

ACT 278

H.B. NO. 2171

A Bill for an Act Relating to Public Safety.

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

PART I

SECTION 1. The purpose of this Act is to:

- (1) Establish a new department of law enforcement to consolidate and administer the criminal law enforcement and investigations functions of the department of transportation, certain investigations functions of the department of the attorney general, functions of the office of homeland security, and current law enforcement and investigations functions of the department of public safety;
- (2) Rename the department of public safety as the department of corrections and rehabilitation, which will administer the corrections, rehabilitation, reentry, and related functions currently assigned to the department of public safety;
- (3) Establish a training center within the department of law enforcement;
- (4) Transfer employees, appropriations, records, equipment, leases, contracts, other documents, rules, policies, procedures, guidelines, and other material, as appropriate, to the respective departments; and
- (5) Establish positions for the department of law enforcement and the department of corrections and rehabilitation, and appropriate funds for the department of law enforcement.

Currently, corrections and certain law enforcement functions and activities are placed within the department of public safety. The legislature finds that the goals and functions of corrections and law enforcement are different and distinct and separating the functions of corrections and law enforcement from the department of public safety into two departments would best accomplish the discrete goals and objectives of both functions.

The legislature further finds that state law enforcement personnel and functions are currently spread across various departments. The department of public safety, department of transportation, and department of the attorney general all have independent law enforcement officers and different law enforcement duties. Because each department administers its own law enforcement duties, goals, and functions, training and operational standards differ between each department. Accordingly, the reorganization of certain state law enforcement functions into a single entity would provide the highest level of law enforcement service for the public, state employees, and state properties. Consolidation of state law enforcement responsibilities into a single state department will centralize state law enforcement functions to increase public safety, improve decision making, promote accountability, streamline communication, decrease costs, reduce duplication of efforts, and provide uniform training and standards.

The goals of the department of law enforcement would include:

- (1) Establishing a partnership with the federal Joint Terrorism Task Force to protect the State from domestic and foreign threats;
- (2) Eliminating the narcotics epidemic that plagues Hawaii's communities through its commitment of investigators in the federal High Intensity Drug Trafficking Area task forces;
- (3) Expanding the narcotics canine program; and
- (4) Reducing gun violence and other violent criminal acts in island communities through participation in the federal Project Safe Neighborhoods program.

This Act also establishes a training center within the department of law enforcement to provide its law enforcement entities the highest level of core and continuing education and training. The training center will also be made available to federal, state, and county law enforcement agencies upon their request. The development of a department of law enforcement training center, where all department of law enforcement officers who intend to work on any island of Hawaii must be certified, will ensure that all department of law enforcement officers meet the standards set by the law enforcement standards board established in chapter 139, Hawaii Revised Statutes. The center will also ensure that the individuals who earn its certification have learned the highest level of core and continuing education and training. The center's curriculum will be designed to ensure that the individuals trained here have the knowledge and skills to protect and serve the public and will be held accountable if they do not uphold the standards set by the law enforcement standards board.

The legislature also finds that consolidating adult corrections, reentry services, and other related functions into a separate department of corrections and rehabilitation will allow for the efficient use of resources in administering correctional programs and administering and maintaining public and private correctional services. The Hawaii correctional industries, Hawaii paroling authority, and crime victim compensation commission will be administered by the department of corrections and rehabilitation.

The legislature intends that patrol officers assigned to the department of law enforcement continue to retain the title of deputy sheriffs. During the Kingdom of Hawaii, sheriffs oversaw law enforcement activities on each island under the supervision of a kingdom-wide marshal. From 1905 to 1960, sheriffs protected the public as elected county officials, including Duke Kahanamoku, who was elected Honolulu sheriff from 1934 to 1960. Modern-day deputy sheriffs have protected the people of Hawaii for nearly fifty years, beginning in 1963 when the legislature created the office of the sheriff within the department of the attorney general.

The legislature does not intend to impair or diminish the longstanding authority and responsibility of county police departments to enforce the laws, along with state law enforcement, on state lands within their respective counties. County police departments will continue to have full law enforcement authority and responsibility, and in particular will continue to have concurrent jurisdiction with respect to state parks, state buildings, state highways, Hawaiian home lands, and other state lands and facilities.

Part II of this Act is to be effective upon approval of this Act. Part II establishes a department of law enforcement and its director and deputy directors. The department of law enforcement will initially be staffed by its director, deputy directors, and certain administrative staff. These personnel will prepare for the transfer of state law enforcement functions and personnel to the department on January 1, 2024.

Part III of this Act is to be effective on January 1, 2024. Part III transfers the law enforcement functions and personnel from the department of public safety to the department of law enforcement and makes conforming amendments.

Part IV of this Act is to be effective on January 1, 2024. Part IV renames the department of public safety as the department of corrections and rehabilitation and the director of public safety as the director of corrections and rehabilitation, establishes its deputy directors, and makes conforming amendments so that the authority and responsibilities of the department of corrections and rehabilitation are set forth in chapter 353, Hawaii Revised Statutes, while the authority and responsibilities of the department of law enforcement are set forth in chapter 353C, Hawaii Revised Statutes.

Part V of this Act is to be effective on January 1, 2024. Part V transfers the law enforcement and security functions and personnel of the harbors division of the department of transportation, the non-statutorily mandated functions and law enforcement personnel of the investigations division of the department of the attorney general, and the office of homeland security of the department of defense to the department of law enforcement.

Part VI of this Act provides for the retention of civil service status and related rights of transferred employees and transfers any appropriations, equipment, contracts, leases, policies, rules, guidelines, and other items to the respective departments as provided in this Act.

Part VII of this Act is to be effective on July 1, 2022. Part VII establishes new positions within the department of law enforcement that are required for the department's operations. These positions include the director of law enforcement, deputy directors, and certain administrative positions that will staff the department, as well as new positions that will be required when parts III and V take effect on January 1, 2024. Part VII also appropriates funds to the department of law enforcement to fill certain positions that will be required to prepare the department for the transfer of functions, personnel, and assets from other departments on January 1, 2024. Part VII further requires the department of law enforcement to report to the legislature, no later than twenty days prior to the convening of the regular session of 2023, the progress made in preparing for the transfer of law enforcement functions to the department on January 1, 2024.

Part VIII of this Act is to be effective on January 1, 2024. Part VIII establishes new positions within the department of corrections and rehabilitation that will be required for the operation of the department when parts III and IV take effect on January 1, 2024.

PART II

SECTION 2. Chapter 26, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§26- Department of law enforcement. (a) The department of law enforcement shall be headed by a single executive to be known as the director of law enforcement.

(b) The director of law enforcement shall appoint, without regard to chapter 76, two deputy directors to serve at the director’s pleasure. Unless otherwise assigned by the director, one deputy director shall oversee the law enforcement programs of the department of law enforcement and one deputy director shall oversee administration of the department of law enforcement.

(c) The department of law enforcement shall be responsible for the formulation and implementation of state policies and objectives for security, law enforcement, and public safety programs and functions, for the service of process, and for the security of state buildings and state land.”

SECTION 3. Section 26-4, Hawaii Revised Statutes, is amended to read as follows:

“§26-4 Structure of government. Under the supervision of the governor, all executive and administrative offices, departments, and instrumentalities of the state government and their respective functions, powers, and duties shall be allocated among and within the following principal departments that are hereby established:

- (1) Department of human resources development (Section 26-5);
- (2) Department of accounting and general services (Section 26-6);
- (3) Department of the attorney general (Section 26-7);
- (4) Department of budget and finance (Section 26-8);
- (5) Department of commerce and consumer affairs (Section 26-9);
- (6) Department of taxation (Section 26-10);
- (7) University of Hawaii (Section 26-11);
- (8) Department of education (Section 26-12);
- (9) Department of health (Section 26-13);
- (10) Department of human services (Section 26-14);
- (11) Department of land and natural resources (Section 26-15);
- (12) Department of agriculture (Section 26-16);
- (13) Department of Hawaiian home lands (Section 26-17);
- (14) Department of business, economic development, and tourism (Section 26-18);
- (15) Department of transportation (Section 26-19);
- (16) Department of labor and industrial relations (Section 26-20);
- (17) Department of defense (Section 26-21);
- (18) Department of public safety (Section 26-14.6)[-]; and
- (19) Department of law enforcement (Section 26-).”

