

JAN 17 2025

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT REFORM.

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

1 SECTION 1. Chapter 139, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§139- Reports of criminal misconduct by law enforcement
5 officers. (a) It shall be the duty of a law enforcement
6 officer who observes criminal misconduct by another law
7 enforcement officer to notify the department head of the officer
8 who committed the criminal misconduct. The notice shall be
9 submitted in writing within fifteen days of observing the
10 criminal misconduct.

11 (b) Within fifteen days of receiving written notification,
12 the department head shall complete an investigation pursuant to
13 subsection (c) and notify the chief of police of the respective
14 county of the outcome of the investigation in writing.

15 (c) Any department head who receives a report of criminal
16 misconduct under this section shall immediately begin conducting
17 an investigation of the officer reported to have committed the



1 criminal misconduct and reach a determination on the merits
2 within fifteen days. At the outcome of the investigation, if
3 the department head determines that sufficient evidence shows
4 that the individual committed an act of criminal misconduct, the
5 name of the individual and act of criminal misconduct shall be
6 disclosed to the chief of police of the respective county. If
7 the department head determines that evidence of criminal
8 misconduct is insufficient, the department head shall still
9 provide the chief of police with the outcome of the
10 investigation but shall redact any personally identifiable
11 information of the individuals involved in the investigation.

12 (d) Within fifteen days of receiving written notification
13 of the outcome of the investigation, the chief of police shall
14 notify the police commission of the respective county of the
15 outcome of the investigation in writing.

16 (e) If the department head is the subject of the criminal
17 misconduct report, the reporting officer shall report directly
18 to the police commission of the respective county within fifteen
19 days of observing the criminal misconduct, and the police
20 commission shall complete an investigation pursuant to



1 subsection (f) within fifteen days of receiving written
2 notification.

3 (f) Any police commission that receives a report of
4 criminal misconduct pursuant to subsection (e) shall immediately
5 begin conducting an investigation of the officer reported to
6 have committed the criminal misconduct and reach a determination
7 on the merits within fifteen days.

8 (g) No discriminatory, disciplinary, or retaliatory action
9 shall be taken against any law enforcement officer for any
10 information given or disclosed by the officer in good faith in
11 the course of making a report of criminal misconduct under this
12 section.

13 (h) For the purposes of this section:

14 "Criminal misconduct" means assault, sexual assault,
15 bribery, coercion, fraud, theft, tampering with physical
16 evidence, tampering with a witness, use of a chokehold as
17 defined in section 703-307, or excessive use of force.

18 "Department head" means the official or officer having the
19 most managerial or administrative authority in the State or
20 county agency or department."



1 SECTION 2. Section 139-6, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) No person may be appointed or employed as a law
4 enforcement officer after June 30, 2026, unless the person:

5 (1) Has satisfactorily completed a basic program of law
6 enforcement training approved by the board;

7 (2) Has passed a psychological screening test battery
8 administered under the direction of a licensed
9 psychologist or psychiatrist according to protocols
10 adopted by the board and designed to detect behavioral
11 traits that could adversely affect the person's
12 ability to perform the essential functions of a law
13 enforcement officer. The test battery results shall
14 be valid for a period of one year from the date of
15 administration for purposes of qualifying for
16 appointment as a law enforcement officer;

17 [~~2~~] (3) Has received training designed to minimize the
18 use of excessive force, including legal standards,
19 de-escalation techniques, crisis intervention tactics,
20 mental health response, implicit bias, and first aid;
21 and



1 [~~3~~] (4) Possesses other qualifications as prescribed by
2 the board for the employment of law enforcement
3 officers, including minimum age, education, physical
4 and mental standards, citizenship, good conduct, moral
5 character, and experience."

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

8 "(a) The board shall adopt rules, pursuant to chapter 91,
9 that establish criteria for the denial, suspension, or
10 revocation of a law enforcement officer's certification,
11 including upon a finding by the board that the law enforcement
12 officer:

13 (1) Knowingly falsified or omitted material information on
14 the law enforcement officer's application for training
15 or certification to the board;

16 (2) Has been convicted at any time of a felony offense
17 under the laws of this State or has been convicted of
18 a federal or out-of-state offense comparable to a
19 felony under the laws of this State; provided that if
20 a law enforcement officer was convicted of a felony
21 before being employed as a law enforcement officer,



1 and the circumstances of the prior felony conviction
 2 were fully disclosed to the employer of the law
 3 enforcement officer before being hired, the board may
 4 revoke certification only with the agreement of the
 5 employing law enforcement agency;

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

8 (A) Knowingly making a materially false statement to
 9 the board; or

10 (B) In any matter under investigation by or otherwise
 11 before the board, tampering with evidence or
 12 tampering with or intimidating any witness; ~~[or]~~

13 (4) Failed to report any criminal misconduct the law
 14 enforcement officer observed, as required by
 15 section 139- , or committed an act of criminal
 16 misconduct, as defined by section 139- ; or

17 [~~4~~] (5) Has taken other prohibited action as established
 18 by the board, by rule."

