

JAN 19 2011

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF THE SHERIFF.

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

1 SECTION 1. The legislature finds that the sheriff division
2 of the department of public safety shoulders responsibilities
3 that are integral to preserving the public peace and safety.
4 Specifically, the division:

5 (1) Serves and protects the public, government officials,
6 and state personnel and property under its
7 jurisdiction, including at state facilities, lands,
8 airports, and within the jurisdictional boundaries of
9 the State of Hawaii, by providing law enforcement
10 services that incorporate patrols, surveillance, and
11 educational activities;

12 (2) Protects state judges and judicial proceedings,
13 secures judicial facilities, safely handles detained
14 persons, and provides secure transport for persons in
15 custody; and

16 (3) Executes arrest warrants for the judiciary and the
17 Hawaii paroling authority.



1 The legislature also finds that pursuant to Act 162,
2 Session Laws of Hawaii 2009, and House Concurrent Resolution
3 No. 92, H.D. 1 (2009), the auditor conducted a management audit
4 of the sheriff division, which found the division to be bereft
5 of the training and equipment necessary to fulfill its mission.
6 The audit recommended that the division seek accreditation from
7 the Commission on Accreditation for Law Enforcement Agencies,
8 Inc. to help ensure that proper law enforcement standards are
9 met. The Commission on Accreditation for Law Enforcement
10 Agencies, Inc., created in 1979, serves as a law enforcement
11 credentialing authority through collaboration with law
12 enforcement executive associations. Both Honolulu and Maui
13 police departments are accredited by the Commission on
14 Accreditation for Law Enforcement Agencies, Inc., and the
15 auditor used the Commission's *Standards for Law Enforcement*
16 *Agencies*, fifth edition, as a benchmark for its audit. The
17 legislature finds that the creation of a separate department of
18 the sheriff facilitates accreditation by the Commission on
19 Accreditation for Law Enforcement Agencies, Inc.

20 The purpose of this Act is to create a department of the
21 sheriff to assume the duties and functions of the sheriff
22 division.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 DEPARTMENT OF THE SHERIFF

6 § -A Definitions. As used in this chapter:

7 "Department" means the department of the sheriff.

8 "Sheriff" refers to the director of the department of the
9 sheriff.

10 § -B Establishment of the department. (a) There is
11 established the department of the sheriff.

12 (b) The department shall be headed by a single executive
13 to be known as the sheriff who shall be appointed in accordance
14 with section 26-34; provided that the sheriff shall have
15 previous experience in law enforcement to be qualified for the
16 position to which appointed.

17 (c) The department shall consist of the authority,
18 functions, and services as exercised by the sheriff division of
19 the department of public safety prior to July 1, 2012, as more
20 specifically provided in section -E.

21 § -C Sheriff; powers and duties. The sheriff shall
22 administer the law enforcement programs of the department of the



S.B. NO. 11

1 sheriff and shall be responsible for the formulation and
2 implementation of state goals and objectives for these programs.

3 In the administration of these programs, the sheriff may:

4 (1) Preserve the public peace, prevent crime, detect and
5 arrest offenders against the law, protect the rights
6 of persons and property, and enforce and prevent
7 violation of all laws and administrative rules of the
8 State as the sheriff deems to be necessary or
9 desirable or upon request, to assist other state
10 officers or agencies that have primary administrative
11 responsibility over specific subject matters or
12 programs;

13 (2) Train, equip, maintain, and supervise the force of
14 deputy sheriffs and other employees of the department;

15 (3) Serve process both in civil and criminal proceedings;

16 (4) Perform other duties as may be required by law;

17 (5) Adopt, pursuant to chapter 91, rules that are
18 necessary or desirable for the administration of law
19 enforcement programs; and

20 (6) Enter into contracts in behalf of the department and
21 take all actions deemed necessary and appropriate for



1 the proper and efficient administration of the
2 department.

3 § -D **Appointment of personnel.** The sheriff shall
4 appoint a chief deputy sheriff to serve as the functional
5 equivalent of a deputy department director. The chief deputy
6 sheriff shall have previous experience in law enforcement to be
7 qualified for the position to which appointed.