SECTION 4. Section 26-52, Hawaii Revised Statutes, is amended to read as follows:

“§26-52 Department heads and executive officers. The salaries of the following state officers shall be as follows:

- (1) The salary of the superintendent of education shall be set by the board of education at a rate no greater than \$250,000 a year. The superintendent shall be subject to an annual performance evaluation that is in alignment with other employee evaluations within the department of education and are based on outcomes determined

by the board of education; provided that nothing shall prohibit the board of education from conditioning a portion of the salary on performance;

- (2) The salary of the president of the University of Hawaii shall be set by the board of regents;
- (3) Effective July 1, 2004, the salaries of all department heads or executive officers of the departments of accounting and general services, agriculture, attorney general, budget and finance, business, economic development, and tourism, commerce and consumer affairs, Hawaiian home lands, health, human resources development, human services, labor and industrial relations, land and natural resources, law enforcement, public safety, taxation, and transportation shall be as last recommended by the executive salary commission. Effective July 1, 2007, and every six years thereafter, the salaries shall be as last recommended by the commission on salaries pursuant to section 26-56, unless rejected by the legislature; and
- (4) The salary of the adjutant general shall be \$85,302 a year. Effective July 1, 2007, and every six years thereafter, the salary of the adjutant general shall be as last recommended by the commission on salaries pursuant to section 26-56, unless rejected by the legislature, except that if the state salary is in conflict with the pay and allowance fixed by the tables of the regular Army or Air Force of the United States, the latter shall prevail.”

SECTION 5. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) Commissioned and enlisted personnel of the Hawaii National Guard as such, and positions in the Hawaii National Guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;

- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
- (11)
 - (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
 - (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
 - (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
 - (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
- (13)
 - (A) Positions filled by inmates, patients of state institutions, persons with severe physical or mental disabilities participating in the work experience training programs;
 - (B) Positions filled with students in accordance with guidelines for established state employment programs; and

- (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;
- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; two additional deputies in charge of the law enforcement programs, administration, or other functions within the department of law enforcement as may be assigned by the director of law enforcement, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that:
 - (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
 - (B) All of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that not more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;

- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) The sheriff;
- (25) A gender and other fairness coordinator hired by the judiciary;
- (26) Positions in the Hawaii National Guard youth and adult education programs;
- (27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts;
- (28) Administrative appeals hearing officers in the department of human services;
- (29) In the Med-QUEST division of the department of human services, the division administrator, finance officer, health care services branch administrator, medical director, and clinical standards administrator;
- (30) In the director's office of the department of human services, the enterprise officer, information security and privacy compliance officer, security and privacy compliance engineer, and security and privacy compliance analyst;
- (31) The Alzheimer's disease and related dementia services coordinator in the executive office on aging;
- (32) In the Hawaii emergency management agency, the executive officer, public information officer, civil defense administrative officer, branch chiefs, and emergency operations center state warning point personnel; provided that, for state warning point personnel, the director shall determine that recruitment through normal civil service recruitment procedures would result in delay or noncompliance; and
- [(33)] The executive director and seven full-time administrative positions of the school facilities authority.

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

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

PART III

SECTION 6. All rights, powers, functions, and duties of the employees of the sheriff division, narcotics enforcement division, internal affairs office, and the law enforcement officers within the training and staff development division of the department of public safety are transferred to the department of law enforcement. The positions of director of public safety, deputy director for administration, deputy director for corrections, and deputy director for law enforcement of the department of public safety shall become the positions of director of corrections and rehabilitation, deputy director for correctional institutions, deputy director for rehabilitation services and programs, and deputy director for administration, respectively, within the department of corrections and rehabilitation established in part IV of this Act.

SECTION 7. Chapter 353C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§353C- Statewide law enforcement training center; law enforcement complex. There is established within the department a department of law enforcement training center. The center shall provide training and administer certification requirements of all state department of law enforcement personnel who exercise police powers in the State, and be available for all county law enforcement agencies. Such training shall conform to uniform statewide standards set by the law enforcement standards board pursuant to chapter 139. The center shall operate and maintain such facilities as are necessary to conduct training and certification under this section. A new law enforcement complex at the Mililani technology park, Oahu, is also established, to be administered by the department of law enforcement for multi-purpose law enforcement use to consolidate and support:

- (1) The respective headquarters and administrative services of the affected functions involved;
 - (2) Training; and
 - (3) Related support services and facilities,
- as required by law for the department of law enforcement to operate and function.”

SECTION 8. Section 88-21, Hawaii Revised Statutes, is amended by amending the definition of “public safety investigations staff investigators” to read as follows:

“~~“[Public safety] Law enforcement~~ investigations staff investigators”~~[:]~~ means those employees in the investigations staff office of the department of ~~[public safety] law enforcement~~ who have been conferred police powers by the director of ~~[public safety] law enforcement~~ in accordance with section 353C-4 and are in the positions of investigator I to VII.”

SECTION 9. Section 139-1, Hawaii Revised Statutes, is amended by amending the definition of “law enforcement officer” to read as follows:

“~~“Law enforcement officer”~~ means:

- (1) A police officer employed by a county police department;
- (2) ~~[A public safety officer employed by the department of public safety;]~~ An employee of the department of law enforcement conferred with police powers by the director of law enforcement; or
- (3) An employee of the department of transportation, department of land and natural resources, department of taxation, or department of the attorney general who is conferred by law with general police powers.”

SECTION 10. Chapter 353C, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“CHAPTER 353C
[PUBLIC SAFETY] LAW ENFORCEMENT”**

SECTION 11. Section 353C-2, Hawaii Revised Statutes, is amended to read as follows:

“§353C-2 Director of ~~[public safety;]~~ law enforcement; powers and duties. ~~[[a-]]~~ The director of ~~[public safety] law enforcement~~ shall administer the public safety programs of the department ~~[of public safety]~~ and shall be responsible for the formulation and implementation of state goals and objectives for ~~[correctional and]~~ state law enforcement programs~~[, including ensuring that correctional facilities and correctional services meet the present and future needs of~~

~~persons committed to the correctional facilities.] and homeland security, including the deployment of adequate resources and coordination with county police departments to protect the health and safety of homestead communities on Hawaiian home lands.~~ In the administration of these programs, the director may:

- (1) Preserve the public peace, prevent crime, detect and arrest offenders against the law, protect the rights of persons and property, and enforce and prevent violation of all laws and administrative rules of the State as the director deems to be necessary or desirable or upon request, to assist other state officers or agencies that have primary administrative responsibility over specific subject matters or programs;
- (2) Train, equip, maintain, and supervise the force of ~~[public safety officers, including]~~ law enforcement ~~[and correctional personnel,]~~ officers and other employees of the department;
- (3) Serve process both in civil and criminal proceedings;
- (4) Perform other duties as may be required by law;
- (5) Adopt, pursuant to chapter 91, rules that are necessary or desirable for the administration of ~~[public safety]~~ state law enforcement programs; and
- (6) Enter into contracts ~~[in]~~ on behalf of the department and take all actions deemed necessary and appropriate for the proper and efficient administration of the department.

~~[[b)] The department of public safety shall report to the legislature not later than twenty days prior to the commencement of the 2008 regular session, and every session thereafter, with its achievements, continuing improvements, and ongoing problems in providing the appropriate mental health care to committed persons under its jurisdiction.]”~~

SECTION 12. Section 353C-3, Hawaii Revised Statutes, is amended to read as follows:

~~“[§353C-3]]~~ **Deputy directors; appointment.** The director shall appoint, without regard to chapter 76, ~~[three]~~ two deputy directors to serve at the director's pleasure. Unless otherwise assigned by the director, one deputy director shall oversee the ~~[correctional programs and facilities of the department, one deputy director shall oversee the]~~ law enforcement programs of the department, and one deputy director shall oversee administration of the department.”

SECTION 13. Section 353C-4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

~~“(a) The director may appoint employees to be~~ [public safety] state law enforcement officers who shall have all of the powers of police officers; provided that the director may establish and assign the employees to positions or categories of positions that may have differing titles, specific duties, and limitations upon the exercise of police powers.”

2. By amending subsection (c) to read:

~~“(c) The duties of state law enforcement officers [transferred from the department of the attorney general by Act 211, Session Laws of Hawaii 1989,]~~ shall ~~[be responsible for]~~ include conducting law enforcement operations and investigations throughout the State and maintaining public safety in state buildings as well as the personal protection of government officials and employees while in the conduct of their duties. The duties of state law enforcement officers shall also include the service of process, including subpoenas, warrants, and other legal documents, and other duties as the director may assign[; including

the performance of duties of other public safety officers within the department]. State law enforcement officers shall have all of the powers of police officers, including the power of arrest. This section does not relieve, nor will it diminish, county police officers of any authority or responsibility to enforce laws or to maintain public safety on state lands and in state buildings or in their respective counties.”

