
A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT REFORM.

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

1 SECTION 1. Chapter 139, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:
4 "§139- Law enforcement use of force policies. (a) Any
5 department or agency employing a law enforcement officer shall
6 maintain a policy that provides a minimum standard on the use of
7 force that shall include:
8 (1) A requirement that law enforcement officers utilize
9 de-escalation techniques, crisis intervention tactics,
10 and other alternatives to force when feasible;
11 (2) A requirement that a law enforcement officer may only
12 use a level of force that the law enforcement officer
13 reasonably believes is proportional to the seriousness
14 of the suspected offense or the reasonably perceived
15 level of actual or threatened resistance;
16 (3) A requirement that law enforcement officers report
17 potential excessive force to a superior law



1 enforcement officer when present and observing another
2 law enforcement officer using force that the observing
3 law enforcement officer believes to be beyond that
4 which is necessary, as determined by an objectively
5 reasonable law enforcement officer under the
6 circumstances, based upon the totality of information
7 actually known to the observing law enforcement
8 officer;

9 (4) Clear and specific guidelines regarding situations in
10 which law enforcement officers may or may not draw a
11 firearm or point a firearm at a person;

12 (5) A requirement that law enforcement officers consider
13 their surroundings and potential risks to bystanders,
14 to the extent reasonable under the circumstances,
15 before discharging a firearm;

16 (6) Procedures for the filing, investigation, and
17 reporting of citizen complaints regarding use of force
18 incidents;

19 (7) A requirement that a law enforcement officer intercede
20 when present and observing another law enforcement
21 officer using force that is clearly beyond that which



1 is necessary, as determined by an objectively
2 reasonable law enforcement officer under the
3 circumstances, taking into account the possibility
4 that other law enforcement officers may have
5 additional information regarding the threat posed by a
6 subject;

7 (8) Comprehensive and specific guidelines regarding
8 approved methods and devices available for the
9 application of force;

10 (9) An explicitly stated requirement that law enforcement
11 officers carry out duties, including use of force, in
12 a manner that is fair and unbiased;

13 (10) Comprehensive and specific guidelines for the
14 application of deadly force;

15 (11) Comprehensive and detailed requirements for prompt
16 internal reporting and notification regarding a use of
17 force incident;

18 (12) The role of supervisors in review of use of force
19 applications;

20 (13) A requirement that law enforcement officers promptly
21 provide, if properly trained, or otherwise promptly



- 1 procure medical assistance for persons injured in a
2 use of force incident, when reasonable and safe to do
3 so;
- 4 (14) Training standards and requirements relating to
5 demonstrated knowledge and understanding of the law
6 enforcement agency's use of force policy by law
7 enforcement officers, investigators, and supervisors;
- 8 (15) Training and guidelines regarding vulnerable
9 populations, including children; elderly persons;
10 people who are pregnant; and people having physical,
11 mental, and developmental disabilities;
- 12 (16) Comprehensive and specific guidelines under which the
13 discharge of a firearm at or from a moving vehicle may
14 or may not be permitted;
- 15 (17) Factors for evaluating and reviewing all use of force
16 incidents;
- 17 (18) Minimum training and course titles required to meet
18 the objectives in the use of force policy; and
- 19 (19) A requirement for the regular review and updating of
20 the use of force policy to reflect evolving practices
21 and procedures.



1 (b) Each department or agency employing a law enforcement
2 officer shall make its use of force policy adopted pursuant to
3 this section accessible to the public.

4 (c) A department or agency's use of force policies and
5 training pursuant to this section may be introduced as evidence
6 in proceedings involving a law enforcement officer's use of
7 force.