8 § -E **Duties and functions.** (a) The objective of the
9 department of the sheriff is to provide for the protection and
10 safety of the people of Hawaii through law enforcement at state
11 facilities, lands, harbors, and airports, and within the
12 jurisdictional boundaries of the State of Hawaii. In fulfilling
13 this objective, the department of the sheriff shall:

14 (1) Apprehend fugitives, enter and secure sites where
15 search and arrest warrants are being executed, and
16 receipt, record, and serve arrest warrants and other
17 legal documents issued by the state courts;

18 (2) Provide law enforcement, which incorporates patrols,
19 surveillance, and educational activities, in state
20 facilities, including the Honolulu civic center,
21 judiciary buildings, the state capitol, Washington
22 Place, the Hawaii state hospital, Waimano hospital,



S.B. NO. 11

1 and the state department of defense's Hawaii national
2 guard armory;

3 (3) Pursuant to agreement with the department of
4 transportation, provide law enforcement services for
5 Honolulu International Airport and surrounding areas
6 under the jurisdiction of the department of
7 transportation airports division, Kalaeloa airport,
8 and Dillingham airfield;

9 (4) Receive and process arrestees at the district and
10 circuit courts and for the neighbor islands, at the
11 respective county police department receiving desks,
12 and transport them to appropriate agencies and
13 authorized individuals;

14 (5) Provide law enforcement and protective services for
15 state judges and at state court proceedings, and
16 secure state judicial facilities and surrounding
17 property, including at the district and circuit courts
18 and the Hawaii supreme court;

19 (6) Provide executive protective services to key state
20 officials, including the governor and lieutenant
21 governor, and other dignitaries as directed by the
22 sheriff;



S.B. NO. 11

1 (7) Conduct criminal investigations as necessary in
2 connection with the duties and functions under this
3 section; and

4 (8) Serve as a central clearinghouse for the collection,
5 examination, storage, and disposal of all official
6 records, documents, and reports generated and used by
7 the department.

8 (b) The department of the sheriff may collaborate with the
9 judiciary, attorney general, and county police in furtherance of
10 the duties of the department under this section, including
11 entering into agreements pursuant thereto.

12 (c) The department of the sheriff shall have no
13 responsibilities relating to corrections under chapter 353 or to
14 controlled substances under chapter 329, unless the activities
15 are ancillary to the duties and functions set forth in this
16 section."

17 SECTION 3. Chapter 26, Hawaii Revised Statutes, is amended
18 by adding a new section to be appropriately designated and to
19 read as follows:

20 "§26- Department of the sheriff. (a) The department of
21 the sheriff shall be headed by a single executive to be known as
22 the sheriff.



1 (b) The sheriff shall be responsible for the
2 administration, management, and operations of law enforcement
3 activities of the department of the sheriff as provided by law."

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

6 "**§26-4 Structure of government.** Under the supervision of
7 the governor, all executive and administrative offices,
8 departments, and instrumentalities of the state government and
9 their respective functions, powers, and duties shall be
10 allocated among and within the following principal departments
11 that are hereby established:

- 12 (1) Department of human resources development (Section
13 26-5)
- 14 (2) Department of accounting and general services (Section
15 26-6)
- 16 (3) Department of the attorney general (Section 26-7)
- 17 (4) Department of budget and finance (Section 26-8)
- 18 (5) Department of commerce and consumer affairs (Section
19 26-9)
- 20 (6) Department of taxation (Section 26-10)
- 21 (7) University of Hawaii (Section 26-11)
- 22 (8) Department of education (Section 26-12)



- 1 (9) Department of health (Section 26-13)
- 2 (10) Department of human services (Section 26-14)
- 3 (11) Department of land and natural resources (Section
- 4 26-15)
- 5 (12) Department of agriculture (Section 26-16)
- 6 (13) Department of Hawaiian home lands (Section 26-17)
- 7 (14) Department of business, economic development, and
- 8 tourism (Section 26-18)
- 9 (15) Department of transportation (Section 26-19)
- 10 (16) Department of labor and industrial relations (Section
- 11 26-20)
- 12 (17) Department of defense (Section 26-21)
- 13 (18) Department of public safety (Section 26-14.6) [-]
- 14 (19) Department of the sheriff. (Section 26-)."

15 SECTION 5. Section 26-14.6, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§26-14.6 Department of public safety.** (a) The
18 department of public safety shall be headed by a single
19 executive to be known as the director of public safety.