SECTION 14. Section 353C-5, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) The department shall develop standards to ensure the reputable and responsible characters of staff members ~~[of its correctional facilities]~~, which shall include criminal history record checks.

(b) For purposes of this section:

“Prospective staff member” means any applicant for a job in the department ~~[of public safety that is directly involved with the treatment and care of persons committed to a facility or that requires]~~ that involves the exercise of police powers~~;~~ conferred by the director, including the power to arrest ~~[in the performance of its duties]~~.

“Staff member” means any employee of the department ~~[of public safety who is directly involved with the treatment and care of persons committed to a facility or]~~ who possesses police powers~~;~~ conferred by the director, including the power of arrest.

(c) The department shall obtain criminal history record information through the Hawaii criminal justice data center in accordance with section 846-2.7, on all staff members and prospective staff members of the department of ~~[public safety]~~ law enforcement. Prospective staff members shall be fingerprinted and the criminal history record check shall be completed ~~[prior to]~~ before beginning employment.”

SECTION 15. Section 353C-6, Hawaii Revised Statutes, is amended to read as follows:

~~“[§353C-6] Special service deputies~~ **Parking fees, exemption.** Notwithstanding any other law, rule, or provision to the contrary, ~~[special service deputies]~~ law enforcement officers of the department of ~~[public safety]~~ law enforcement are exempt from all state and county parking meter fees and county time parking restrictions while in the performance of their official duties, including attendance at court; provided that this exemption shall:

- (1) Apply exclusively to state owned law enforcement vehicles assigned to the department of ~~[public safety]~~ law enforcement; and
- (2) Not apply to private individuals retained by the department on a contractual basis to serve civil process in any capacity.”

SECTION 16. Section 707-700, Hawaii Revised Statutes, is amended by amending the definition of “emergency worker” to read as follows:

““Emergency worker” means any:

- (1) Law enforcement officer, including any police officer, ~~[public safety officer]~~ employee of the department of law enforcement conferred with police powers by the director of law enforcement, parole or probation officer, or any other officer of any county, state, federal, or military agency authorized to exercise law enforcement or police powers;
- (2) Firefighter, emergency medical services personnel, emergency medical technician, ambulance crewmember, or any other emergency response personnel;

- (3) Member of the Hawaii National Guard on any duty or service done under or in pursuance of an order or call of the governor or the President of the United States or any proper authority;
- (4) Member of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard on any duty or service performed under or in pursuance of an order or call of the President of the United States or any proper authority;
- (5) Member of the National Guard from any other state ordered into service by any proper authority; or
- (6) Person engaged in emergency management functions as authorized by the director of Hawaii emergency management or the administrator or director of the county emergency management agency or as otherwise authorized under chapter 127A.”

SECTION 17. (a) Sections 28-151, 78-52, 134-81, 139-7, 200-2, 205A-62, 291E-6.5, 328-16, 329-1, 329-11, 329-18, 329-20, 329-23, 329-31, 329-32, 329-33, 329-34, 329-35, 329-36, 329-37, 329-51, 329-54, 329-55, 329-57, 329-58, 329-61, 329-63, 329-64, 329-66, 329-67, 329-68, 329-71, 329-72, 329-75, 334D-5, 350-1.1, 353C-1, 386-181, 651-1, and 844D-38, Hawaii Revised Statutes, are amended by substituting the phrase “department of law enforcement”, or similar term, wherever the phrase “department of public safety”, or similar term, appears.

(b) Sections 134C-2, 200-27, 226-64, 329-51, 329-59, 329-69, 346-382, 353C-1, 577E-3, 587A-4, 614-2, and 651-1, Hawaii Revised Statutes, are amended by substituting the phrase “director of law enforcement”, or similar term, wherever the phrase “director of public safety”, or similar term, appears, as the context requires.

(c) Sections 501-154, 603-29, 604-6.2, 607-4, 607-8, 633-8, 634-11, 634-12, 634-22, 634-29, 652-1.5, 652-2, 652-2.5, 652-2.6, 654-2, 666-11, and 666-21, Hawaii Revised Statutes, are amended by substituting the phrase “department of law enforcement’s”, or similar term, wherever the phrase “department of public safety’s”, or similar term, appears.

(d) Sections 88-45, 88-47, 88-74, and 88-321, Hawaii Revised Statutes, are amended by substituting the phrase “law enforcement investigations staff”, or similar term, wherever the phrase “public safety investigations staff”, or similar term, appears.

PART IV

SECTION 18. Chapter 353, Hawaii Revised Statutes, is amended by adding seven new sections to part I to be appropriately designated and to read as follows:

“§353-A Director of corrections and rehabilitation; powers and duties.

(a) The director shall be responsible for the formulation and implementation of state goals and objectives for correctional programs, including ensuring that correctional facilities and correctional services meet the present and future needs of persons committed to the correctional facilities. In the administration of these programs, the director may:

- (1) Train, equip, maintain, and supervise correctional personnel and other employees of the department;
- (2) Perform other duties as may be required by law;
- (3) Adopt, pursuant to chapter 91, rules that are necessary or desirable for the administration of corrections; and
- (4) Enter into contracts on behalf of the department and take all actions deemed necessary and appropriate for the proper and efficient

administration of the department, including contracts for the custody and care of Hawaii inmates housed outside of the State.

(b) The department of corrections and rehabilitation shall report to the legislature not later than twenty days prior to the commencement of the regular session of 2024, and every session thereafter, with its achievements, continuing improvements, and ongoing problems in providing the appropriate mental health care to committed persons under its jurisdiction.

§353-B Deputy directors; appointment. The director shall appoint, without regard to chapter 76, three deputy directors to serve at the director's pleasure. Unless otherwise assigned by the director, one deputy director shall oversee the correctional institutions of the department including prisons and jails within the State and any contracts for the custody and care of Hawaii inmates housed outside of the State, one deputy director shall oversee the rehabilitation services and programs of the department, and one deputy director shall oversee administration of the department.

§353-C Correctional health care program. There is established a correctional health care program within the department. The administrator of the correctional health care program and physicians who provide care to inmates shall be appointed by the director without regard to chapter 76.

§353-D Criminal history record checks. (a) The department shall develop standards to ensure the reputable and responsible characters of staff members of the State's correctional facilities, which shall include criminal history record checks.

(b) For purposes of this section:

"Prospective staff member" means any applicant for a job in the department that is directly involved with the treatment and care of persons committed to a facility.

"Staff member" means any employee of the department who is directly involved with the treatment and care of persons committed to a facility.

(c) The department shall obtain criminal history record information through the Hawaii criminal justice data center in accordance with section 846-2.7, on all staff members and prospective staff members of the department. Prospective staff members shall be fingerprinted and the criminal history record check shall be completed before beginning employment.

(d) The department may deny employment to a prospective staff member who was convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and if the department finds from the prospective staff member's criminal history record that the prospective staff member poses a risk to the health, safety, security, or well-being of inmates under supervision and confinement, other staff, or the public at large.

(e) Staff members shall not be subject to termination based on findings in their criminal records except for:

- (1) Those whose conviction of a crime occurred after May 8, 1989, or under circumstances in which a staff member is a fugitive from justice; and
- (2) Crimes other than a minor traffic violation involving a fine of \$50 or less, where because of the staff member's conviction record, the staff member poses a risk to the health, safety, security, or well-being of inmates under supervision and confinement, other staff, or the public at large.

§353-E Federal reimbursement maximization special fund. (a) There is established in the state treasury the federal reimbursement maximization special fund, into which shall be deposited all federal reimbursements received by the department relating to the State Criminal Alien Assistance Program. Unless otherwise provided by law, all other receipts shall immediately be deposited to the credit of the general fund of the State.

(b) Moneys in the federal reimbursement maximization special fund shall be used by the department for the following purposes:

- (1) To meet the state match requirement for federal grants and costs associated with federal grant reporting requirements, including administrative expenses such as the hiring of temporary staff;
- (2) For any other purpose deemed necessary by the department for maintaining or pursuing federal grants;
- (3) To hire consultants to provide training for corrections officers;
- (4) To hire consultants to conduct facility or program evaluations;
- (5) To rent or purchase vehicles to transport inmates;
- (6) To provide pre-release and reentry programs;
- (7) To improve technology; and
- (8) To recruit and retain corrections workforce.

