



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

**GOV. MSG. NO. 1329**

July 12, 2018

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Re: HB2071 HD2 SD2 CD1

HB2071 HD2 SD2 CD1, entitled "A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT" will become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill will establish an unpaid fifteen-member Law Enforcement Standards Board responsible for the certification of county police officers, state public safety officers, and employees of the Department of Transportation, Land and Natural Resources, Taxation, and Attorney General with police powers.

The Board will also be responsible for developing minimum standards, establishing and maintaining curriculum and training programs, and establishing procedures and criteria for the revocation of certification.

Although this bill presents implementation and funding issues, we recognize the need for accountability and public confidence in law enforcement. The community deserves to have the highest quality law enforcement and this statewide Board will begin discussions to achieve that. The administration is committed to working with the police chiefs and all law enforcement officials to successfully implement this measure.



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The administration and the four police chiefs have concerns regarding the implementation of this bill. First, Hawai'i has no existing certification process. The Board will need to develop the criteria and certify all law enforcement officers, and the one-year timeline is unrealistic.

Second, all four counties have already established accreditation through the Commission on Accreditation for Law Enforcement Agencies (CALEA), the gold standard in public safety. The state has law enforcement officers with varying duties and scopes of authority. An accreditation system still needs to be established that accommodates these varying responsibilities. We do not want this bill to compromise what the counties have worked to achieve.

Third, the state does not have joint training facilities to accommodate a robust training program. The \$100,000 appropriation is inadequate to build and maintain these mentioned facilities. It would also be unreasonable to expect the counties to train the state's law enforcement officers.

Fourth, Hawai'i has a unique situation with our unions, collective bargaining statutes, and "home rule" precedence. Establishing a decertification process could be difficult with collective bargaining and existing arbitration procedures.

We hope to have continued conversations next session to address the bill's implementation challenges including providing adequate resources to help the Board and law enforcement achieve the intent of this measure.



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For the foregoing reasons, HB2071 HD2 SD2 CD1 will become law as ACT 220, Session Laws of Hawai'i 2018, effective July 10, 2018, without my signature.

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

# 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 finds that it is the role of  
2 the State to oversee and regulate those professions and  
3 occupations that have a significant impact on society. The  
4 Hawaii Revised Statutes regulate private security guards. Law  
5 enforcement is another area in which the State should do more to  
6 provide statewide standards and uniformity.

7           The legislature further finds that the State and counties  
8 grant to police, sheriffs, and other law enforcement officers  
9 immense powers, such as the authority to search, arrest, and use  
10 deadly force. Hawaii is the only state in the country without  
11 any state-level regulation of police. Regulation is left to the  
12 counties. Hawaii is only one of a handful of states that does  
13 not establish minimum standards required to be a police officer  
14 and does not have any procedure for revoking a police officer's  
15 certification for serious misconduct.

16           The legislature further finds that the consequences of a  
17 lack of statewide oversight of police are a matter of serious  
18 public concern. Several recent incidents have highlighted a



1 need for greater oversight. For example, a former Honolulu  
2 police officer was recently sentenced to prison for using  
3 unreasonable force to violate the civil rights of two men. In  
4 another incident, a Honolulu police sergeant was caught on video  
5 engaged in a violent physical fight in public with the police  
6 sergeant's girlfriend. In yet another example, the former chief  
7 of police of the city and county of Honolulu faces federal  
8 prosecution for alleged criminal violations. Numerous local  
9 media stories have reported on the Honolulu police commission's  
10 lack of power to implement meaningful disciplinary actions for  
11 its police officers.

12 The legislature further finds that the State must enact a  
13 law that certifies law enforcement officers to ensure the  
14 highest standards of professionalism, uniformity of standards,  
15 and accountability throughout our islands.

16 The purpose of this Act is to establish a law enforcement  
17 standards board for the certification of county police officers,  
18 state public safety officers, and employees of the departments  
19 of transportation, land and natural resources, attorney general,  
20 and taxation with police powers.