20 (b) The department of public safety shall be responsible
21 for the formulation and implementation of state policies and
22 objectives for correctional [~~security, law~~], narcotics



1 enforcement and public safety programs and functions, for the
2 administration and maintenance of all public or private
3 correctional facilities and services, for the service of
4 process[7] as provided by law, and for the security of state
5 buildings.

6 (c) Effective July 1, 1990, the Hawaii paroling authority
7 and the crime victim compensation commission are placed within
8 the department of public safety for administrative purposes
9 only.

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

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

20 shall be transferred to the department of public safety[-];
21 provided that effective July 1, 2012, the functions and
22 authority described in paragraph (2) relating to the sheriff's



1 office and judiciary security shall be transferred to the
2 department of the sheriff.

3 (e) Effective July 1, 1990, the functions and authority
4 heretofore exercised by the department of health pursuant to
5 chapters 329 and 329C, with the exception of sections 329-2,
6 329-3, and 329-4(3) to (8), shall be transferred to the
7 department of public safety.

8 (f) Effective July 1, 1990, the functions, authority, and
9 obligations, together with the limitations imposed thereon and
10 the privileges and immunities conferred thereby, exercised by a
11 "sheriff", "sheriffs", a "sheriff's deputy", "sheriff's
12 deputies", a "deputy sheriff", "deputy sheriffs", or a "deputy",
13 under sections 21-8, 47-18, 105-4, 134-51, 183D-11, 187A-14,
14 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9,
15 353-11, 356D-54, 356D-94, 383-71, 438-5, 445-37, 482E-4,
16 485A-202, 501-42, 501-171, 501-218, 521-78, 578-4, 584-6,
17 587-33, 603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8,
18 634-11, 634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2,
19 655-2, 657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35,
20 804-14, 804-18, 804-41, 805-1, 806-71, and 832-23 shall be
21 exercised to the same extent by the department of public



1 safety[-] and effective July 1, 2012, by the department of the
2 sheriff.

3 (g) Effective January 1, 1993, the functions and authority
4 heretofore exercised by the attorney general and the department
5 of the attorney general relating to the executive security
6 officers shall be transferred to the department of public
7 safety[-], and effective July 1, 2012, to the department of the
8 sheriff.

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

17 (i) Effective January 1, 1993, the functions and authority
18 heretofore exercised by the director of health and the
19 department of health relating to uniformed security employees
20 and security contracts at various state hospitals throughout the
21 State shall be transferred to the department of public



1 safety[-], and effective July 1, 2012, to the department of
2 health.

3 Effective July 1, 2005, the functions, authority, and
4 employee positions of the department of public safety relating
5 to uniformed security employees and security contracts at health
6 facilities that are under the operation, management, and control
7 of the Hawaii health systems corporation shall be transferred to
8 the Hawaii health systems corporation.

9 ~~[(j)] Effective January 1, 1993, the functions and~~
10 ~~authority heretofore exercised by the director of human services~~
11 ~~and the department of human services relating to contractual~~
12 ~~security guard services shall be transferred to the department~~
13 ~~of public safety.~~

14 ~~[(k)]~~ (j) Effective July 1, 1994, the functions and
15 authority heretofore exercised by the adjutant general relating
16 to security for national guard and state civil defense
17 facilities in the Diamond Head complex, for after work hours,
18 shall be transferred to the department of public safety[-], and
19 effective July 1, 2012, to the department of defense.

20 ~~[(l)]~~ (k) Effective July 1, 2002, the functions and
21 authority heretofore exercised by the director of public safety
22 and the department of public safety relating to after hours



1 security contracts at department of education facilities,
2 including all security functions being performed by employees of
3 the public library system, as well as the contractual security
4 services for the libraries, shall be transferred to the
5 department of education and the public library system as
6 appropriate.

7 (1) Effective July 1, 2012, the functions and authority
8 heretofore exercised by the director of public safety relating
9 to sheriff division functions shall be transferred to the
10 sheriff as provided in sections -B and -C."

11 SECTION 6. Section 26-52, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§26-52 Department heads and executive officers.** The
14 salaries of the following state officers shall be as follows:

15 (1) The salary of the superintendent of education shall be
16 set by the board of education at a rate no greater
17 than \$150,000 a year;

18 (2) The salary of the president of the University of
19 Hawaii shall be set by the board of regents;

20 (3) Effective July 1, 2004, the salaries of all department
21 heads or executive officers of the departments of
22 accounting and general services, agriculture, attorney



1 general, budget and finance, business, economic
2 development, and tourism, commerce and consumer
3 affairs, Hawaiian home lands, health, human resources
4 development, human services, labor and industrial
5 relations, land and natural resources, public safety,
6 the sheriff, taxation, and transportation shall be as
7 last recommended by the executive salary commission.

