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December 26, 2019

The Honorable Ronald D. Kouchi  
President of the Senate  
and Members of the Senate  
Thirtieth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki  
Speaker and Members of the House of  
Representatives  
Thirtieth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kouchi and Speaker Saiki:

For your information and consideration, I am transmitting a copy of the Department of the Attorney General's Report on the Law Enforcement Standards Board as required by section 139-9, Hawaii Revised Statutes (HRS). In accordance with Section 93-16, HRS, I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

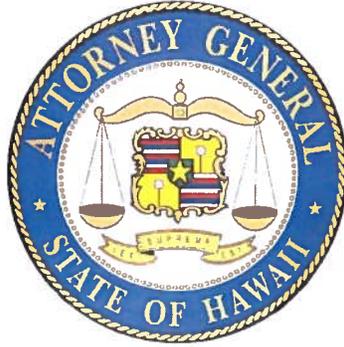
If you have any questions or concerns, please feel free to call me at 586-1282.

Sincerely,

Clare E. Connors  
Attorney General

Enclosure

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 Thirtieth State Legislature  
Regular Session of 2020

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; and
- (10) Establish procedures and criteria for the revocation of certification issued by the board.

## **II. Activities of the Board**

The Board met on November 7, 2018, and discussed legislation that would address the difficulties in accomplishing its responsibilities. The Board members expressed concerns regarding:

- (1) How the certification requirements would comport with existing hiring practices;
- (2) How to establish certification and training requirements that would not conflict with existing union or contractual requirements;
- (3) The conflicts between actions on certifications (suspension, revocation, etc.) and existing employment action processes;
- (4) How to determine uniform training requirements considering the already existing specific and varied training requirements for each county police department and other law enforcement officers;
- (5) Whether a central training academy or training academies on each island are necessary;
- (6) When the certification requirement would be imposed – before or after the training academy; or after recruit school;
- (7) Whether the trainers need to be certified;
- (8) Whether different certification tiers should be imposed;
- (9) Whether certification requirements could be satisfied by educational institutions;

- (10) What would be the impact on recruitment;
- (11) Allowing the Chiefs of Police, the Attorney General, and the Director of Public Safety to assign Board responsibilities to their designees; and
- (12) Whether diluted uniform standards would risk de-certification of other standards.

The Board determined that it is nearly impossible to implement Act 220, particularly within the short time allotted for implementation and with insufficient funding. Therefore, the Board agreed to propose legislation to clarify the Law Enforcement Standards Board membership requirements to facilitate participation and representation, to establish new and more realistic deadlines for the completion of the Board's significant responsibilities, and to provide appropriate and necessary funds and resources to enable the Board to accomplish its mission.

The Board proposed legislation for the 2019 Legislative Session to amend its laws under Chapter 139, Hawaii Revised Statutes. Senate Bill No. 1179 and House Bill No. 952 were introduced as part of the Governor's package. Senate Bill No. 1179 did not get a hearing. House Bill No. 952 was heard by the House Committee on Judiciary, which passed the bill with amendments and referred it to the House Committee on Finance. The bill did not get any other hearings.

The Board met on August 13, 2019, and completed the following actions: (1) elected Kauai County Police Chief Todd Raybuck, as the new Chairperson of the Board, and Maui County Police Chief Tivoli Faamu, as the Co-Chairperson of the Board; and (2) voted unanimously to approve the "Resolution Requesting More Time and Resources to Finalize Training Standards and Certification of Law Enforcement Officers by the Law Enforcement Standards Board," attached as **Appendix A**.

The Board met again on October 18, 2019. The Board introduced its six new members and completed the following:

- (1) Reviewed Act 220 (2018), which created the Law Enforcement Standards Board, and discussed the Board's duties and responsibilities under the Act;
- (2) Reviewed and discussed the "Report of the Law Enforcement Standards Board submitted to the Thirtieth State Legislature, Regular Session of 2019" and the proposed legislation attached to the report;
- (3) Reviewed and discussed the "Resolution Requesting More Time and Resources to Finalize Training Standards and Certification of Law Enforcement Officers by the Law Enforcement Standards Board," which was approved by the Board at its meeting on August 13, 2019; and

- (4) Reviewed, discussed, and approved the draft "Report of the Law Enforcement Standards Board submitted to the Thirtieth State Legislature, Regular Session of 2020" and the proposed legislation to make amendments to chapter 139, Hawaii Revised Statutes, and Act 220 (2018).