(c) The department shall prepare and submit an annual report on the status of the federal reimbursement maximization special fund to the legislature no later than twenty days before the convening of each regular session. The annual report shall include a description of the use of the funds.

§353-F Sexual assaults in prison. (a) The department, to the best of the department's ability, shall address sexual assault in prison and make every effort to seek grant moneys from the federal government to implement those efforts. The department shall place priority upon establishing:

- (1) Appropriate counseling services for sexual assault, to be made available to victims of prison sexual assault within twenty-four hours of the report of an assault; and
- (2) Policies and standards of transparency to achieve a zero-tolerance policy for sexual assault.

(b) The department, no later than twenty days prior to the convening of each regular session, shall report data to the legislature regarding:

- (1) Sexual assault by persons in custody against other persons in custody of the department;
- (2) Sexual assault by correctional staff against persons in custody of the department;
- (3) Non-criminal sexual misconduct by staff, including sexual harassment of persons in custody of the department;
- (4) Criminal cases initiated, and closed by dismissal, plea, or verdict, for sexual assaults by or upon a person in custody of the department; and
- (5) Civil claims filed and closed by dismissal, settlement, or verdict for sexual assaults by or upon a person in custody of the department.

(c) The department shall preserve any forensic evidence consisting of human biological specimens for collection by the relevant criminal investigation entity or coroner, if there is any indication of sexual assault leading to the death of any:

- (1) Correctional facility or community correctional center employee who dies on the grounds of a correctional facility or community correctional center where Hawaii inmates reside or who sustains an injury on the grounds of a correctional facility or community cor-

- rectional center where Hawaii inmates reside that causes the death of the employee; and
- (2) Hawaii inmate who is incarcerated in a state or contracted correctional facility.

§353-G Correctional facility and community correctional center deaths; reporting. (a) Within forty-eight hours, the director shall report to the governor, and the governor shall report to the legislature, the death of any:

- (1) Correctional facility or community correctional center employee who:
 - (A) Dies on the grounds of a correctional facility or community correctional center where Hawaii inmates reside; or
 - (B) Sustains an injury on the grounds of a correctional facility or community correctional center where Hawaii inmates reside that causes the death of the employee; or
- (2) Hawaii inmate who is incarcerated in a state or contracted correctional facility.
- (b) The report in subsection (a) shall include the following information:
 - (1) The name of the decedent; provided that this information is not protected from disclosure by state or federal law;
 - (2) The gender and age of the decedent;
 - (3) Whether the decedent was an inmate or an employee;
 - (4) The location of the death or injury leading to the death;
 - (5) The date and time of the death;
 - (6) The cause of death; and
 - (7) Any indication of sexual assault leading to the death;

provided that when the official cause of death has been determined, the director shall immediately report the official cause of death to the governor, and the governor shall immediately report the official cause of death to the legislature.

(c) Within thirty days of a death described in subsection (a), the director shall submit a report to the governor, and the governor shall submit the report to the legislature, of the clinical mortality review conducted in response to the death, including correctional actions to be taken.

(d) The director may disclose other information not specified in subsection (b); provided that the director shall not disclose information protected from disclosure by state or federal law.”

SECTION 19. Section 23-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Each special, revolving, and trust fund shall be reviewed every five years as follows:

- (1) Beginning 2014 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of accounting and general services; the department of agriculture; the department of budget and finance; and the department of land and natural resources;
- (2) Beginning 2015 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of the attorney general; the department of business, economic development, and tourism; and the University of Hawaii system;
- (3) Beginning 2016 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds within the judiciary and of the department of commerce and consumer affairs;

- the department of Hawaiian home lands; the department of health; and the department of human services;
- (4) Beginning 2017 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the office of the governor; the office of Hawaiian affairs; and the department of education;
 - (5) Beginning 2018 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of labor and industrial relations; the department of taxation; the department of human resources development; the department of ~~[public safety];~~ corrections and rehabilitation; the department of law enforcement; and all other moneys expended in accordance with section 37-40; and
 - (6) Beginning 2014 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of transportation and the department of defense.”

SECTION 20. Section 26-4, Hawaii Revised Statutes, is amended to read as follows:

“§26-4 Structure of government. Under the supervision of the governor, all executive and administrative offices, departments, and instrumentalities of the state government and their respective functions, powers, and duties shall be allocated among and within the following principal departments that are hereby established:

- (1) Department of human resources development (Section 26-5);
- (2) Department of accounting and general services (Section 26-6);
- (3) Department of the attorney general (Section 26-7);
- (4) Department of budget and finance (Section 26-8);
- (5) Department of commerce and consumer affairs (Section 26-9);
- (6) Department of taxation (Section 26-10);
- (7) University of Hawaii (Section 26-11);
- (8) Department of education (Section 26-12);
- (9) Department of health (Section 26-13);
- (10) Department of human services (Section 26-14);
- (11) Department of land and natural resources (Section 26-15);
- (12) Department of agriculture (Section 26-16);
- (13) Department of Hawaiian home lands (Section 26-17);
- (14) Department of business, economic development, and tourism (Section 26-18);
- (15) Department of transportation (Section 26-19);
- (16) Department of labor and industrial relations (Section 26-20);
- (17) Department of defense (Section 26-21);
- (18) Department of ~~[public safety]~~ corrections and rehabilitation (Section 26-14.6)~~[-]; and~~
- (19) Department of law enforcement (Section 26-).”

SECTION 21. Section 26-14.6, Hawaii Revised Statutes, is amended to read as follows:

“§26-14.6 Department of ~~[public safety]~~ corrections and rehabilitation.
 (a) The department of ~~[public safety]~~ corrections and rehabilitation shall be headed by a single executive to be known as the director of ~~[public safety]~~ corrections and rehabilitation.

(b) The department of ~~[public safety]~~ corrections and rehabilitation shall be responsible for the formulation and implementation of state policies

and objectives for ~~the correctional[-; security, law enforcement, and public safety programs and functions,] system statewide and for the administration and maintenance of all public or private correctional facilities and services[-; for the service of process, and for the security of state buildings].~~

(c) ~~Effective July 1, 1990, the Hawaii paroling authority and the crime victim compensation commission are placed within the department of public safety for administrative purposes only[-]; and effective January 1, 2024, the Hawaii paroling authority and the crime victim compensation commission are placed within the department of corrections and rehabilitation for administrative purposes only.~~

(d) ~~Effective July 1, 1990, the functions and authority heretofore exercised by:~~

- (1) ~~The department of corrections relating to adult corrections and the intake service centers;~~
- (2) ~~The judiciary relating to the sheriff's office and judiciary security personnel; and~~
- (3) ~~The department of the attorney general relating to state law enforcement officers and narcotics enforcement investigators with the narcotics enforcement division,~~

~~shall be transferred to the department of public safety. Effective January 1, 2024, the functions and authority transferred in paragraph (1) shall be transferred to the department of corrections and rehabilitation, and the functions and authority transferred in paragraphs (2) and (3) shall be transferred to the department of law enforcement.~~

(e) ~~Effective July 1, 1990, the functions and authority heretofore exercised by the department of health pursuant to chapters 329 and 329C, with the exception of sections 329-2, 329-3, and 329-4(3) to (8), shall be transferred to the department of public safety[-]; and effective January 1, 2024, those functions and authority shall be transferred to the department of law enforcement.~~

(f) ~~Effective July 1, 1990, the functions, authority, and obligations, together with the limitations imposed thereon and the privileges and immunities conferred thereby, exercised by a "sheriff", "sheriffs", a "sheriff's deputy", "sheriff's deputies", a "deputy sheriff", "deputy sheriffs", or a "deputy", under sections 21-8, 47-18, 105-4, 134-51, 183D-11, 187A-14, 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9, 353-11, 356D-54, 356D-94, 383-71, 438-5, 445-37, 482E-4, 485A-202, 501-42, 501-171, 501-218, 521-78, 578-4, 584-6, [587-33,] 603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8, 634-11, 634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2, 655-2, 657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35, 804-14, 804-18, 804-41, 805-1, 806-71, and 832-23 shall be exercised to the same extent by the department of public safety[-]; and effective January 1, 2024, those functions, authority, and obligations shall be exercised to the same extent by the department of law enforcement.~~

(g) ~~Effective January 1, 1993, the functions and authority heretofore exercised by the attorney general and the department of the attorney general relating to the executive security officers shall be transferred to the department of public safety [-]; and effective January 1, 2024, those functions and authority shall be transferred to the department of law enforcement.~~

(h) ~~Effective July 1, 1999, the functions and authority heretofore exercised by the director of public safety and the department of public safety relating to after hours security contracts at department of education facilities, except for the security functions being performed by employees of the public library system as well as the contractual security services for the libraries, shall be transferred to the department of education.~~

(i) Effective January 1, 1993, the functions and authority heretofore exercised by the director of health and the department of health relating to uniformed security employees and security contracts at various state hospitals throughout the State shall be transferred to the department of public safety[-]; and effective January 1, 2024, those functions and authority shall be transferred to the department of law enforcement. Effective July 1, 2005, the functions, authority, and employee positions of the department of public safety relating to uniformed security employees and security contracts at health facilities that are under the operation, management, and control of the Hawaii health systems corporation shall be transferred to the Hawaii health systems corporation.