8 Effective July 1, 2007, and every six years
9 thereafter, the salaries shall be as last recommended
10 by the commission on salaries pursuant to section
11 26-56, unless rejected by the legislature; and

12 (4) The salary of the adjutant general shall be \$85,302 a
13 year. Effective July 1, 2007, and every six years
14 thereafter, the salary of the adjutant general shall
15 be as last recommended by the commission on salaries
16 pursuant to section 26-56, unless rejected by the
17 legislature, except that if the state salary is in
18 conflict with the pay and allowance fixed by the
19 tables of the regular army or air force of the United
20 States, the latter shall prevail."

21 SECTION 7. Section 353C-2, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§353C-2 Director of public safety; powers and duties.

2 [+] (a) [~~+~~The] Except for those functions enumerated under
3 section -E which shall be the responsibility of the
4 department of the sheriff, the director of public safety shall
5 administer the public safety programs of the department of
6 public safety and shall be responsible for the formulation and
7 implementation of state goals and objectives for correctional
8 and [~~law~~] narcotics enforcement programs, including ensuring
9 that correctional facilities and correctional services meet the
10 present and future needs of persons committed to the
11 correctional facilities. In the administration of these
12 programs, the director [~~may~~]:

13 (1) [~~Preserve~~] Shall preserve the public peace, prevent
14 crime, detect and arrest offenders against the law,
15 protect the rights of persons and property [~~, and~~
16 ~~enforce~~];

17 (2) Shall enforce and prevent violation of all laws and
18 administrative rules of the State as the director
19 deems to be necessary or desirable or upon request, to
20 assist other state officers or agencies that have
21 primary administrative responsibility over specific
22 subject matters or programs;



1 ~~[-2- Train,]~~ (3) Shall train, equip, maintain, and
2 supervise the force of public safety officers,
3 including law enforcement and correctional personnel,
4 and other employees of the department;

5 ~~[-3-]~~ (4) Serve process both in civil and criminal
6 proceedings, as provided by law;

7 ~~[-4- Perform]~~ (5) Shall perform other duties as may be
8 required by law;

9 ~~[-5- Adopt,]~~ (6) Shall adopt pursuant to chapter 91,
10 rules that are necessary or desirable for the
11 administration of public safety programs; and

12 ~~[-6- Enter]~~ (7) May enter into contracts in behalf of
13 the department and take all actions deemed necessary
14 and appropriate for the proper and efficient
15 administration of the department.

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



1 SECTION 8. Section 353C-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+] §353C-3 []~~ Deputy directors; appointment. The
4 director shall appoint, without regard to chapter 76, three
5 deputy directors to serve at the director's pleasure. Unless
6 otherwise assigned by the director, one deputy director shall
7 oversee the correctional programs and facilities of the
8 department, one deputy director shall oversee the ~~[law]~~
9 narcotics enforcement programs of the department, and one deputy
10 director shall oversee administration of the department."

11 SECTION 9. The revisor shall substitute, as appropriate,
12 the term "department of the sheriff" for the term "office of the
13 sheriff" in existing statutes.

14 SECTION 10. Upon the effective date of this Act, and until
15 a salary commission established pursuant to article XVI, section
16 3.5 of the Hawaii constitution issues salary recommendations
17 that are not rejected by the legislature, the salaries of the
18 sheriff and chief deputy sheriff shall be equivalent to the
19 salaries of the director and deputy director of public safety.

20 SECTION 11. The revisor of statutes shall assign the
21 appropriate section numbers to the letter designations in
22 section 2 of this Act.



1 SECTION 12. All laws and parts of laws heretofore enacted
2 which are in conflict with the provisions of this Act are hereby
3 amended to conform herewith. All acts passed during the regular
4 session of 2012, whether enacted before or after passage of this
5 Act, shall be amended to conform to this Act, unless the Acts
6 specifically provide for the Act relating to the "department of
7 public safety" as being amended. Amendments made to sections of
8 the Hawaii Revised Statutes that are amended by this Act as of a
9 future effective date shall include amendments made after the
10 approval of this Act and before the effective date of the
11 amendments made by this Act, to the extent that the intervening
12 amendments may be harmonized with the amendments made by this
13 Act.

