

State of Hawai'i
Department of the Attorney General



REPORT ON THE LAW
ENFORCEMENT STANDARDS BOARD

Pursuant to Section 139-9, Hawaii Revised Statutes

Submitted to
The Thirty-First State Legislature
Regular Session of 2022

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Section 139-9, Hawaii Revised Statutes, requires the Law Enforcement Standards Board, established within the Department of the Attorney General, State of Hawaii, to submit a report to the Legislature that includes:

- (1) A description of the activities of the board;
- (2) An accounting of the expenditures from the law enforcement standards board special fund in the previous fiscal year and the remaining balance of the fund; and
- (3) Recommended legislation, if any.

I. The Law Enforcement Standards Board:

The Law Enforcement Standards Board (“Board”) was established by Act 220, Session Laws of Hawaii 2018, which added to the Hawaii Revised Statutes a new chapter that is codified as chapter 139. The Board is charged with providing programs and standards for training and certification of law enforcement officers. Specifically, as set forth in section 139-3, the Board shall:

- (1) Adopt rules in accordance with chapter 91 to implement this chapter;
- (2) Establish minimum standards for employment as a law enforcement officer and to certify persons to be qualified as law enforcement officers;
- (3) Establish criteria and standards in which a person who has been denied certification, whose certification has been revoked by the board, or whose certification has lapsed may reapply for certification;
- (4) Establish minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for schools operated by or for the State or a county for the specific purpose of training law enforcement officers;
- (5) Consult and cooperate with the counties, agencies of the State, other governmental agencies, universities, colleges, and other institutions concerning the development of law enforcement officer training schools and programs of criminal justice instruction;
- (6) Employ, subject to chapter 76, an administrator and other persons necessary to carry out its duties under this chapter;
- (7) Investigate when there is reason to believe that a law enforcement officer does not meet the minimum standards for employment, and in so doing, may:
 - (A) Subpoena persons, books, records, or documents;

- (B) Require answers in writing under oath to questions asked by the board; and
 - (C) Take or cause to be taken depositions as needed in investigations, hearings, and other proceedings, related to the investigation;
- (8) Establish and require participation in continuing education programs for law enforcement officers;
 - (9) Have the authority to charge and collect fees for applications for certifications as a law enforcement officer;
 - (10) Establish procedures and criteria for the revocation of certification issued by the board;
 - (11) Have the authority to revoke certifications; and
 - (12) Review and recommend statewide policies and procedures relating to law enforcement, including the use of force.

II. Activities of the Board

At its April 9, 2021 meeting, the Board:

- (1) Discussed the status of pending Board legislation, Senate Bill No. 1046 and House Bill No. 892;
- (2) Received an update on the Board's request for funding;
- (3) Received a status report from Permitted Interaction Group I, that it met and presented 16 questions for state boards across the country, and received responses that will be presented at the next Board meeting; and
- (4) Received a status report from Permitted Interaction Group II, that it met and is in the process of finalizing draft administrative rules that it will be recommending to the Board.

At its October 26, 2021 meeting, the Board:

- (1) Received the report of Permitted Interaction Group I, which included a report of Peace Officer Standards and Training (POST) across the nation, and responses to questions posed to POST boards across the nation;
- (2) Received the report of Permitted Interaction Group II, which included draft administrative rules for the Board's consideration;

Deleted: On May 21, 2020, the six Board members who are not ex officio members, were confirmed by the Senate. They include Samuel Jelsma, Sherry Bird, Gary Yamashiroya, Harry Kubojiri, Craig Tanaka, and Nicholas Courson.¶
 ¶ The Board met on October 15, 2020, and completed the following:¶
 ¶ (1) . Reviewed, discussed, and approved proposed legislation to be submitted¶ to the Legislature in the 2021 session to address funding, resources, and deadlines for the Board; ¶
 ¶ (2) . Reviewed, discussed, and approved the draft "Report of the Law ¶ Enforcement Standards Board submitted to the Thirty-First State¶ Legislature, Regular Session of 2021";¶
 ¶ (3) . Reviewed and discussed Act 47 (20), HB 285 HD 1, SD 2, CD 1, Relating¶ to Public Safety; ¶
 ¶ (4) . Discussed and approved the Chair's request to send letters on¶ behalf of the Board to selected state Police Officer Standards Boards for information sharing and assistance in establishing Hawaii law enforcement standards; ¶
 ¶ (5) . Discussed staff responsibilities, expectations, and challenges with lack of¶ funding; and ¶
 ¶ (6) . Discussed Board administrative procedures.

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(3) Discussed the annual report of the Board to be submitted to the Legislature for the 2022 Session; and

(4) Discussed proposed Board legislation for 2022.

The Board plans to meet before the end of the year for discussion and decision making on the reports of the two permitted interaction groups.

III. Accounting of Expenditures

No expenditures. The Board had no funding.

IV. Recommended Legislation

The Board continues to support the proposed legislation submitted for the 2021 legislative session that would:

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- (1) Explain the need to delay implementation of Act 220 to allow for further study;
- (2) Clarify that all ex officio members can have their designees serve on the Board;
- (3) Increase the number of law enforcement officer Board members from two to five, to ensure representation from each county and the State;
- (4) Delete the county police department experience restriction for the Board members who fill Board positions as members of the public;
- (5) Provide that the appointment of Board members by the Governor shall not be subject to Senate confirmation;
- (6) Require consideration of the Legislative Reference Bureau's study conducted pursuant to Act 124, Session Laws of Hawaii 2018, and require the Board's own study to evaluate how to efficiently and effectively satisfy its duties in accordance with the law;
- (7) Provide for the employment of a board administrator, without regard to chapter 76 civil service requirements, and one clerical position to assist the Board;
- (8) Delay the effective date of the certification, training, employment, and revocation and denial requirements of Act 220; and

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(9) Request an appropriation to cover the costs of staffing and Board expenses for the next year.

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The Board's proposed legislation was introduced for the 2021 legislative session as Senate Bill No. 1046 and House Bill No. 892.

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