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 LAW ENFORCEMENT STANDARDS

6 § -1 Definitions. As used in this chapter, unless the  
7 context clearly indicates otherwise:

8 "Board" means the law enforcement standards board.

9 "Law enforcement officer" means:

- 10 (1) A police officer employed by a county police
- 11 department;
- 12 (2) A public safety officer employed by the department of
- 13 public safety; or
- 14 (3) An employee of the department of transportation,
- 15 department of land and natural resources, department
- 16 of taxation, or department of the attorney general who
- 17 is conferred by law with general police powers.

18 § -2 Law enforcement standards board; establishment.

19 (a) There is established the law enforcement standards board  
20 within the department of the attorney general for administrative  
21 purposes only. The purpose of the board shall be to provide



1 programs and standards for training and certification of law  
2 enforcement officers. The law enforcement standards board shall  
3 consist of the following voting members: nine ex officio  
4 individuals, two law enforcement officers, and four members of  
5 the public.

6 (1) The nine ex officio members of the board shall consist  
7 of the:

8 (A) Attorney general;

9 (B) Director of public safety;

10 (C) Director of transportation or the director's  
11 designee;

12 (D) Chairperson of the board of land and natural  
13 resources or chairperson's designee;

14 (E) Director of taxation or the director's designee;

15 and

16 (F) Chiefs of police of the four counties;

17 (2) The two law enforcement officers shall each have at  
18 least ten years of experience as a law enforcement  
19 officer and shall be appointed by the governor; and

20 (3) The four members of the public shall consist of one  
21 member of the public from each of the four counties



1 and shall be appointed by the governor. At least two  
2 of the four members of the public holding a position  
3 on the board at any given time shall:

4 (A) Possess a master's or doctorate degree related to  
5 criminal justice;

6 (B) Possess a law degree and have experience:

7 (i) Practicing in Hawaii as a deputy attorney  
8 general, a deputy prosecutor, deputy public  
9 defender, or private criminal defense  
10 attorney; or

11 (ii) Litigating constitutional law issues in  
12 Hawaii;

13 (C) Be a recognized expert in the field of criminal  
14 justice, policing, or security; or

15 (D) Have work experience in a law enforcement  
16 capacity; provided that experience in a county  
17 police department shall not itself be sufficient  
18 to qualify under this paragraph.

19 (b) The law enforcement officers and the members of the  
20 public on the board shall serve for a term of three years,





1 provided that the initial terms shall be staggered, as determined  
2 by the governor.

3 (c) The law enforcement officers and the members of the  
4 public on the board shall receive no salary for their duties as  
5 members of the board, but shall be entitled to reimbursement for  
6 expenses, including travel expenses, necessary for the  
7 performance of their duties as board members.

8 § -3 Powers and duties of the board. The board shall:

9 (1) Adopt rules in accordance with chapter 91 to implement  
10 this chapter;

11 (2) Establish minimum standards for employment as a law  
12 enforcement officer and to certify persons to be  
13 qualified as law enforcement officers;

14 (3) Establish criteria and standards in which a person who  
15 has been denied certification, whose certification has  
16 been revoked by the board, or whose certification has  
17 lapsed may reapply for certification;

18 (4) Establish minimum criminal justice curriculum  
19 requirements for basic, specialized, and in-service  
20 courses and programs for schools operated by or for



1 the State or a county for the specific purpose of  
2 training law enforcement officers;

3 (5) Consult and cooperate with the counties, agencies of  
4 the State, other governmental agencies, universities,  
5 colleges, and other institutions concerning the  
6 development of law enforcement officer training  
7 schools and programs of criminal justice instruction;

8 (6) Employ, subject to chapter 76, an administrator and  
9 other persons necessary to carry out its duties under  
10 this chapter;

11 (7) Investigate when there is reason to believe that a law  
12 enforcement officer does not meet the minimum  
13 standards for employment, and in so doing, may:

14 (A) Subpoena persons, books, records, or documents;  
15 (B) Require answers in writing under oath to  
16 questions asked by the board; and  
17 (C) Take or cause to be taken depositions as needed  
18 in investigations, hearings, and other  
19 proceedings,  
20 related to the investigation;



1 (8) Establish and require participation in continuing  
2 education programs for law enforcement officers;

3 (9) Have the authority to charge and collect fees for  
4 applications for certification as a law enforcement  
5 officer; and

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

8 § -4 Law enforcement standards board special fund;  
9 established. There is established in the state treasury the law  
10 enforcement standards board special fund. The revenues of the  
11 special fund shall consist of appropriations made by the  
12 legislature, fees charged by the board, grants, gifts, and  
13 interest on moneys deposited in the special fund. The special  
14 fund shall be used to defray the expenses of the board.