Finally, the Board met on December 17, 2019, to refine and finalize aspects of the proposed legislation referenced in paragraph (4) above.

### **III. Accounting of Expenditures**

The Board has not yet expended any funds. The \$100,000 deposited into the Law Enforcement Standards Board Special Fund lapsed last year.

### **IV. Recommended Legislation**

The Board agreed to propose legislation that would:

- (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 law enforcement officer Board members;
- (5) Provide that the appointment of board members by the Governor shall not be subject to senatorial 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 to July 1, 2023; and

- (9) Request an appropriation of \$375,000 to cover the costs of staffing and Board expenses for the next year.

The Board's proposed legislation will be included in the Administration's legislative package. A copy of the Board's proposed legislation is attached hereto as **Appendix B**.



STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
LAW ENFORCEMENT STANDARDS BOARD  
425 Queen Street  
HONOLULU, HAWAII 96813  
(808)586-1500

DANA O. VIOLA  
FIRST DEPUTY ATTORNEY GENERAL

**RESOLUTION REQUESTING MORE TIME AND RESOURCES TO FINALIZE  
TRAINING STANDARDS AND CERTIFICATION OF LAW ENFORCEMENT  
OFFICERS BY THE LAW ENFORCEMENT STANDARDS BOARD**

WHEREAS, the Law Enforcement Standards Board (hereinafter “Board”) was established on July 1, 2018, and tasked with providing programs and standards for training and certification of law enforcement officers<sup>1</sup>; and

WHEREAS, the fifteen (15) members of the Board serve without compensation; and

WHEREAS, the duties of the Board include:

1. Establishing minimum standards for employment as a law enforcement officer and to certify persons to be qualified as law enforcement officers;
2. Consulting and cooperating 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; and
3. Establishing 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; and
4. Establishing and maintaining law enforcement training programs through agencies and institutions deemed appropriate by the Board; and
5. Establishing procedures and criteria for the revocation of certification issued by the Board
6. Investigating law enforcement officers believed to not meet the minimum standards of employment; and
7. Establishing criteria and standards for reapplying for certification by those who have been denied certification, whose certification has been revoked by the Board, or whose certification has lapsed; and
8. Establishing and requiring participation in continuing education programs for law enforcement officers.

WHEREAS, the Board should review the study by the Legislative Reference Bureau that examined consolidating law enforcement activities and responsibilities of various state divisions and agencies under a single, centralized state enforcement division or agency.<sup>2</sup> That study examined, “Operational, administrative, financial, personnel, legal, and other issues associated

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<sup>1</sup> Act 220 (2018), H.B. No. 2071. Attached as Exhibit A.

<sup>2</sup> Act 124 (2018), S.B. No. 2909. Attached as Exhibit B.

with consolidation,” and was due no later than twenty days prior to convening of the 2019 Legislature; and

WHEREAS, the Board would like to study the effect of uniform standards and certification for all state and county law enforcement officers; and

WHEREAS, the Board must determine the impact on collective bargaining rights of minimum standards for employment for law enforcement officers, procedures for revocation of certification and reapplying for certification, and required participation in continuing education programs; and

WHEREAS, the Board should evaluate existing training facilities and resources to effectively establish and maintain law enforcement training programs; and

WHEREAS, no one is employed as an administrator or otherwise for the Board to carry out its duties; and

WHEREAS, the final standards and certification process is due on July 1, 2019, and one year is insufficient time to complete all that the Board was tasked to do; now, therefore,

BE IT RESOLVED by the Law Enforcement Standards Board that more time and resources are requested to permit the Board to finalize training standards and certification of law enforcement officers; and

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted to the House of Representatives and Senate, Thirtieth Legislature, 2020, State of Hawaii.