19 SECTION 4. Section 703-307, Hawaii Revised Statutes, is
 20 amended to read as follows:



1 "**§703-307 Use of force in law enforcement.** (1) Subject
2 to [~~the provisions of~~] this section and [~~of~~] section 703-310,
3 the use of force upon or toward the person of another is
4 justifiable when the actor is making or assisting in making an
5 arrest and the actor believes that [~~such~~] the force is
6 immediately necessary to effect a lawful arrest.

7 (2) The use of force is not justifiable under this section
8 unless:

9 (a) The actor makes known the purpose of the arrest or
10 believes that it is otherwise known by or cannot
11 reasonably be made known to the person to be arrested;
12 and

13 (b) When the arrest is made under a warrant, the warrant
14 is valid or believed by the actor to be valid.

15 (3) The use of deadly force is not justifiable under this
16 section unless:

17 (a) The arrest is for a felony;

18 (b) The person effecting the arrest is authorized to act
19 as a law enforcement officer or is assisting a person
20 whom [~~he~~] the person believes to be authorized to act
21 as a law enforcement officer;



1 (c) The actor believes that the force employed creates no
2 substantial risk of injury to innocent persons; and

3 (d) The actor believes that:

4 (i) The crimes for which the arrest is made involved
5 conduct including the use or threatened use of
6 deadly force; or

7 (ii) There is a substantial risk that the person to be
8 arrested will cause death or serious bodily
9 injury if ~~his~~ the person's apprehension is
10 delayed.

11 (4) The use of force to prevent the escape of an arrested
12 person from custody is justifiable when the force could
13 justifiably have been employed to effect the arrest under which
14 the person is in custody, except that a guard or other person
15 authorized to act as a law enforcement officer is justified in
16 using force ~~which he~~ that the guard or other authorized person
17 believes to be immediately necessary to prevent the escape from
18 a detention facility.

19 (5) A private person who is summoned by a law enforcement
20 officer to assist in effecting an unlawful arrest is justified
21 in using any force ~~which he~~ that the person would be justified



1 in using if the arrest were lawful[~~7~~]; provided that [~~he~~] the
2 person does not believe the arrest is unlawful. A private
3 person who assists another private person in effecting an
4 unlawful arrest, or who, not being summoned, assists a law
5 enforcement officer in effecting an unlawful arrest, is
6 justified in using any force [~~which he~~] that the person would be
7 justified in using if the arrest were lawful[~~7~~]; provided that
8 [~~he~~] the person believes the arrest is lawful, and the arrest
9 would be lawful if the facts were as [~~he~~] the person believes
10 them to be.

11 (6) The use of force by a law enforcement officer that is
12 justifiable pursuant to this section shall not include the use
13 of a chokehold unless the use of deadly force is justifiable
14 pursuant to this section.

15 (7) For the purposes of this section, "chokehold" means
16 the application of any pressure to the throat, windpipe, or neck
17 that prevents or reduces intake of air or oxygen to the brain."

18 SECTION 5. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.



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

3 SECTION 7. This Act shall take effect upon its approval.

4

INTRODUCED BY: Paul M. Mark



S.B. NO. 813

Report Title:

Law Enforcement Officers; Reports of Criminal Misconduct;
Psychological Screening; Use of Force; Chokehold

Description:

Requires a law enforcement officer who observes criminal misconduct by another law enforcement officer to report the criminal misconduct. Requires passage of a psychological screening test battery to qualify for appointment as a law enforcement officer. Subjects a law enforcement officer to denial, suspension, or revocation of a law enforcement officer's certification for failure to report observed criminal misconduct or committing an act of criminal misconduct. Prohibits the use of a chokehold by a law enforcement officer unless the use of deadly force is justifiable. Defines "chokehold".

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