

JAN 20 2011

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# A BILL FOR AN ACT

RELATING TO SHERIFFS.

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

1           SECTION 1. Chapter 28, Hawaii Revised Statutes, is amended  
2 by adding a new part to be appropriately designated and to read  
3 as follows:

4   **"PART     .   SHERIFFS**

5           **§28-A Office of sheriff; created.** There shall be  
6 established within the department, a division to be known as the  
7 office of the sheriff, consisting of the sheriff, first deputy  
8 sheriff, and any additional deputies as the exigencies of the  
9 public service may require. Sheriffs shall be subject to the  
10 supervision and control of the attorney general.

11           **§28-B Definitions.** For the purpose of this part:

12           "Office" means the office of the sheriff established  
13 pursuant to section 28-A.

14           **§28-C Appointment.** The attorney general may appoint and  
15 commission and, at the attorney general's pleasure, remove the  
16 sheriff and any deputy sheriff.

17           The sheriff and deputy sheriffs shall be appointed without  
18 regard to chapter 76, but shall be entitled to participate in



1 any employee benefit program plan or privilege generally  
2 available to employees of the State.

3       **§28-D Duties.** The sheriff and the sheriff's deputies  
4 shall be responsible for service of process and execution of any  
5 order of the courts of this State, and any other duties  
6 specified and directed by the attorney general. In connection  
7 with the duties of office, the sheriff and the sheriff's  
8 deputies shall have all of the powers of a police officer,  
9 including the power of arrest.

10       **§28-E Process.** Any process of any court of record shall  
11 be addressed to the sheriff or the sheriff's deputy, or to a  
12 chief of police, except as may be otherwise provided by law or  
13 rule of court. The sheriff or the sheriff's deputy may execute  
14 the process according to its terms, and shall not be liable for  
15 any damages resulting from its execution.

16       **§28-F Sheriff of Kalawao county.** No provision of this  
17 part shall apply to the sheriff of the county of Kalawao, except  
18 those charging the office with the service of process and  
19 execution of any order of court."

20       SECTION 2. Section 26-7, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§26-7 Department of the attorney general. The department  
2 of the attorney general shall be headed by a single executive to  
3 be known as the attorney general.

4           The department shall administer and render state legal  
5 services, including furnishing of written legal opinions to the  
6 governor, legislature, and such state departments and officers  
7 as the governor may direct; represent the State in all civil  
8 actions in which the State is a party; approve as to legality  
9 and form all documents relating to the acquisition of any land  
10 or interest in lands by the State; and, unless otherwise  
11 provided by law, prosecute cases involving violations of state  
12 laws and cases involving agreements, uniform laws, or other  
13 matters which are enforceable in the courts of the State. The  
14 attorney general shall be charged with such other duties and  
15 have such authority as heretofore provided by common law or  
16 statute.

17           There shall be within the department of the attorney  
18 general a commission to be known as the commission to promote  
19 uniform legislation which shall sit in an advisory capacity to  
20 the attorney general and to the legislature on matters relating  
21 to the promotion of uniform legislation. The composition of the  
22 commission shall be as heretofore provided for the commission to



1 promote uniform legislation existing immediately prior to  
2 November 25, 1959. The members of the commission shall be  
3 nominated, and by and with the advice and consent of the senate,  
4 appointed by the governor for terms of four years each, provided  
5 that each member shall hold office until the member's successor  
6 is appointed and qualified; and provided also that the  
7 provisions of section 26-34, limiting the appointment of members  
8 of boards and commissions to two terms and the duration of  
9 membership to not more than eight consecutive years shall not be  
10 applicable.

11 The functions and authority heretofore exercised by the  
12 attorney general, high sheriff, and the commission to promote  
13 uniform legislation as heretofore constituted are transferred to  
14 the department of the attorney general established by this  
15 chapter.

16 Effective January 1, 2012, the functions, authority, and  
17 obligations exercised by the department of public safety  
18 relating to the service of process and execution of court orders  
19 by the department of public safety shall be transferred to the  
20 department of the attorney general."

21 SECTION 3. Section 26-14.6, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§26-14.6 Department of public safety. (a) The  
2 department of public safety shall be headed by a single  
3 executive to be known as the director of public safety.

4           (b) The department of public safety shall be responsible  
5 for the formulation and implementation of state policies and  
6 objectives for correctional, security, law enforcement, and  
7 public safety programs and functions, for the administration and  
8 maintenance of all public or private correctional facilities and  
9 services, [~~for the service of process,~~] and for the security of  
10 state buildings.

