

A Bill for an Act Relating to a Crime Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 843, Hawaii Revised Statutes, is amended to read as follows:

## **"CHAPTER 843 HAWAII CRIME COMMISSION**

**Sec. 843-1 Definitions.** As used in this chapter, unless the context clearly requires otherwise:

"Commission" means the Hawaii crime commission established by this chapter.

"Executive committee" means the executive committee of the Hawaii crime commission established by section 843-4.

**Sec. 843-2 Hawaii crime commission.** (a) For a thirty-six-month period commencing on July 1, 1977 and ending on June 30, 1980, there is established within the office of the lieutenant governor, for administrative purposes, the Hawaii crime commission.

(b) The commission shall be composed of twelve members, all of whom, with the exception of the chairman, shall be appointed by the governor, with the advice and consent of the senate, and to serve a term commencing on July 1, 1977 and ending on June 30, 1980. The members shall be representative of the population of the State. Any vacancy on the commission, except the chairmanship, shall be filled for the unexpired term by the governor, with the advice and consent of the senate. The chairman of the commission shall be appointed for a term commencing on July 7, 1979, and ending on June 30, 1980, by a two-thirds vote of each house in joint session of the senate and house of representatives; provided that the chairman of the commission on the effective date of this Act, shall continue to serve as chairman until such time as a successor is appointed. The legislature, by two-thirds vote of each house in joint session, may remove or suspend the chairman from office, but only for neglect of duty, misconduct, or disability and may fill any vacancy occurring in such office. The chairman shall have the power to vote only in the event of a tie vote.

(c) The members of the commission shall not be compensated for their services but the members and the chairman shall be reimbursed for reasonable expenses necessary to the performance of their duties, including travel expenses.

(d) The governor may remove or suspend for cause any member of the commission after due notice and public hearing conducted under chapter 91.

(e) The commission may receive and use gifts, money, services, or assistance from any federal, state, county, or private source for the implementation of the purposes of the Hawaii crime commission.

**Sec. 843-3 Hawaii crime commission chairman staff.** The chairman shall serve as the executive officer of the commission, and shall be vested with responsibility for the administrative function of the commission. The chairman shall authorize preliminary inquiry into projects and investigations. There shall be such additional necessary staff to carry out the functions of the commission, who shall be hired by and serve at the pleasure of the chairman, without regard to chapters 76 and 77. The persons so hired shall be entitled to participate in any employee benefit plan normally inuring to civil service employees, but shall not be considered civil service employees. This provision shall not affect the right of the chairman or commission to contract independently for services.

**Sec. 843-4 Committees.** (a) There shall be an executive committee of the commission which shall consist of two persons who shall be elected by the commission from among its members. It shall include, in addition, the chairman of the commission, and shall develop and identify general areas for commission study and review, and generally direct the work and activities of the commission.

(b) There shall be, in addition, other special and standing committees of the commission which shall address specific areas or tasks as assigned by the executive committee or by other agreement of the commission.

**Sec. 843-5 Commission, functions.** The commission shall have the following functions and shall perform the following duties:

- (1) Develop, recommend, and where appropriate, implement public education programs relating to educating the public as to the nature of crime;
- (2) Develop, recommend, and where appropriate, implement programs of public education to provide defensive living education to the public, and information regarding affirmative steps which may be taken to avoid occurrence of crime, eliminate the possibility of becoming a victim of crime, and other information designed to defend against any aspect of crime;
- (3) Review and make recommendations regarding the operations of existing programs, agencies, and other projects relating to crime, including but not necessarily related to the courts, police, and prosecutorial agencies;
- (4) Review and make recommendations regarding existing substantive laws, procedures, and practices in relation to criminal matters or procedures, and the justice systems;
- (5) Study and make recommendations for facilitating the reduction and prevention of destruction of public property, school violence, business, and other white collar crimes, and criminal activity;
- (6) Study, develop, and make recommendations for the protection of the community, including name check systems for businesses, and other measures designed to protect individuals and the State from crime and direct and indirect criminal influence;
- (7) Report, to the legislature prior to the convening of each legislative session, on its activities of the preceding year and on a program of action for the coming year;
- (8) Investigate and collect evidence necessary to study criminal activity or the operation of the criminal justice system;
- (9) Hold public and closed hearings; and
- (10) Perform other functions and duties necessary to carry out the procedures established in section 843-6.

