

A BILL FOR AN ACT
RELATING TO LAW ENFORCEMENT AUTHORITY.

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

SECTION 1. The legislature finds that Act 220, Session Laws of Hawaii 2018, established the law enforcement standards board for the certification of law enforcement officers. The board is charged with providing programs and standards for the training and certification of law enforcement officers, including establishing minimum standards for employment as a law enforcement officer, certifying persons qualified as law enforcement officers, and establishing minimum criminal justice curriculum requirements for law enforcement training.

The legislature further finds that chapter 139, Hawaii Revised Statutes, should operate as the statewide certification framework for persons authorized to act as law enforcement officers or exercise state-recognized police powers. Existing law defines law enforcement officers differently across multiple chapters, and certain statutes confer law enforcement authority, arrest authority, criminal enforcement duties, or police powers outside the certification framework established by chapter 139.

The purpose of this Act is to align statutes that confer law enforcement authority or police powers with chapter 139, Hawaii Revised Statutes, by establishing board certification as the legal prerequisite for acting as a law enforcement officer or exercising state-recognized police powers in the State.

SECTION 2. Section 139-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"Law enforcement authority" means authority conferred by law or governmental action to act as a law enforcement officer or to exercise police powers.

"Police powers" means authority conferred by law or governmental action to maintain public order, enforce criminal laws, execute or serve warrants or other criminal process, conduct criminal investigations, detain persons, make arrests, or carry or use weapons in the performance of law enforcement duties. "Police powers" does not include private-person arrest authority, licensure under chapter 463, firearm licensing, civil process service, employment as private security, or use of a uniform, badge, title, vehicle marking, or equipment unless separate law confers public law enforcement authority.

SECTION 3. 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) 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 land and natural resources, department of taxation, or department of the attorney general who is conferred by law with general police powers~~[-.];~~ or

(4) Any other person who is employed, appointed, commissioned, contracted, designated, deputized, or otherwise placed to serve in a capacity that requires the exercise of law enforcement authority or police powers in the State.

SECTION 4. Section 139-6, Hawaii Revised Statutes, is amended by adding two new subsections to be appropriately designated and to read as follows:

() The board may establish certification classifications based on the type and scope of law enforcement authority or police powers conferred upon a law enforcement officer. Certification classifications may include full, conditional, provisional, limited, specialized, reserve, or other classifications established by the board by rule.

() Board certification shall be the legal prerequisite for a person to act as a law enforcement officer or exercise state-recognized law enforcement authority or police powers in the State. No person shall act as a law enforcement officer or exercise state-recognized law enforcement authority or police powers unless the person is certified by the board as required by this chapter.

SECTION 5. Section 139-7, Hawaii Revised Statutes, is amended to read as follows:

"§139-7 ~~{Law enforcement officer; certification required.}~~ Certification required for law enforcement authority. (a) No ~~{person shall be appointed or employed as a law enforcement officer by any county police department, the department of law enforcement, the department of land and natural resources, the department of taxation, or the department of the attorney general after June 30, 2026, unless the person}~~ agency, public body, officer, official, or other entity shall employ, appoint, commission, contract, designate, deputize, or otherwise place a person to serve in a capacity that requires the exercise of law enforcement authority or police powers unless the person possesses a valid certification issued by the board pursuant to section 139-6~~{(b)}~~.

(b) This section shall not apply to a person ~~{employed}~~ serving on a probationary or conditional basis as authorized by the board~~{.}~~; provided that ~~{employment}~~ service on a probationary or conditional basis shall not exceed the period authorized ~~{for probationary employment as determined}~~ by the board."

SECTION 6. Section 21-17, Hawaii Revised Statutes, is amended to read as follows:

"§21-17 Sergeants-at-arms; powers and duties. (a) The sergeant-at-arms of each house of the legislature, and each of the sergeant-at-arms' deputies appointed by authority of such house, shall:

(1) Attend such house during its sittings;

(2) Maintain order under the direction of the speaker, president, or other presiding officer of such house; and

(3) Under the direction of the clerk of such house, execute the commands of such house and all processes issued by authority thereof, directed to the sergeant-at-arms by the speaker, president, or other presiding officer of such house, or by the chairperson or acting

chairperson of any joint committee established by a concurrent resolution of the two houses of the legislature, or by the chairperson or acting chairperson of any committee of either house. In this connection the sergeant-at-arms and each of the sergeant-at-arms' deputies shall have all the powers and authority of a police officer, including the power of arrest.