(j) Effective January 1, 1993, the functions and authority heretofore exercised by the director of human services and the department of human services relating to contractual security guard services shall be transferred to the department of public safety[-]; and effective January 1, 2024, those functions and authority shall be transferred to the department of law enforcement.

(k) Effective July 1, 1994, the functions and authority heretofore exercised by the adjutant general relating to security for national guard and state emergency management facilities in the Diamond Head complex, for after work hours, shall be transferred to the department of public safety[-]; and effective January 1, 2024, those functions and authority shall be transferred to the department of law enforcement.

(l) Effective July 1, 2002, the functions and authority heretofore exercised by the director of public safety and the department of public safety relating to after hours security contracts at department of education facilities, including all security functions being performed by employees of the public library system, as well as the contractual security services for the libraries, shall be transferred to the department of education and the public library system as appropriate.”

SECTION 22. Section 26-52, Hawaii Revised Statutes, is amended to read as follows:

“**§26-52 Department heads and executive officers.** The salaries of the following state officers shall be as follows:

- (1) The salary of the superintendent of education shall be set by the board of education at a rate no greater than \$250,000 a year. The superintendent shall be subject to an annual performance evaluation that is in alignment with other employee evaluations within the department of education and are based on outcomes determined by the board of education; provided that nothing shall prohibit the board of education from conditioning a portion of the salary on performance;
- (2) The salary of the president of the University of Hawaii shall be set by the board of regents;
- (3) Effective July 1, 2004, the salaries of all department heads or executive officers of the departments of accounting and general services, agriculture, attorney general, budget and finance, business, economic development, and tourism, commerce and consumer affairs, corrections and rehabilitation, Hawaiian home lands, health, human resources development, human services, labor and industrial relations, land and natural resources, [public safety,] law enforcement, taxation, and transportation shall be as last recommended by the executive salary commission. Effective July 1, 2007, and every six years thereafter, the salaries shall be as last recommended by the commission on salaries pursuant to section 26-56, unless rejected by the legislature; and

- (4) The salary of the adjutant general shall be \$85,302 a year. Effective July 1, 2007, and every six years thereafter, the salary of the adjutant general shall be as last recommended by the commission on salaries pursuant to section 26-56, unless rejected by the legislature, except that if the state salary is in conflict with the pay and allowance fixed by the tables of the regular Army or Air Force of the United States, the latter shall prevail.”

SECTION 23. Section 26-56, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The commission shall review and recommend an appropriate salary for the governor, lieutenant governor, members of the legislature, justices and judges of all state courts, administrative director of the State or an equivalent position, and department heads or executive officers and the deputies or assistants to the department heads of the departments of:

- (1) Accounting and general services;
- (2) Agriculture;
- (3) The attorney general;
- (4) Budget and finance;
- (5) Business, economic development, and tourism;
- (6) Commerce and consumer affairs;
- (7) Corrections and rehabilitation;
- [(7)] (8) Defense;
- [(8)] (9) Hawaiian home lands;
- [(9)] (10) Health;
- [(10)] (11) Human resources development;
- [(11)] (12) Human services;
- [(12)] (13) Labor and industrial relations;
- [(13)] (14) Land and natural resources;
- [(14)] ~~Public safety;~~ (15) Law enforcement;
- [(15)] (16) Taxation; and
- [(16)] (17) Transportation.

The commission shall not review the salary of any position in the department of education or the University of Hawaii.

The commission may recommend different salaries for department heads and executive officers and different salary ranges for deputies or assistants to department heads; provided that the commission shall recommend the same salary range for deputies or assistants to department heads within the same department; provided further that the appointing official shall specify the salary for a particular position within the applicable range.

The commission shall not recommend salaries lower than salary amounts recommended by prior commissions replaced by this section.”

SECTION 24. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) Commissioned and enlisted personnel of the Hawaii National Guard as such, and positions in the Hawaii National Guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;

- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
- (11) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;

- (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
- (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
- (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
- (13) (A) Positions filled by inmates, patients of state institutions, persons with severe physical or mental disabilities participating in the work experience training programs;
- (B) Positions filled with students in accordance with guidelines for established state employment programs; and
- (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;
- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; two additional deputies in charge of the law enforcement programs, administration, or other functions within the department of law enforcement as may be assigned by the director of law enforcement, with the approval of the governor; three additional deputies each in charge of the correctional institutions, rehabilitation services and programs, and administration or other functions within the department of corrections and rehabilitation as may be assigned by the

- director of corrections and rehabilitation, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that:
 - (A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and
 - (B) All of the positions defined by paragraph (9) shall be included in the position classification plan;
 - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
 - (19) Household employees at the official residence of the president of the University of Hawaii;
 - (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
 - (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that not more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
 - (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
 - (23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
 - (24) The sheriff;
 - (25) A gender and other fairness coordinator hired by the judiciary;
 - (26) Positions in the Hawaii National Guard youth and adult education programs;
 - (27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts;
 - (28) Administrative appeals hearing officers in the department of human services;
 - (29) In the Med-QUEST division of the department of human services, the division administrator, finance officer, health care services branch administrator, medical director, and clinical standards administrator;
 - (30) In the director's office of the department of human services, the enterprise officer, information security and privacy compliance officer, security and privacy compliance engineer, and security and privacy compliance analyst;
 - (31) The Alzheimer's disease and related dementia services coordinator in the executive office on aging;
 - (32) In the Hawaii emergency management agency, the executive officer, public information officer, civil defense administrative officer, branch chiefs, and emergency operations center state warning point personnel; provided that, for state warning point personnel, the director shall determine that recruitment through normal civil service

recruitment procedures would result in delay or noncompliance;
and

- ~~[(33)]~~ The executive director and seven full-time administrative positions of the school facilities authority.

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

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

SECTION 25. Section 84-18, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Subject to the restrictions imposed in subsections (a) through (d), the following individuals shall not represent any person or business for a fee or other consideration regarding any legislative action or administrative action, as defined in section 97-1, for twelve months after termination from their respective positions:

- (1) The governor;
- (2) The lieutenant governor;
- (3) The administrative director of the State;
- (4) The attorney general;
- (5) The comptroller;
- (6) The chairperson of the board of agriculture;
- (7) The director of corrections and rehabilitation;
- ~~[(7)]~~ (8) The director of finance;
- ~~[(8)]~~ (9) The director of business, economic development, and tourism;
- ~~[(9)]~~ (10) The director of commerce and consumer affairs;
- ~~[(10)]~~ (11) The adjutant general;
- ~~[(11)]~~ (12) The superintendent of education;
- ~~[(12)]~~ (13) The chairperson of the Hawaiian homes commission;
- ~~[(13)]~~ (14) The director of health;
- ~~[(14)]~~ (15) The director of human resources development;
- ~~[(15)]~~ (16) The director of human services;
- ~~[(16)]~~ (17) The director of labor and industrial relations;
- ~~[(17)]~~ (18) The chairperson of the board of land and natural resources;
- ~~[(18)]~~ (19) The director of ~~[public safety;]~~ law enforcement;
- ~~[(19)]~~ (20) The director of taxation;
- ~~[(20)]~~ (21) The director of transportation;
- ~~[(21)]~~ (22) The president of the University of Hawaii;
- ~~[(22)]~~ (23) The executive administrator of the board of regents of the University of Hawaii;
- ~~[(23)]~~ (24) The administrator of the office of Hawaiian affairs;
- ~~[(24)]~~ (25) The chief information officer;
- ~~[(25)]~~ (26) The executive director of the agribusiness development corporation;
- ~~[(26)]~~ (27) The executive director of the campaign spending commission;
- ~~[(27)]~~ (28) The executive director of the Hawaii community development authority;
- ~~[(28)]~~ (29) The executive director of the Hawaii housing finance and development corporation;
- ~~[(29)]~~ (30) The president and chief executive officer of the Hawaii tourism authority;
- ~~[(30)]~~ (31) The executive officer of the public utilities commission;
- ~~[(31)]~~ (32) The state auditor;
- ~~[(32)]~~ (33) The director of the legislative reference bureau;

- ~~[(33)]~~ (34) The ombudsman;
- ~~[(34)]~~ (35) The permanent employees of the legislature, other than persons employed in clerical, secretarial, or similar positions;
- ~~[(35)]~~ (36) The administrative director of the courts;
- ~~[(36)]~~ (37) The executive director of the state ethics commission;
- ~~[(37)]~~ (38) The executive officer of the state land use commission;
- ~~[(38)]~~ (39) The executive director of the natural energy laboratory of Hawaii authority;
- ~~[(39)]~~ (40) The executive director of the Hawaii public housing authority; and
- ~~[(40)]~~ (41) The first deputy to the chairperson of the commission on water resource management;

provided that this subsection shall not apply to any person who has held one of the positions listed above only on an interim or acting basis and for a period of less than one hundred eighty-one days.”