\_\_\_\_.B. NO.\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1           SECTION 1. The legislature, by Act 220, Session Laws of  
2 Hawaii 2018, enacted chapter 139, Hawaii Revised Statutes, to  
3 create a law enforcement standards board for the certification  
4 of law enforcement officers, including county police officers,  
5 state public safety officers, and employees with police powers  
6 at the departments of transportation, of land and natural  
7 resources, of the attorney general, and of taxation.

8           The board is responsible for establishing minimum standards  
9 for employment as a law enforcement officer and certifying  
10 persons qualified as law enforcement officers. It is also  
11 responsible for establishing minimum criminal justice curriculum  
12 requirements for basic, specialized, and in-service courses and  
13 programs for the training of law enforcement officers. It must  
14 consult and cooperate with the counties, state agencies, other  
15 governmental agencies, universities and colleges, and other  
16 institutions, concerning the development of law enforcement  
17 officer training schools and programs. The board is also

\_\_\_\_.B. NO.\_\_\_\_

1 responsible for regulating and enforcing the certification  
2 requirements of law enforcement officers.

3       These are important and substantial duties that require  
4 evaluation to ensure that existing legal obligations are not  
5 compromised. Before imposing new standards impacting the  
6 employment of law enforcement officers, the board must consider  
7 collective bargaining and other employment requirements. At a  
8 minimum, the board must evaluate how probationary periods,  
9 training requirements (i.e., the types of training, the number  
10 of hours of training, and the availability of training  
11 facilities), and the issuance, suspension, and revocation of  
12 certification will impact obligations already established by  
13 law.

14       Such evaluation should include consideration of the study  
15 conducted by the legislative reference bureau pursuant to Act  
16 124, Session Laws of Hawaii 2018, and any additional study  
17 necessary to determine the impact of uniform standards,  
18 certification, and training for all law enforcement.

19 The board has determined that it will need significantly more  
20 time and funds to accomplish its mission.

21       The purposes of this Act are to clarify board membership  
22 requirements to facilitate participation and representation, to  
23 enable the board to research the impact of uniform standards,

\_\_\_\_.B. NO.\_\_\_\_

1 certification, and training on existing legal requirements, to  
2 establish new deadlines for the completion of the board's  
3 significant responsibilities, and to provide appropriate funds  
4 and resources to enable the board to accomplish its mission.

5 SECTION 2. Section 76-16, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

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

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

17 (2) Positions filled by persons employed by contract  
18 where the director of human resources development has  
19 certified that the service is special or unique or is  
20 essential to the public interest and that, because of  
21 circumstances surrounding its fulfillment, personnel  
22 to perform the service cannot be obtained through

\_\_\_\_.B. NO.\_\_\_\_

- 1 normal civil service recruitment procedures. Any such  
2 contract may be for any period not exceeding one year;
- 3 (3) Positions that must be filled without delay to  
4 comply with a court order or decree if the director  
5 determines that recruitment through normal recruitment  
6 civil service procedures would result in delay or  
7 noncompliance, such as the Felix-Cayetano consent  
8 decree;
- 9 (4) Positions filled by the legislature or by either  
10 house or any committee thereof;
- 11 (5) Employees in the office of the governor and  
12 office of the lieutenant governor, and household  
13 employees at Washington Place;
- 14 (6) Positions filled by popular vote;
- 15 (7) Department heads, officers, and members of any  
16 board, commission, or other state agency whose  
17 appointments are made by the governor or are required  
18 by law to be confirmed by the senate;
- 19 (8) Judges, referees, receivers, masters, jurors,  
20 notaries public, land court examiners, court  
21 commissioners, and attorneys appointed by a state  
22 court for a special temporary service;
- 23 (9) One bailiff for the chief justice of the supreme

