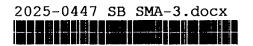
JAN 17 2025

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	" <u>§139-</u> 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

2025-0447 SB SMA-3.docx

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."

2025-0447 SB SMA-3.docx

3

1	SECT	ION 2. Section 139-6, Hawaii Revised Statutes, is
2	amended b	y amending subsection (a) to read as follows:
3	"(a)	No person may be appointed or employed as a law
4	enforceme	nt 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

4

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	SECT	ION 3. Section 139-8, Hawaii Revised Statutes, is
7	amended b	y amending subsection (a) to read as follows:
8	"(a)	The board shall adopt rules, pursuant to chapter 91,
9	that estal	olish criteria for the denial, suspension, or
10	revocatio	n 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,

2025-0447 SB SMA-3.docx

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	SECT	ION 4. Section 703-307, Hawaii Revised Statutes, is
20	amended to	o read as follows:

2025-0447 SB SMA-3.docx

1	"§70	3-307 Use of force in law enforcement. (1) Subject
2	to [tho p	provisions of this section and $[of]$ section 703-310,
3	the use o	of force upon or toward the person of another is
4	justifiab	le when the actor is making or assisting in making an
5	arrest an	d the actor believes that [such] <u>the</u> force is
6	immediate	ly 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 u	nless:
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;

2025-0447 SB SMA-3.docx

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

2025-0447 SB SMA-3.docx

Page 9

S.B. NO. 8/3

in using if the arrest were $lawful[_7]$; provided that [he] the 1 2 person does not believe the arrest is unlawful. A private 3 person who assists another private person in effecting an unlawful arrest, or who, not being summoned, assists a law 4 enforcement officer in effecting an unlawful arrest, is 5 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. The use of force by a law enforcement officer that is 11 (6) justifiable pursuant to this section shall not include the use 12 13 of a chokehold unless the use of deadly force is justifiable 14 pursuant to this section. 15 For the purposes of this section, "chokehold" means (7) the application of any pressure to the throat, windpipe, or neck 16 that prevents or reduces intake of air or oxygen to the brain." 17 SECTION 5. This Act does not affect rights and duties that 18 matured, penalties that were incurred, and proceedings that were 19 20 begun before its effective date.

2025-0447 SB SMA-3.docx

9

4

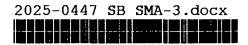
S.B. NO. 813

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

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

INTRODUCED BY:





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".

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