SECTION 26. Chapter 353, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“CHAPTER 353
CORRECTIONS AND REHABILITATION”**

SECTION 27. Section 378-2.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Notwithstanding subsections (b) and (c), the requirement that inquiry into and consideration of a prospective employee’s conviction record may take place only after the individual has received a conditional job offer, and the limitation to the most recent seven-year period for felony convictions and the most recent five-year period for misdemeanor convictions, excluding the period of incarceration, shall not apply to employers who are expressly permitted to inquire into an individual’s criminal history for employment purposes pursuant to any federal or state law other than subsection (a), including:

- (1) The State or any of its branches, political subdivisions, or agencies pursuant to sections 78-2.7 and 831-3.1;
- (2) The department of education pursuant to section 302A-601.5;
- (3) The department of health with respect to employees, providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health services pursuant to section 321-171.5;
- (4) The judiciary pursuant to section 571-34;
- (5) The counties pursuant to section 846-2.7(b)(5), (33), (34), (35), (36), and (38);
- (6) Armed security services pursuant to section 261-17(b);
- (7) Providers of a developmental disabilities domiciliary home pursuant to section 321-15.2;
- (8) Private schools pursuant to sections 302C-1 and 378-3(8);
- (9) Financial institutions in which deposits are insured by a federal agency having jurisdiction over the financial institution pursuant to section 378-3(9);
- (10) Detective agencies and security guard agencies pursuant to sections 463-6(b) and 463-8(b);
- (11) Employers in the business of insurance pursuant to section 431:2-201.3;
- (12) Employers of individuals or supervisors of individuals responsible for screening passengers or property under title 49 United States

Code section 44901 or individuals with unescorted access to an aircraft of an air carrier or foreign carrier or in a secured area of an airport in the United States pursuant to title 49 United States Code section 44936(a);

- (13) The department of human services pursuant to sections 346-97 and 352-5.5;
- (14) The public library system pursuant to section 302A-601.5;
- (15) The department of ~~[public safety]~~ law enforcement pursuant to section 353C-5;
- (16) The board of directors of a cooperative housing corporation or the manager of a cooperative housing project pursuant to section 421I-12;
- (17) The board of directors of an association under chapter 514B, or the managing agent or resident manager of a condominium pursuant to section 514B-133; ~~[and]~~
- (18) The department of health pursuant to section 321-15.2[-]; and
- (19) The department of corrections and rehabilitation pursuant to section 353-D.

SECTION 28. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Criminal history record checks may be conducted by:

- (1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;
- (2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
- (3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at healthcare facilities as defined in section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
- (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
- (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
- (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
- (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
- (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
- (10) The department of human services or its designee on applicants to operate child care facilities, household members of the applicant, prospective employees of the applicant, and new employees

- and household members of the provider after registration or licensure as provided by section 346-154, and persons subject to section 346-152.5;
- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
- (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in community care foster family homes as provided by section 321-15.2;
- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of ~~[public safety]~~ corrections and rehabilitation on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility ~~[or who possess]~~ as provided by section 353-D and the department of law enforcement on employees and prospective employees whose duties involve or may involve the exercise of police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;

- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:
 - (A) Each principal of every non-corporate applicant for a money transmitter license;
 - (B) Each person who upon approval of an application by a corporate applicant for a money transmitter license will be a principal of the licensee; and
 - (C) Each person who upon approval of an application requesting approval of a proposed change in control of licensee will be a principal of the licensee,
 as provided by sections 489D-9 and 489D-15;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
 - (A) Employees;
 - (B) Applicants seeking employment;
 - (C) Current or prospective members of the corporation board or regional system board; or
 - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
 - (A) An applicant for a mortgage loan originator license, or license renewal; and
 - (B) Each control person, executive officer, director, general partner, and managing member of an applicant for a mortgage loan originator company license or license renewal,
 as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions that involve contact with children or vulnerable adults;

- (35) The counties on prospective employees for emergency medical services positions that involve contact with children or vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
- (40) The department of commerce and consumer affairs on:
 - (A) Applicants for real estate appraiser licensure or certification as provided by chapter 466K;
 - (B) Each person who owns more than ten per cent of an appraisal management company who is applying for registration as an appraisal management company, as provided by section 466L-7; and
 - (C) Each of the controlling persons of an applicant for registration as an appraisal management company, as provided by section 466L-7;
- (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical cannabis dispensaries, and individuals permitted to enter and remain in medical cannabis dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3);
- (42) The department of commerce and consumer affairs on applicants for nurse licensure or license renewal, reactivation, or restoration as provided by sections 457-7, 457-8, 457-8.5, and 457-9;
- (43) The county police departments on applicants for permits to acquire firearms pursuant to section 134-2 and on individuals registering their firearms pursuant to section 134-3;
- (44) The department of commerce and consumer affairs on:
 - (A) Each of the controlling persons of the applicant for licensure as an escrow depository, and each of the officers, directors, and principals who will be in charge of the escrow depository's activities upon licensure; and
 - (B) Each of the controlling persons of an applicant for proposed change in control of an escrow depository licensee, and each of the officers, directors, and principals who will be in charge of the licensee's activities upon approval of the application, as provided by chapter 449;
- (45) The department of taxation on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 231-1.6;

- (46) The department of labor and industrial relations on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 383-110;
- (47) The department of human services on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 346-2.5;
- (48) The child support enforcement agency on current or prospective employees or contractors who have access to federal tax information in order to comply with federal law, regulation, or procedure, as provided by section 576D-11.5;
- (49) The department of the attorney general on current or prospective employees or employees or agents of contractors who have access to federal tax information to comply with requirements of federal law, regulation, or procedure, as provided by section 28-17;
- [(50)] The department of commerce and consumer affairs on each control person, executive officer, director, general partner, and managing member of an installment loan licensee, or an applicant for an installment loan license, as provided in chapter 480J;
- [(51)] The University of Hawaii on current and prospective employees and contractors whose duties include ensuring the security of campus facilities and persons; and
- [(52)] Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law.”

SECTION 29. (a) Sections 202-10, 304A-1751, 304A-1752, 304A-1753, 304A-1754, 321-193.5, 329B-2.5, 351-11, 352-10, 353-1, 353-6.5, 353-8, 353-10, 353-10.5, 353-11.5, 353-13.1, 353-13.4, 353-16.37, 353-63.5, 353-131, 353-137, 353E-1, 353E-2, 353G-2, 353G-3, 353G-4, 353G-5, 353G-6, 353G-13, 353G-14, 353G-16, 353H-2, 353H-2.5, 353H-3, 353H-4, 353H-6, 353H-7, 353H-8, 353H-31, 353H-32, 353L-3, 353L-5, 354D-1, 354D-2, 354D-8, 367D-2, 367D-8, 662-16, 706-604, 706-646, 706-667, 706-668.5, 706-669, 706-670, 706-670.5, 706-672, 706-673, 801D-4, 804-7, 844D-34, 844D-82, 844D-111, 846-11, 846-54, and 846E-1, Hawaii Revised Statutes, are amended by substituting the phrase “department of corrections and rehabilitation”, or similar term, wherever the phrase “department of public safety”, or similar term, appears.