\_\_\_\_.B. NO.\_\_\_\_

1 court who shall have the powers and duties of a court  
2 officer and bailiff under section 606-14; one  
3 secretary or clerk for each justice of the supreme  
4 court, each judge of the intermediate appellate court,  
5 and each judge of the circuit court; one secretary for  
6 the judicial council; one deputy administrative  
7 director of the courts; three law clerks for the chief  
8 justice of the supreme court, two law clerks for each  
9 associate justice of the supreme court and each judge  
10 of the intermediate appellate court, one law clerk for  
11 each judge of the circuit court, two additional law  
12 clerks for the civil administrative judge of the  
13 circuit court of the first circuit, two additional law  
14 clerks for the criminal administrative judge of the  
15 circuit court of the first circuit, one additional law  
16 clerk for the senior judge of the family court of the  
17 first circuit, two additional law clerks for the civil  
18 motions judge of the circuit court of the first  
19 circuit, two additional law clerks for the criminal  
20 motions judge of the circuit court of the first  
21 circuit, and two law clerks for the administrative  
22 judge of the district court of the first circuit; and  
23 one private secretary for the administrative director

\_\_\_\_.B. NO.\_\_\_\_

1 of the courts, the deputy administrative director of  
2 the courts, each department head, each deputy or first  
3 assistant, and each additional deputy, or assistant  
4 deputy, or assistant defined in paragraph (16);

5 (10) First deputy and deputy attorneys general, the  
6 administrative services manager of the department of  
7 the attorney general, one secretary for the  
8 administrative services manager, an administrator and  
9 any support staff for the criminal and juvenile  
10 justice resources coordination functions, and law  
11 clerks;

12 (11) (A) Teachers, principals, vice-principals,  
13 complex area superintendents, deputy and  
14 assistant superintendents, other certificated  
15 personnel, not more than twenty noncertificated  
16 administrative, professional, and technical  
17 personnel not engaged in instructional work;

18 (B) Effective July 1, 2003, teaching assistants,  
19 educational assistants, bilingual/bicultural  
20 school-home assistants, school psychologists,  
21 psychological examiners, speech pathologists,  
22 athletic health care trainers, alternative school  
23 work study assistants, alternative school

.B. NO.          

1                   educational/supportive services specialists,  
2                   alternative school project coordinators, and  
3                   communications aides in the department of  
4                   education;

5                   (C) The special assistant to the state librarian  
6                   and one secretary for the special assistant to  
7                   the state librarian; and

8                   (D) Members of the faculty of the University of  
9                   Hawaii, including research workers, extension  
10                  agents, personnel engaged in instructional work,  
11                  and administrative, professional, and technical  
12                  personnel of the university;

13                 (12) Employees engaged in special, research, or  
14                  demonstration projects approved by the governor;

15                 (13) (A) Positions filled by inmates, patients of  
16                  state institutions, persons with severe physical  
17                  or mental disabilities participating in the work  
18                  experience training programs;

19                 (B) Positions filled with students in accordance  
20                  with guidelines for established state employment  
21                  programs; and

22                 (C) Positions that provide work experience

.B. NO.          

1                   training or temporary public service employment  
2                   that are filled by persons entering the workforce  
3                   or persons transitioning into other careers under  
4                   programs such as the federal Workforce Investment  
5                   Act of 1998, as amended, or the Senior Community  
6                   Service Employment Program of the Employment and  
7                   Training Administration of the United States  
8                   Department of Labor, or under other similar state  
9                   programs;

10           (14) A custodian or guide at Iolani Palace, the Royal  
11           Mausoleum, and Hulihee Palace;

12           (15) Positions filled by persons employed on a fee,  
13           contract, or piecework basis, who may lawfully perform  
14           their duties concurrently with their private business  
15           or profession or other private employment and whose  
16           duties require only a portion of their time, if it is  
17           impracticable to ascertain or anticipate the portion  
18           of time to be devoted to the service of the State;

19           (16) Positions of first deputies or first assistants of  
20           each department head appointed under or in the manner  
21           provided in section 6, article V, of the Hawaii State  
22           Constitution; three additional deputies or assistants  
23           either in charge of the highways, harbors, and

\_\_\_\_.B. NO.\_\_\_\_

1 airports divisions or other functions within the  
2 department of transportation as may be assigned by the  
3 director of transportation, with the approval of the  
4 governor; four additional deputies in the department  
5 of health, each in charge of one of the following:  
6 behavioral health, environmental health, hospitals,  
7 and health resources administration, including other  
8 functions within the department as may be assigned by  
9 the director of health, with the approval of the  
10 governor; an administrative assistant to the state  
11 librarian; and an administrative assistant to the  
12 superintendent of education;