(b) Law enforcement authority or police powers conferred under this section do not constitute certification under chapter 139. A person shall not be employed, appointed, commissioned, contracted, designated, deputized, or otherwise placed to serve in a capacity requiring the exercise of law enforcement authority or police powers under this section unless the person is certified as required by chapter 139."

SECTION 7. Section 28-11, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

As required under chapter 139, no person shall be appointed or employed by the department of the attorney general as a law enforcement officer unless the person meets the standards for law enforcement officer certification established by the law enforcement standards board.

SECTION 8. Section 109-5, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

Law enforcement authority or police powers conferred under this section do not constitute certification under chapter 139. A person shall not be employed, appointed, commissioned, contracted, designated, deputized, or otherwise placed to serve in a capacity requiring the exercise of law enforcement authority or police powers under this section unless the person is certified as required by chapter 139.

SECTION 9. Section 184-5, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

As required under chapter 139, no person shall be appointed or employed by the department of land and natural resources as a law enforcement officer unless the person meets the standards for law enforcement officer certification established by the law enforcement standards board.

SECTION 10. Section 199-4, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

As required under chapter 139, no person shall be appointed or employed by the department of land and natural resources as a law enforcement officer unless the person meets the standards for law enforcement officer certification established by the law enforcement standards board.

SECTION 11. Section 231-4.3, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

As required under chapter 139, no person shall be appointed or employed by the department of taxation as a law enforcement officer unless the person meets the standards for law enforcement officer certification established by the law enforcement standards board.

SECTION 12. Section 231-83, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

As required under chapter 139, no person shall be appointed or employed by the department of taxation as a law enforcement officer unless the person meets the standards for law enforcement officer certification established by the law enforcement standards board.

SECTION 13. Section 261-17, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

Law enforcement authority or police powers conferred under this section do not constitute certification under chapter 139. A person shall not be employed, appointed, commissioned, contracted, designated, deputized, or otherwise placed to serve in a capacity requiring the exercise of law enforcement authority or police powers under this section unless the person is certified as required by chapter 139.

SECTION 14. Section 266-24, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

Law enforcement authority or police powers conferred under this section do not constitute certification under chapter 139. A person shall not be employed, appointed, commissioned, contracted, designated, deputized, or otherwise placed to serve in a capacity requiring the exercise of law enforcement authority or police powers under this section unless the person is certified as required by chapter 139.

SECTION 15. Section 353C-4, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

As required under chapter 139, no person shall be appointed or employed by the department of law enforcement as a law enforcement officer unless the person meets the standards for law enforcement officer certification established by the law enforcement standards board.

SECTION 16. Chapter 463, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

§463- Law enforcement authority; police powers; exclusion. Licensure, registration, employment, or contractual authority under this chapter does not confer law enforcement authority or police powers and does not constitute certification under chapter 139.

SECTION 17. Section 576D-18, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

As required under chapter 139, no person shall be appointed or employed by the child support enforcement agency as a law enforcement officer unless the person meets the standards for law enforcement officer certification established by the law enforcement standards board.

SECTION 18. Section 803-3, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

Nothing in this section confers law enforcement authority or police powers or constitutes certification under chapter 139.

SECTION 19. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 20. This Act shall take effect upon its approval.

INTRODUCED BY: _____

DRAFT

Report Title:

Law Enforcement Authority; Law Enforcement Standards Board; Police Powers; Certification

Description:

Establishes law enforcement standards board certification as the state certification prerequisite for any person to act as a law enforcement officer or exercise state-recognized law enforcement authority or police powers. Amends the definition of law enforcement officer. Authorizes certification classifications based on the scope of authority conferred. Adds chapter 139 cross-reference language to statutes that confer law enforcement authority or police powers. Clarifies that private security licensure, firearm licensing, civil process service, and private-person arrest authority do not confer law enforcement authority, police powers, or chapter 139 certification.

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