(b) Sections 134-2, 321-193.5, 334-74, 346-29, 351-62.5, 351-70, 353-1, 353-10, 353-10.5, 353-15, 353-16.5, 353-22.6, 353-22.8, 353-32, 353-63, 353-63.5, 353-65, 353-72, 353-101, 353-137, 353B-3, 353D-4, 353H-5, 353H-7, 353H-31, 354D-2, 355-4, 355-5, 355D-4, 355D-5, 367D-2, 367D-3, 367D-4, 367D-5, 706-656, 706-672, 707-731, 707-732, 804-7, 832-23, and 844D-61, Hawaii Revised Statutes, are amended by substituting the phrase “director of corrections and rehabilitation”, or similar term, wherever the phrase “director of public safety”, or similar term, appears, as the context requires.

(c) Sections 353-10 and 353-12.5, Hawaii Revised Statutes, are amended by substituting the phrase “department of corrections and rehabilitation’s”, or similar term, wherever the phrase “department of public safety’s”, or similar term, appears, as the context requires.

SECTION 30. Section 353C-4.5, Hawaii Revised Statutes, is repealed.

SECTION 31. Section 353C-7, Hawaii Revised Statutes, is repealed.

SECTION 32. Section 353C-8, Hawaii Revised Statutes, is repealed.

SECTION 33. Section 353C-8.5, Hawaii Revised Statutes, is repealed.

PART V

SECTION 34. All rights, powers, functions, and duties of the employees of the investigations division of the department of the attorney general performing non-statutorily mandated functions are transferred to the department of law enforcement.

SECTION 35. All rights, powers, functions, and duties of the employees of the state office of homeland security are transferred to the department of law enforcement.

SECTION 36. All rights, powers, functions, and duties of the employees of the department of transportation performing law enforcement and security functions and related employees are transferred to the department of law enforcement.

SECTION 37. Section 26-21, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department of defense shall be headed by a single executive to be known as the adjutant general. The adjutant general shall also be the director of the Hawaii emergency management agency as established in section 127A-3 ~~[and the director of homeland security]~~.

The department shall be responsible for the defense of the State and its people from mass violence, originating from either human or natural causes.

The devolution of command of the military forces in the absence of the adjutant general shall be within the military establishment. The devolution of command of the Hawaii emergency management agency in the absence of the adjutant general, as director of the agency, shall be within the agency.”

SECTION 38. Section 128A-2, Hawaii Revised Statutes, is amended by amending the definition of “director of homeland security” or “director” to read as follows:

“~~“[“Director of homeland security” or “director”]~~ “Director” means the ~~[adjutant general.]~~ director of law enforcement.”

SECTION 39. Section 128A-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be established within the department of ~~[defense]~~ law enforcement an office of homeland security. The director ~~[of homeland security]~~ shall employ appropriate personnel and make expenditures as may be necessary to carry out this chapter. The director shall appoint an administrator of homeland security who shall be exempt from chapter 76, subject to removal by the director, and receive compensation as the director may determine.”

SECTION 40. Section 128B-1, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There is established the full-time Hawaii cybersecurity, economic, education, and infrastructure security coordinator to oversee cybersecurity and cyber resiliency matters, including cybersecurity, economic, education, and in-

frastructure security for the State. The coordinator shall be placed within the [state] department of [defense.] law enforcement.

(b) The coordinator shall be selected by the ~~[state adjutant general]~~ director of law enforcement based on the recommendations of the various agencies, departments, and private entities that will partner with the coordinator.”

SECTION 41. Section 139-1, Hawaii Revised Statutes, is amended by amending the definition of “law enforcement officer” to read as follows:

““Law enforcement officer” means:

- (1) A police officer employed by a county police department;
- (2) ~~[A public safety officer employed by the department of public safety;]~~ An employee of the department of law enforcement conferred with police powers by the director of law enforcement; or
- (3) An employee of the ~~[department of transportation,]~~ department of land and natural resources, department of taxation, or department of the attorney general who is conferred by law with general police powers.”

SECTION 42. Section 139-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established the law enforcement standards board within the department of the attorney general for administrative purposes only. The purpose of the board shall be to provide programs and standards for training and certification of law enforcement officers. The law enforcement standards board shall consist of the following voting members: ~~[nine]~~ eight ex officio individuals, two law enforcement officers, and four members of the public.

- (1) The ~~[nine]~~ eight ex officio members of the board shall consist of the:
 - (A) Attorney general;
 - (B) Director of ~~[public safety;]~~ law enforcement;
 - ~~[(C) Director of transportation or the director’s designee;~~
 - ~~(D)]~~ (C) Chairperson of the board of land and natural resources or chairperson’s designee;
 - ~~[(E)]~~ (D) Director of taxation or the director’s designee; and
 - ~~[(F)]~~ (E) Chiefs of police of the four counties;
- (2) The two law enforcement officers shall each have at least ten years of experience as a law enforcement officer and shall be appointed by the governor; and
- (3) The four members of the public shall consist of one member of the public from each of the four counties and shall be appointed by the governor. At least two of the four members of the public holding a position on the board at any given time shall:
 - (A) Possess a master’s or doctorate degree related to criminal justice;
 - (B) Possess a law degree and have experience:
 - (i) Practicing in Hawaii as a deputy attorney general, [a] deputy prosecutor, deputy public defender, or private criminal defense attorney; or
 - (ii) Litigating constitutional law issues in Hawaii;
 - (C) Be a recognized expert in the field of criminal justice, policing, or security; or
 - (D) Have work experience in a law enforcement capacity; provided that experience in a county police department shall not itself be sufficient to qualify under this paragraph.”

SECTION 43. Section 139-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall be appointed or employed as a law enforcement officer by any county police department, the department of ~~[public safety, the department of transportation,]~~ law enforcement, the department of land and natural resources, the department of taxation, or the department of the attorney general, unless the person possesses a valid certification issued by the board pursuant to section 139-6(b).”

SECTION 44. Section 266-24, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) ~~[The director of transportation shall enforce this chapter and all rules thereunder, except for the rules relative to the control and management of the beaches encumbered with easements in favor of the public and ocean waters, which shall be enforced by the department of land and natural resources. For the purpose of the enforcement of this chapter and of all rules adopted pursuant to this chapter, the powers of police officers are conferred upon the director of transportation and any officer, employee, or representative of the department of transportation. Without limiting the generality of the foregoing, the director and any person appointed by the director hereunder may serve and execute warrants, arrest offenders, and serve notices and orders. The director of transportation and any employee, agent, or representative of the department of transportation appointed as enforcement officers by the director, and every]~~ Every state and county officer charged with the enforcement of any law, statute, rule, regulation, ordinance, or order, shall enforce and assist in the enforcement of this chapter and of all rules and orders issued pursuant thereto, and in carrying out the responsibilities hereunder, each shall be specifically authorized to:

- (1) Conduct any enforcement action hereunder in any commercial harbor area and any area over which the department of transportation and the director of transportation has jurisdiction under this chapter;
- (2) Inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where harbors or harbor facilities are situated, or where harbor-related activities are operated or conducted; and
- (3) ~~[Subject to limitations as may be imposed by the director of transportation, serve and execute warrants, arrest offenders, and serve]~~ Serve notices and orders.

~~[Any employee appointed as a law enforcement officer by the director of transportation pursuant to this section who has been qualified by training may use electric guns, as specifically provided in section 134-87, when exercising powers of police officers and carrying out the responsibilities described herein; provided that training for the purposes of this section means a course of instruction or training in the use of any electric gun that is provided, authorized, or approved by the manufacturer of the electric gun before deployment or issuance of electric guns and related equipment.~~

~~For purposes of this subsection, “agent” and “representative” includes but is not limited to persons performing services at harbors or harbor areas under contract with the department of transportation.]”~~

SECTION 45. Section 291-31.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall knowingly operate, affix or cause to be affixed, display, or possess any lamp, reflector, or illumination device that appears to be the

color blue, or colors blue and red, upon any motor vehicle, motorcycle, motor scooter, bicycle, electric foot scooter, or moped, except for:

- (1) County law enforcement vehicles authorized and approved by the chief of police of the county in which the vehicle is operated;
- (2) Department of ~~[public safety]~~ law enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the director of ~~[public safety];~~ law enforcement; or
- (3) Department of land and natural resources division of conservation and resources enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the chairperson of the board of land and natural resources~~[-or~~
- (4) ~~Department of transportation division of harbors law enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the director of transportation].~~

This prohibition shall not apply to factory-installed instrument illumination.”