13 (17) Positions specifically exempted from this part by any  
14 other law; provided that:

15 (A) Any exemption created after July 1, 2014, shall  
16 expire three years after its enactment unless  
17 affirmatively extended by an act of the  
18 legislature; and

19 (B) All of the positions defined by paragraph (9)  
20 shall be included in the position classification  
21 plan;

22 (18) Positions in the state foster grandparent program and

**.B. NO.**           

- 1           positions for temporary employment of senior citizens  
2           in occupations in which there is a severe personnel  
3           shortage or in special projects;
- 4       (19) Household employees at the official residence of the  
5           president of the University of Hawaii;
- 6       (20) Employees in the department of education engaged in  
7           the supervision of students during meal periods in the  
8           distribution, collection, and counting of meal  
9           tickets, and in the cleaning of classrooms after  
10          school hours on a less than half-time basis;
- 11       (21) Employees hired under the tenant hire program of the  
12          Hawaii public housing authority; provided that not  
13          more than twenty-six per cent of the authority's  
14          workforce in any housing project maintained or  
15          operated by the authority shall be hired under the  
16          tenant hire program;
- 17       (22) Positions of the federally funded expanded food and  
18          nutrition program of the University of Hawaii that  
19          require the hiring of nutrition program assistants who  
20          live in the areas they serve;
- 21       (23) Positions filled by persons with severe disabilities

.B. NO.          

- 1           who are certified by the state vocational  
2           rehabilitation office that they are able to perform  
3           safely the duties of the positions;
- 4       (24) The sheriff;
- 5       (25) A gender and other fairness coordinator hired by the  
6           judiciary;
- 7       (26) Positions in the Hawaii National Guard youth and adult  
8           education programs;
- 9       (27) In the state energy office in the department of  
10           business, economic development, and tourism, all  
11           energy program managers, energy program specialists,  
12           energy program assistants, and energy analysts;
- 13       (28) Administrative appeals hearing officers in the  
14           department of human services;
- 15       (29) In the Med-QUEST division of the department of human  
16           services, the division administrator, finance officer,  
17           health care services branch administrator, medical  
18           director, and clinical standards administrator;
- 19       (30) In the director's office of the department of human  
20           services, the enterprise officer, information security  
21           and privacy compliance officer, security and privacy  
22           compliance engineer, and security and privacy  
23           compliance analyst; [~~and~~]

.B. NO.          

1           [+] (31) [+] The alzheimer's disease and related dementia  
2                    services coordinator in the executive office on  
3                    aging[-]; and

4           (32) The administrator for the law enforcement standards  
5                    board.

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

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

10          SECTION 3. Section 139-2, Hawaii Revised Statutes, is  
11 amended by amending subsections (a) and (b) to read as follows:

12          "(a) There is established the law enforcement standards  
13 board within the department of the attorney general for  
14 administrative purposes only. The purpose of the board shall be  
15 to provide programs and standards for training and certification  
16 of law enforcement officers. The law enforcement standards  
17 board shall consist of the following voting members: nine ex  
18 officio individuals[~~,-two~~] or their designees, five law  
19 enforcement officers, and four members of the public.

20          (1) The nine ex officio members of the board shall consist  
21 of the:

22           (A) Attorney general[+] or the attorney general's  
23                    designee;

.B. NO.          

- 1           (B) Director of public safety[+] or the director's
- 2                   designee;
- 3           (C) Director of transportation or the director's
- 4                   designee;
- 5           (D) Chairperson of the board of land and natural
- 6                   resources or chairperson's designee;
- 7           (E) Director of taxation or the director's designee;
- 8                   and
- 9           (F) Chiefs of police of the four counties[+] or the
- 10                   designee of each of the chiefs of police;
- 11       (2) The [~~two~~] five law enforcement officers shall be from
- 12                   each of the four counties and one from the State,
- 13                   shall each have at least ten years of experience as a
- 14                   law enforcement officer [~~and~~], shall be appointed by
- 15                   the governor[+] and, notwithstanding section 26-34,
- 16                   shall not be subject to senatorial confirmation; and
- 17       (3) The four members of the public shall consist of one
- 18                   member of the public from each of the four counties
- 19                   and shall be appointed by the governor[+] and,
- 20                   notwithstanding section 26-34, shall not be subject to
- 21                   senatorial confirmation. At least two of the four
- 22                   members of the public holding a position on the board
- 23                   at any given time shall:

.B. NO.          