8 §139- Reports of use of excessive force by law
9 enforcement officers. (a) It shall be the duty of a law
10 enforcement officer who observes another law enforcement officer
11 using force that the observing law enforcement officer believes
12 to be beyond that which is necessary, as determined by an
13 objectively reasonable law enforcement officer under the
14 circumstances, based upon the totality of information actually
15 known to the observing law enforcement officer to notify the
16 division head of the law enforcement officer who exercised the
17 use of excessive force. The notice shall be submitted in
18 writing immediately or as soon as is practicable after observing
19 the use of excessive force.

20 (b) After receiving written notification, the division
21 head shall complete an investigation pursuant to subsection (c)



1 as soon as practicable and notify the state department deputy
2 director or chief of police of the respective county, as
3 applicable, of the outcome of the investigation in writing.

4 (c) Any division head who receives a report of use of
5 excessive force under this section shall immediately begin
6 conducting an investigation and reach a timely determination on
7 the merits. If the division head determines that sufficient
8 evidence shows that the law enforcement officer used excessive
9 force, the name of the law enforcement officer who exercised the
10 use of excessive force and act of excessive force shall be
11 disclosed to the state department deputy director or chief of
12 police of the respective county, as applicable. If the division
13 head determines that evidence of use of excessive force is
14 insufficient, the division head shall provide the state
15 department deputy director or chief of police of the respective
16 county, as applicable, with the outcome of the investigation but
17 shall redact any personally identifiable information of the
18 individuals involved in the investigation.

19 (d) Within fifteen days of receiving written notification
20 of the outcome of the investigation, the state department deputy
21 director or chief of police who received the written



1 notification shall notify the state department director or
2 police commission of the respective county, as applicable, of
3 the outcome of the investigation in writing.

4 (e) If the department head or division head is the subject
5 of the use of excessive force report, the reporting law
6 enforcement officer shall report to:

7 (1) In the case of a state department head or division
8 head, the attorney general; or

9 (2) In the case of a county department head or division
10 head, the police commission of the respective county,
11 who shall be responsible for the investigation.

12 (f) The attorney general or police commission who receives
13 a report of use of excessive force pursuant to subsection (e)
14 shall begin conducting an investigation as soon as practicable
15 and reach a timely determination on the merits.

16 (g) No discriminatory, disciplinary, or retaliatory action
17 shall be taken against any reporting law enforcement officer for
18 any information provided or disclosed by the reporting law
19 enforcement officer in good faith in the course of making a
20 report of use of excessive force under this section.

21 (h) For purposes of this section:



1 "Department head" means the official or officer having the
2 most managerial or administrative authority in the state
3 department or county agency, including the chief of police.

4 "Division head" means the official or officer who, subject
5 to the authority of the department head, has the most managerial
6 or administrative authority within a division in the state
7 department or county agency.

8 "Excessive force" means force that is beyond what is
9 reasonably necessary, as determined by an objectively reasonable
10 law enforcement officer, under the circumstances as actually and
11 reasonably known to the law enforcement officer exercising the
12 force."

13 SECTION 2. Section 139-6, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) No person may be appointed as a law enforcement
16 officer unless the person:

17 (1) Has satisfactorily completed a basic program of law
18 enforcement training approved by the board; [~~and~~]

19 (2) Has received training designed to minimize the use of
20 excessive force, including legal standards,
21 de-escalation techniques, crisis intervention tactics,



1 mental health response, implicit bias, and first aid;

2 and

3 ~~[-2-]~~ (3) Possesses other qualifications as prescribed by
4 the board for the employment of law enforcement
5 officers, including minimum age, education, physical
6 and mental standards, citizenship, good conduct, moral
7 character, and experience."

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on June 30, 3000.



Report Title:

Law Enforcement Officers; Use of Force; Policies; Reports;
Training

Description:

Requires any department or agency employing law enforcement officers to maintain publicly available policies on minimum standards on the use of force. Allows use of force policies and training to be introduced as evidence in proceedings. Requires law enforcement officers to report the use of excessive force by another law enforcement officer. Requires that law enforcement officers receive training designed to minimize the use of excessive force. Effective 6/30/3000. (HD2)

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