SECTION 46. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definition of “authorized emergency vehicle” to read as follows:

““Authorized emergency vehicle” includes fire department vehicles, police vehicles, ambulances, ocean safety vehicles, ~~[public safety]~~ law enforcement vehicles, and conservation and resources enforcement vehicles~~[-and department of transportation division of harbors law enforcement vehicles]~~ authorized and approved pursuant to section 291-31.5 that are publicly owned and other publicly or privately owned vehicles designated as such by a county council.”

PART VI

SECTION 47. All employees who occupy civil service positions and whose functions are transferred by this Act shall retain their civil service status (permanent or temporary). Employees shall be transferred without loss of salary, seniority (except as prescribed by collective bargaining agreements), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act; provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, before this Act, is exempt from civil service and is transferred as a consequence of this Act may continue to retain the employee’s exempt status but shall not be appointed to a civil service position because of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employee possesses legal and public employment requirements for the position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The director of the department to which the employee is transferred may prescribe the duties and qualifications of the employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

SECTION 48. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of transportation,

department of the attorney general, department of public safety, and department of defense relating to the functions transferred to the department of law enforcement or department of corrections and rehabilitation shall be transferred with the functions to which they relate.

SECTION 49. All leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the department of transportation, department of public safety, department of the attorney general, and department of defense pursuant to the provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the department of law enforcement or department of corrections and rehabilitation by this Act shall remain in full force and effect. Effective January 1, 2024, every reference to the department of public safety or the director of public safety in those leases, contracts, loans, agreements, permits, or other documents shall be construed as a reference to the department of law enforcement or the director of law enforcement, or the department of corrections and rehabilitation or the director of corrections and rehabilitation, as appropriate. Effective January 1, 2024, every reference to the department of transportation or the director of transportation, the department of the attorney general or the attorney general, or the department of defense or the state adjutant general in those leases, contracts, loans, agreements, permits, or other documents shall be construed as a reference to the department of law enforcement or the director of law enforcement, as applicable.

SECTION 50. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of transportation, department of the attorney general, department of public safety, or the department of defense to implement provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the department of law enforcement or the department of corrections and rehabilitation by this Act shall remain in full force and effect until amended or repealed by the department of law enforcement or department of corrections and rehabilitation pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of transportation or director of transportation, department of the attorney general or attorney general, department of defense or state adjutant general, department of public safety or director of public safety, in those rules, policies, procedures, guidelines, and other material is amended to refer to the department of law enforcement or director of law enforcement, or department of corrections and rehabilitation or director of corrections and rehabilitation, as appropriate.

SECTION 51. No offense committed and no penalty or forfeiture incurred under the law shall be affected by this Act; provided that whenever any punishment, penalty, or forfeiture is mitigated by any provision of this Act, the provision may be extended and applied to any judgment pronounced after the passage of this Act. No suit or prosecution pending at the time this Act takes effect shall be affected by this Act. The right of any administrative officer whose function is transferred by this Act to the department of law enforcement or department of corrections and rehabilitation as the case may be, to institute proceedings for prosecution for an offense or an action to recover a penalty or forfeiture shall be vested in the director of law enforcement, director of corrections and rehabilitation, or the respective director's designee as may be appropriate.

SECTION 52. The right of appeal from administrative actions or determinations as provided by law shall not be impaired by this Act. Except as

otherwise provided by this Act, whenever a right of appeal from administrative actions or determinations is provided by law to or from any officer, board, department, bureau, commission, administrative agency, or instrumentality of the State that, or any of the programs of which, is transferred by this Act to the department of law enforcement or department of corrections and rehabilitation, as the case may be, the right of appeal shall lie to or from the department of law enforcement or department of corrections and rehabilitation, as the case may be, when the transfer is made. The right of appeal shall exist to the same extent and in accordance with the applicable procedures that are in effect immediately before the effective date of the applicable part.

If the provisions of the preceding paragraph relating to appeals cannot be effected by reason of abolishment, splitting, or shifting of functions or otherwise, the right of appeal shall lie to the circuit court of the State pursuant to the Hawaii rules of civil procedure.

SECTION 53. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any modifications with the reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 54. The revisor of statutes may incorporate into the Hawaii Revised Statutes, any of the provisions contained in this Act. The revisor of statutes shall substitute the appropriate department of corrections and rehabilitation or department of law enforcement reference in all existing statutes where a department, board, commission, agency, program, or organizational segment is transferred to the department of corrections and rehabilitation or department of law enforcement if such existing statutory language has not been amended by this Act.

SECTION 55. All laws and parts of laws heretofore enacted that are in conflict with the provisions of this Act are hereby amended to conform herewith. All Acts passed during this regular session of 2022, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless the Acts specifically provide that the Act relating to a “department of public safety” are being amended. Amendments made to sections of the Hawaii Revised Statutes that are amended by this Act as of a future effective date shall include amendments made after the approval of this Act and before the effective date of the amendments made by this Act, to the extent that the intervening amendments may be harmonized with the amendments made by this Act.

PART VII

SECTION 56. The following positions are established within the department of law enforcement:

- (1) One full-time equivalent (1.0 FTE) permanent director position;
- (2) Two full-time equivalent (2.0 FTE) permanent deputy director positions;
- (3) Three full-time equivalent (3.0 FTE) permanent private secretary positions;
- (4) One full-time equivalent (1.0 FTE) permanent special assistant position;

- (5) One full-time equivalent (1.0 FTE) permanent administrative services officer position;
- (6) One full-time equivalent (1.0 FTE) permanent human resources officer position;
- (7) One full-time equivalent (1.0 FTE) permanent planner position;
- (8) Eight full-time equivalent (8.0 FTE) permanent administrative services and accounting positions;
- (9) Nine full-time equivalent (9.0 FTE) permanent information services and technology positions;
- (10) Four full-time equivalent (4.0 FTE) permanent internal support services positions;
- (11) Eight full-time equivalent (8.0 FTE) permanent human resources positions;
- (12) Two full-time equivalent (2.0 FTE) permanent capital improvement project coordinator positions;
- (13) Four full-time equivalent (4.0 FTE) permanent litigation coordination positions;
- (14) Nine full-time equivalent (9.0 FTE) permanent training and staffing development positions;
- (15) Six full-time equivalent (6.0 FTE) permanent supervisory deputy sheriff positions;
- (16) Five full-time equivalent (5.0 FTE) permanent office of homeland security investigator positions;
- (17) Four full-time equivalent (4.0 FTE) permanent civil rights compliance positions; and
- (18) One full-time equivalent (1.0 FTE) permanent public information officer position.

SECTION 57. There is appropriated out of the general revenues of the State of Hawaii the sum of \$900,000 or so much thereof as may be necessary for fiscal year 2022-2023 for the hiring and filling of the following positions within the department of law enforcement:

- (1) One full-time equivalent (1.0 FTE) permanent director position;
- (2) One full-time equivalent (1.0 FTE) permanent deputy director position;
- (3) Two full-time equivalent (2.0 FTE) permanent private secretary positions;
- (4) One full-time equivalent (1.0 FTE) permanent administrative services officer position; and
- (5) One full-time equivalent (1.0 FTE) permanent human resources officer position.

The sum appropriated shall be expended by the department of law enforcement for the purposes of this section.

SECTION 58. The department of law enforcement shall report to the legislature no later than twenty days prior to the convening of the regular session of 2023, the progress made in preparing for the transfer of law enforcement functions to the department on January 1, 2024.

PART VIII

SECTION 59. The following positions are established within the department of corrections and rehabilitation:

- (1) One full-time equivalent (1.0 FTE) permanent investigator VI position;
- (2) Three full-time equivalent (3.0 FTE) permanent investigator V positions;
- (3) One full-time equivalent (1.0 FTE) permanent secretary I position; and
- (4) Three full-time equivalent (3.0 FTE) permanent adult correctional office 08 (CO-08) sergeant positions.

PART IX

SECTION 60. In codifying the new sections added by section 18 and referenced in sections 27 and 28 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 61. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 62. This Act shall take effect upon its approval; provided that:

- (1) Parts III, IV, V, and VIII shall take effect on January 1, 2024;
- (2) Part VII shall take effect on July 1, 2022; and
- (3) The amendments made to section 26-52, Hawaii Revised Statutes, by sections 4 and 22 of this Act shall not be repealed when that section is reenacted on June 30, 2024, pursuant to section 4 of Act 90, Session Laws of Hawaii 2014.

(Approved July 8, 2022.)

Note

1. Edited pursuant to HRS §23G-16.5.