14 SECTION 13. All rights, powers, functions, and duties of
15 the sheriff division of the department of public safety are
16 transferred to the department of the sheriff.

17 All officers and employees whose functions are transferred
18 by this Act shall be transferred with their functions and shall
19 continue to perform their regular duties upon their transfer,
20 subject to the state personnel laws and this Act.

21 No officer or employee of the State having tenure shall
22 suffer any loss of salary, seniority, prior service credit,



1 vacation, sick leave, or other employee benefit or privilege as
2 a consequence of this Act, and such officer or employee may be
3 transferred or appointed to a civil service position without the
4 necessity of examination; provided that the officer or employee
5 possesses the minimum qualifications for the position to which
6 transferred or appointed; and provided that subsequent changes
7 in status may be made pursuant to applicable civil service and
8 compensation laws.

9 An officer or employee of the State who does not have
10 tenure and who may be transferred or appointed to a civil
11 service position as a consequence of this Act shall become a
12 civil service employee without the loss of salary, seniority,
13 prior service credit, vacation, sick leave, or other employee
14 benefits or privileges and without the necessity of examination;
15 provided that such officer or employee possesses the minimum
16 qualifications for the position to which transferred or
17 appointed.

18 If an office or position held by an officer or employee
19 having tenure is abolished, the officer or employee shall not
20 thereby be separated from public employment, but shall remain in
21 the employment of the State with the same pay and classification
22 and shall be transferred to some other office or position for



1 which the officer or employee is eligible under the personnel
2 laws of the State as determined by the head of the department or
3 the governor.

4 SECTION 14. All appropriations, records, equipment,
5 machines, files, supplies, contracts, books, papers, documents,
6 maps, and other personal property heretofore made, used,
7 acquired, or held by the sheriff division of the department of
8 public safety relating to the functions transferred to the
9 department of the sheriff shall be transferred with the
10 functions to which they relate.

11 SECTION 15. (a) The department of public safety shall
12 develop a complete organizational and budget plan, including
13 proposed statutory amendments, for the implementation and
14 operation of the department of the sheriff for submission to the
15 legislature by no later than twenty days prior to the convening
16 of the regular session of 2012, for purposes of the state budget
17 for fiscal year 2012-2013.

18 (b) The department of public safety shall also report to
19 the legislature by no later than twenty days prior to the
20 convening of the regular session of 2012, on any recommended
21 statutory revisions to section 88-74, Hawaii Revised Statutes,



1 relating to allowance on service retirement for personnel of the
2 department of the sheriff.

3 SECTION 16. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2011-2012 and
6 the same sum or so much thereof as may be necessary for fiscal
7 year 2012-2013 for the purposes of this Act.

8 The sums appropriated shall be expended by the department
9 of public safety and the department of the sheriff, as
10 appropriate, for the purposes of this Act.

11 SECTION 17. It is the intent of this Act not to jeopardize
12 the receipt of any federal aid nor to impair the obligation of
13 the State or any agency thereof to the holders of any bond
14 issued by the State or by any such agency, and to the extent,
15 and only to the extent, necessary to effectuate this intent, the
16 governor may modify the strict provisions of this Act, but shall
17 promptly report any such modification with reasons thereof to
18 the legislature at its next session thereafter for review by the
19 legislature.

20 SECTION 18. This Act shall not be applied so as to impair
21 any contract existing as of the effective date of this Act in a



S.B. NO. 11

1 manner violative of either the Hawaii constitution or Article I,
2 section 10, of the United States Constitution.

3 SECTION 19. Any claims, proceedings, or actions pending
4 against the department of public safety relating to correctional
5 facilities as of the date of this Act shall not be deemed to
6 encompass the department of the sheriff.

7 SECTION 20. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 21. This Act shall take effect on July 1, 2012;
10 provided that sections 15 and 16 shall take effect on July 1,
11 2011.

12

INTRODUCED BY: Erzanne Chun Oakland

He Chung Will Eyo
Melaine John Nike Hubbard



Report Title:

Department of the Sheriff; Appropriation

Description:

Creates a department of the sheriff to assume responsibilities and functions exercised by the sheriff division of the department of public safety. Makes appropriation.

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