11           (c) Effective July 1, 1990, the Hawaii paroling authority  
12 and the crime victim compensation commission are placed within  
13 the department of public safety for administrative purposes  
14 only.

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

17           (1) The department of corrections relating to adult  
18 corrections and the intake service centers;

19           (2) The judiciary relating to the [~~sheriff's office and~~]  
20 judiciary security personnel; and

21           (3) The department of the attorney general relating to  
22 state law enforcement officers and narcotics



1 enforcement investigators with the narcotics  
2 enforcement division,  
3 shall be transferred to the department of public safety.

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

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



1       ~~(g)~~ (f) Effective January 1, 1993, the functions and  
2 authority heretofore exercised by the attorney general and the  
3 department of the attorney general relating to the executive  
4 security officers shall be transferred to the department of  
5 public safety.

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

14       ~~(i)~~ (h) Effective January 1, 1993, the functions and  
15 authority heretofore exercised by the director of health and the  
16 department of health relating to uniformed security employees  
17 and security contracts at various state hospitals throughout the  
18 State shall be transferred to the department of public safety.

19 Effective July 1, 2005, the functions, authority, and employee  
20 positions of the department of public safety relating to  
21 uniformed security employees and security contracts at health  
22 facilities that are under the operation, management, and control



1 of the Hawaii health systems corporation shall be transferred to  
2 the Hawaii health systems corporation.

3 ~~[(j)]~~ (i) Effective January 1, 1993, the functions and  
4 authority heretofore exercised by the director of human services  
5 and the department of human services relating to contractual  
6 security guard services shall be transferred to the department  
7 of public safety.

8 ~~[(k)]~~ (j) Effective July 1, 1994, the functions and  
9 authority heretofore exercised by the adjutant general relating  
10 to security for national guard and state civil defense  
11 facilities in the Diamond Head complex, for after work hours,  
12 shall be transferred to the department of public safety.

13 ~~[(l)]~~ (k) Effective July 1, 2002, the functions and  
14 authority heretofore exercised by the director of public safety  
15 and the department of public safety relating to after hours  
16 security contracts at department of education facilities,  
17 including all security functions being performed by employees of  
18 the public library system, as well as the contractual security  
19 services for the libraries, shall be transferred to the  
20 department of education and the public library system as  
21 appropriate."





1 SECTION 4. Section 386-181, Hawaii Revised Statutes, is  
2 amended by amending the definition of "sheriffs' chaplain" in  
3 subsection (a) to read as follows:

4 "Sheriffs' chaplain" means a member of an authorized  
5 chaplaincy program of the department of [~~public safety~~] the  
6 attorney general who performs functions similar to a police  
7 chaplain in a voluntary and unpaid capacity for the [~~sheriff~~  
8 ~~division.~~] office of the sheriff."

9 SECTION 5. All rights, powers, functions, and duties of  
10 the department of public safety relating to the service of  
11 process and execution of court orders are transferred to the  
12 department of the attorney general.

13 All officers and employees whose functions are transferred  
14 by this Act shall be transferred with their functions and shall  
15 continue to perform their regular duties upon their transfer,  
16 subject to the state personnel laws and this Act.

17 No officer or employee of the State having tenure shall  
18 suffer any loss of salary, seniority, prior service credit,  
19 vacation, sick leave, or other employee benefit or privilege as  
20 a consequence of this Act, and the officer or employee may be  
21 transferred or appointed to a civil service position without the  
22 necessity of examination; provided that the officer or employee



1 possesses the minimum qualifications for the position to which  
2 transferred or appointed; and provided that subsequent changes  
3 in status may be made pursuant to applicable civil service and  
4 compensation laws.

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

14 If an office or position held by an officer or employee  
15 having tenure is abolished, the officer or employee shall not  
16 thereby be separated from public employment, but shall remain in  
17 the employment of the State with the same pay and classification  
18 and shall be transferred to some other office or position for  
19 which the officer or employee is eligible under the personnel  
20 laws of the State as determined by the head of the department or  
21 the governor.



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

8 SECTION 7. In codifying the new sections added by section  
9 1 of this Act, the revisor of statutes shall substitute  
10 appropriate section numbers for the letters used in designating  
11 the new sections in this Act.

12 SECTION 8. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect on July 1, 2011.

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INTRODUCED BY:

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**Report Title:**

Sheriffs; Department of Public Safety; Attorney General

**Description:**

Establishes the office of the sheriff within the department of the attorney general. Transfers the department of public safety's responsibility for service of process and execution of court orders to the office of the sheriff.

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