- 1           (A) Possess a master's or doctorate degree related to  
2           criminal justice;
- 3           (B) Possess a law degree and have experience:
- 4               (i) Practicing in Hawaii as a deputy attorney  
5               general, a deputy prosecutor, a deputy  
6               public defender, or a private criminal  
7               defense attorney; or
- 8               (ii) Litigating constitutional law issues in  
9               Hawaii;
- 10          (C) Be a recognized expert in the field of criminal  
11          justice, policing, or security; or
- 12          (D) Have work experience in a law enforcement  
13          capacity[~~; provided that experience in a county~~  
14          ~~police department shall not itself be sufficient~~  
15          ~~to qualify under this paragraph].~~

16           (b) The law enforcement officers and the members of the  
17 public on the board shall serve for a term of [~~three~~] four  
18 years, provided that the initial terms shall be staggered, as  
19 determined by the governor."

20           SECTION 4. Section 139-3, Hawaii Revised Statutes, is  
21 amended to read as follows:

22           "~~{~~§139-3~~}~~ **Powers and duties of the board.** The board  
23 shall:

\_\_\_\_.B. NO.\_\_\_\_

- 1 (1) Adopt rules in accordance with chapter 91 to implement  
2 this chapter;
- 3 (2) Establish minimum standards for employment as a law  
4 enforcement officer and to certify persons to be  
5 qualified as law enforcement officers;
- 6 (3) Establish criteria and standards in which a person who  
7 has been denied certification, whose certification has  
8 been revoked by the board, or whose certification has  
9 lapsed may reapply for certification;
- 10 (4) Establish minimum criminal justice curriculum  
11 requirements for basic, specialized, and in-service  
12 courses and programs for schools operated by or for  
13 the State or a county for the specific purpose of  
14 training law enforcement officers;
- 15 (5) Consult and cooperate with the counties, agencies of  
16 the State, other governmental agencies, universities,  
17 colleges, and other institutions concerning the  
18 development of law enforcement officer training  
19 schools and programs of criminal justice instruction;
- 20 (6) Employ [~~7, subject to chapter 76,~~] an administrator,  
21 without regard to chapter 76, and other persons  
22 necessary to carry out its duties under this chapter;

\_\_\_\_.B. NO.\_\_\_\_

- 1 (7) Investigate when there is reason to believe that a law  
2 enforcement officer does not meet the minimum  
3 standards for employment, and in so doing, may:  
4 (A) Subpoena persons, books, records, or documents;  
5 (B) Require answers in writing under oath to  
6 questions asked by the board; and  
7 (C) Take or cause to be taken depositions as needed  
8 in investigations, hearings, and other  
9 proceedings,  
10 related to the investigation;
- 11 (8) Establish and require participation in continuing  
12 education programs for law enforcement officers;
- 13 (9) Have the authority to charge and collect fees for  
14 applications for certification as a law enforcement  
15 officer; [~~and~~]
- 16 (10) Establish procedures and criteria for the revocation  
17 of certification issued by the board[~~-~~];
- 18 (11) Consider studies relevant to the board's objectives,  
19 including but not limited to the study that examines  
20 consolidating the law enforcement activities and  
21 responsibilities of various state divisions and  
22 agencies under a single, centralized state enforcement

1           division or agency, conducted pursuant to Act 124,  
2           Session Laws of Hawaii 2018; and  
3           (12) Conduct its own study to evaluate how to efficiently  
4           and effectively satisfy its duties in accordance with  
5           the law."

6           SECTION 5. Act 220, Session Laws of Hawaii 2018, is  
7 amended by amending section 6 to read as follows:

8           "SECTION 6. This Act shall take effect on July 1, 2018;  
9 provided that [~~the law enforcement standards board established~~  
10 ~~under this Act shall finalize its standards and certification~~  
11 ~~process by July 1, 2019.~~] sections -6 and -7 of the new  
12 chapter in section 2 of this Act shall take effect on July 1,  
13 2023."