**Sec. 843-6 Conduct of business, procedures.** (a) Except where specifically otherwise provided by this chapter, the business and activities of the commission shall be conducted consistent with chapters 91 and 92. The commission shall possess all powers conferred under such chapters, including the power to subpoena persons and any documents whatsoever. The subpoena power shall be

exercised by the chairman of the commission, and such other person as he shall designate therefor and may be exercised in connection with a public or closed hearing or in connection with the commission's authority to investigate and collect evidence whether or not in connection with any hearing.

(b) The commission may hold closed hearings when matters are to be considered which, if made public, may threaten the effectiveness of a study of criminal activity or of the criminal justice system; provided that all other meetings or hearings shall be otherwise conducted in accordance with chapters 91 and 92.

(c) In performing the functions and duties under this chapter, the commission is empowered to subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects, to the commission office or any place in the State whether or not the subpoena is in connection with any hearing, provided that the person or documents subpoenaed shall be relevant to a matter under study or investigation by the commission. Such books, papers, documents, or objects may be retained by the commission for a reasonable period of time for the purpose of examination, audit, copying, testing, and photographing. The subpoena power shall be exercised by the chairman of the commission, and such other person as he may designate. Upon application of the commission, obedience to the subpoena shall be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by a circuit court.

(d) Agencies of the state and county governments shall cooperate with the commission to the extent necessary for the commission to perform its duties.

**Sec. 843-7 Rules.** The commission may adopt, amend, or repeal rules it deems necessary for the performance of its functions and the implementation of the intent of this chapter. The rules shall be adopted in accordance with chapter 91.

**Sec. 843-8 Unauthorized disclosure; penalty.** Any commission member, except the chairman, staff member, or employee who, without authorization of the commission, discloses or disseminates any confidential information or matter acquired by the commission during the course of any study or investigation shall be removed from the commission upon a finding by the majority vote of the commission members that he has made an unauthorized disclosure. Any commission member, including the chairman, staff member, or employee who, without authorization of the commission, wilfully discloses or disseminates any confidential information or matter acquired by the commission during the course of any study or investigation shall be guilty of a Class C felony and shall be removed, section 843-2(b) to the contrary notwithstanding in the case of the chairman, or terminated in employment, as the case may be, in accordance with this section. As used in this section, "confidential information or matter" means information or matter the release of which constitutes a violation of the right of privacy, information or matter, the release of which would result in substantial detriment to the effectiveness of the commission or to its ability to secure information necessary to the performance of its functions, or information or matter, the release of which may endanger or otherwise compromise or prejudice the

rights, interests, safety, or privacy of any person who has assisted the commission in its work.”

SECTION 2. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 103-3 Employment of attorneys.** No department of the State other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the Hawaii housing authority or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund;
- (6) To the Hawaii crime commission;
- (7) In the event the attorney general, for reasons deemed by him good and sufficient, declines such representation or counsel, or approves such department’s expenditures; provided the governor thereupon waives the provision of this section.

For the purpose of this section the term “department of the State” means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full time basis, except attorneys employed by the Hawaii crime commission, shall become a deputy attorney general.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$165,000, or so much thereof as may be necessary, for the purposes of this Act, to be expended by the office of the lieutenant governor for the fiscal year 1978-1979. Any unexpended or unencumbered balance as of the close of business on June 30, 1979, shall lapse into the general fund.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

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\*Edited accordingly.