assistants



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

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

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



1 (B) All of the positions defined by paragraph (9)  
2 shall be included in the position classification  
3 plan;

4 (18) Positions in the state foster grandparent program and  
5 positions for temporary employment of senior citizens  
6 in occupations in which there is a severe personnel  
7 shortage or in special projects;

8 (19) Household employees at the official residence of the  
9 president of the University of Hawaii;

10 (20) Employees in the department of education engaged in  
11 the supervision of students during meal periods in the  
12 distribution, collection, and counting of meal  
13 tickets, and in the cleaning of classrooms after  
14 school hours on a less than half-time basis;

15 (21) Employees hired under the tenant hire program of the  
16 Hawaii public housing authority; provided that not  
17 more than twenty-six per cent of the authority's  
18 workforce in any housing project maintained or  
19 operated by the authority shall be hired under the  
20 tenant hire program;



1 (22) Positions of the federally funded expanded food and  
2 nutrition program of the University of Hawaii that  
3 require the hiring of nutrition program assistants who  
4 live in the areas they serve;

5 (23) Positions filled by persons with severe disabilities  
6 who are certified by the state vocational  
7 rehabilitation office that they are able to perform  
8 safely the duties of the positions;

9 (24) The sheriff;

10 (25) A gender and other fairness coordinator hired by the  
11 judiciary;

12 (26) Positions in the Hawaii National Guard youth and adult  
13 education programs;

14 (27) In the state energy office in the department of  
15 business, economic development, and tourism, all  
16 energy program managers, energy program specialists,  
17 energy program assistants, and energy analysts;

18 (28) Administrative appeals hearing officers in the  
19 department of human services;

20 (29) In the Med-QUEST division of the department of human  
21 services, the division administrator, finance officer,



1 health care services branch administrator, medical  
2 director, and clinical standards administrator;

3 (30) In the director's office of the department of human  
4 services, the enterprise officer, information security  
5 and privacy compliance officer, security and privacy  
6 compliance engineer, and security and privacy  
7 compliance analyst;

8 (31) The Alzheimer's disease and related dementia services  
9 coordinator in the executive office on aging;

10 (32) In the Hawaii emergency management agency, the  
11 executive officer, public information officer, civil  
12 defense administrative officer, branch chiefs, and  
13 emergency operations center state warning point  
14 personnel; provided that, for state warning point  
15 personnel, the director shall determine that  
16 recruitment through normal civil service recruitment  
17 procedures would result in delay or noncompliance;

18 [~~and~~

19 +](33)[+] The executive director and seven full-time  
20 administrative positions of the school facilities  
21 authority[-]; and



1        (34) The administrator for the law enforcement standards  
2                board.

3        The director shall determine the applicability of this  
4 section to specific positions.

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

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

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

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

19                (A) Attorney general[+] or the attorney general's  
20                        designee;



1 (B) Director of public safety[+] or the director's  
2 designee;

3 (C) Director of transportation or the director's  
4 designee;

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

7 (E) Director of taxation or the director's designee;  
8 and

9 (F) Chiefs of police of the four counties[+] or their  
10 respective designees;

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

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

17 (B) One state law enforcement officer.

18 Each law enforcement officer described in this  
19 paragraph shall have at least ten years of experience  
20 as a law enforcement officer [~~and shall~~], be appointed  
21 by the governor[+], and notwithstanding section 26-34,



1           serve without the advice and consent of the senate;

2           and

3           (3) The [~~four members of the~~] public members shall consist  
4           of one member [~~of the public~~] from each of the four  
5           counties [~~and~~], each of whom shall be appointed by the  
6           governor[~~-~~] and, notwithstanding section 26-34, serve  
7           without the advice and consent of the senate. At  
8           least two of the four members of the public holding a  
9           position on the board at any given time shall:

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

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

13           (i) Practicing in Hawaii as a deputy attorney  
14           general, a deputy prosecutor, a deputy  
15           public defender, or a private criminal  
16           defense attorney; or

17           (ii) Litigating constitutional law issues in  
18           Hawaii;

19           (C) Be a recognized expert in the field of criminal  
20           justice, policing, or security; or





1 (D) Have work experience in a law enforcement  
2 capacity[~~; provided that experience in a county~~  
3 ~~police department shall not itself be sufficient~~  
4 ~~to qualify under this paragraph~~].

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

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

11 "**§139-3 Powers and duties of the board.** The board shall:

- 12 (1) Adopt rules in accordance with chapter 91 to implement  
13 this chapter;
- 14 (2) Establish minimum standards for employment as a law  
15 enforcement officer and to certify persons to be  
16 qualified as law enforcement officers;
- 17 (3) Establish criteria and standards in which a person who  
18 has been denied certification, whose certification has  
19 been revoked by the board, or whose certification has  
20 lapsed may reapply for certification;



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



1 (C) Take or cause to be taken depositions as needed  
2 in investigations, hearings, and other  
3 proceedings,  
4 related to the investigation;

5 (8) Establish and require participation in continuing  
6 education programs for law enforcement officers;

7 (9) Have the authority to charge and collect fees for  
8 applications for certification as a law enforcement  
9 officer;

10 (10) Establish procedures and criteria for the revocation  
11 of certification issued by the board;

12 (11) Have the authority to revoke certifications; ~~[and]~~

13 (12) Review and recommend statewide policies and procedures  
14 relating to law enforcement, including the use of  
15 force~~[-]~~;

16 (13) Consider studies relevant to the board's objectives,  
17 including but not limited to the study conducted  
18 pursuant to Act 124, Session Laws of Hawaii 2018, that  
19 examines consolidating the law enforcement activities  
20 and responsibilities of various state divisions and



1           agencies under a single, centralized state enforcement  
2           division or agency; and

3       (14) Conduct the board's own study to evaluate how to  
4           efficiently and effectively satisfy the board's duties  
5           in accordance with the law."

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

8       "(a) No person may be appointed as a law enforcement  
9 officer after June 30, 2024, unless the person:

10       (1) Has satisfactorily completed a basic program of law  
11           enforcement training approved by the board; and

12       (2) Possesses other qualifications as prescribed by the  
13           board for the employment of law enforcement officers,  
14           including minimum age, education, physical and mental  
15           standards, citizenship, good conduct, moral character,  
16           and experience.

17       (b) ~~[The]~~ Beginning on July 1, 2024, the board shall issue  
18 a certification to an applicant who meets the requirements of  
19 subsection (a) or who has satisfactorily completed a program or  
20 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, 2024,  
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 2024, and for whom termination of employment would  
21 violate any 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[+  
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 \$ or so much  
10 thereof as may be necessary for fiscal year 2022-2023 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 \$  
14 or so much thereof as may be necessary for fiscal year 2022-2023  
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 on July 1, 2050;  
12 provided that sections 8 and 9 of this Act shall take effect on  
13 July 1, 2050.



**Report Title:**

Law Enforcement Standards Board; Appropriation

**Description:**

Clarifies membership and certain powers and duties of the Law Enforcement Standards Board. Repeals the 12/31/2021 deadline for the completion of board standards and certification processes. Appropriates funds for resources to enable the Board to accomplish the Board's mission. Effective 7/1/2050. (SD2)

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