14           SECTION 6. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$375,000 or so much  
16 thereof as may be necessary for fiscal year 2020-2021 for  
17 deposit into the law enforcement standards board special fund.

18           SECTION 7. There is appropriated out of the law  
19 enforcement standards board special fund the sum of \$375,000 or  
20 so much thereof as may be necessary for the fiscal year  
21 2020-2021 for:

22           (1) One permanent administrator position (1.0 FTE) exempt  
23           from chapter 76, Hawaii Revised Statutes, and one

\_\_\_\_.B. NO.\_\_\_\_

1 permanent clerical position (1.0 FTE) subject to  
2 chapter 76, Hawaii Revised Statutes; and  
3 (2) Administration, travel, and operating costs of the law  
4 enforcement standards board.

5 The sum appropriated shall be expended by the law  
6 enforcement standards board.

7 SECTION 8. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun, before the effective date of this Act.

10 SECTION 9. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 10. This Act shall take effect upon its approval.

13

14 INTRODUCED BY: \_\_\_\_\_

15

BY REQUEST

\_\_\_\_.B. NO.\_\_\_\_

1 **Report Title:**

2 Law Enforcement Standards Board

3

4 **Description:**

5 Clarifies membership and certain powers and duties of the Law  
6 Enforcement Standards Board, establishes new deadlines for the  
7 completion of board responsibilities, and provides appropriate  
8 funds and resources to enable the board to accomplish its  
9 mission.

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

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT.

PURPOSE: To clarify board membership requirements, to enable the board to research the impact of standards, certification and training requirements on existing legal requirements, to establish new deadlines for the completion of the board's responsibilities, to provide the necessary funds and resources for the board's mission, and to exempt the board administrator position from chapter 76.

MEANS: Amend sections 76-16(b), 139-2, and 139-3, Hawaii Revised Statutes, and section 6 of Act 220, Session Laws of Hawaii 2018 ("Act 220").

JUSTIFICATION: The board is responsible for establishing minimum standards for employment as a law enforcement officer and certifying persons qualified as law enforcement officers. It is also responsible for establishing minimum criminal justice curriculum requirements for basic, specialized, and in-service courses and programs for the training of law enforcement officers. It must consult and cooperate with the counties, state agencies, other governmental agencies, universities and colleges, and other institutions, concerning the development of law enforcement officer training schools and programs. The board is also responsible for regulating and enforcing the certification requirements of law enforcement officers.

Increasing the size of the board and allowing ex-officio members to use designees will expand the perspective of the board

while increasing its operational flexibility.

Collective bargaining and employment laws and rules dictate various aspects of a law enforcement officer's career from start to finish. Explicitly authorizing the board to study and evaluate these laws, rules, and agreements will allow the board to establish standards, certifications and training requirements in a purposeful and intentional manner.

A proper study and evaluation takes time and resources; therefore, certain aspects of the new chapter established by Act 220 should take effect on July 1, 2023, and an increased amount should be appropriated to fund dedicated staff.

The board administrator position is being made exempt from civil service because the new board requires flexibility to meet its broad duties and responsibilities and tight deadlines. The board's role, and that of the administrator, are unique and not within the traditional civil service classification system. The board needs the discretion to hire or terminate without the burden of complying with civil service requirements.

Impact on the public: The public will benefit from careful consideration of the existing laws, rules and agreements by a better-resourced, larger, and more operationally flexible board. This should result in better standards, certification, and training requirements and thereby increase public confidence in law enforcement and improve public safety generally.

Impact on the department and other agencies: Approval of this bill will have a direct positive effect on the board's ability to execute its responsibilities.

Additionally, county police officers, state public safety officers, and employees with police powers at the departments of Transportation, of Land and Natural Resources, of the Attorney General, and Taxation will all benefit from better standards, certification, and training requirements.

GENERAL FUND: \$483,000.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: Departments of Transportation, of Land and Natural Resources, and of Taxation.

EFFECTIVE DATE: Upon approval.