15 § -5 Training programs. The board shall establish and  
16 maintain law enforcement training programs through agencies and  
17 institutions deemed appropriate by the board for applications  
18 for certification.

19 § -6 Standards; certification. (a) No person may be  
20 appointed as a law enforcement officer unless the person:



1 (1) Has satisfactorily completed a basic program of law  
2 enforcement training approved by the board; and

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

8 (b) The board shall issue a certification to an applicant  
9 who meets the requirements of subsection (a) or who has  
10 satisfactorily completed a program or course of instruction in  
11 another jurisdiction that the board deems to be equivalent in  
12 content and quality to the requirements of subsection (a).

13 (c) The board may deny or revoke the certification of an  
14 applicant or law enforcement officer who fails to meet or  
15 maintain the standards required under subsection (a).

16 § -7 **Employment of law enforcement officers.** (a) No  
17 person shall be appointed or employed as a law enforcement  
18 officer by any county police department, the department of  
19 public safety, the department of transportation, the department  
20 of land and natural resources, the department of taxation, or  
21 the department of the attorney general, unless the person



1 possesses a valid certification issued by the board pursuant to  
2 section -6(b).

3 (b) This section shall not apply to a person employed on a  
4 probationary basis, except that employment on a probationary  
5 basis may not exceed the period authorized for probationary  
6 employment as determined by the board.

7 § -8 Revocation or denial of certification. (a) The  
8 board shall adopt rules, pursuant to chapter 91, that establish  
9 criteria for the denial, suspension, or revocation of a law  
10 enforcement officer's certification, including upon a finding by  
11 the board that the law enforcement officer:

12 (1) Knowingly falsified or omitted material information on  
13 the law enforcement officer's application for training  
14 or certification to the board;

15 (2) Has been convicted at any time of a felony offense  
16 under the laws of this State or has been convicted of  
17 a federal or out-of-state offense comparable to a  
18 felony under the laws of this State; provided that if  
19 a law enforcement officer was convicted of a felony  
20 before being employed as a law enforcement officer,  
21 and the circumstances of the prior felony conviction



1           were fully disclosed to the employer of the law  
2           enforcement officer before being hired, the board may  
3           revoke certification only with the agreement of the  
4           employing law enforcement agency;

5           (3) Interfered with an investigation or action for denial  
6           or revocation of certification by:

7           (A) Knowingly making a materially false statement to  
8           the board; or

9           (B) In any matter under investigation by or otherwise  
10          before the board, tampering with evidence or  
11          tampering with or intimidating any witness; or

12          (4) Has taken other prohibited action as established by  
13          the board, by rule.

14          (b) The board may investigate whether a law enforcement  
15          officer no longer meets the standards for certification under  
16          section     -6(a).

17          (c) Any proceeding to revoke a certification shall be  
18          conducted by the board in accordance with chapter 91.

19          §     -9 **Annual report.** No later than twenty days prior to  
20          the convening of each regular session, the board shall submit a  
21          report to the legislature that includes:



- 1 (1) A description of the activities of the board;
- 2 (2) An accounting of the expenditures from the law
- 3 enforcement standards board special fund in the
- 4 previous fiscal year and the remaining balance of the
- 5 fund; and
- 6 (3) Recommended legislation, if any."

7 SECTION 3. There is appropriated out of the general  
 8 revenues of the State of Hawaii the sum of \$100,000 or so much  
 9 thereof as may be necessary for fiscal year 2018-2019 for  
 10 deposit into the law enforcement standards board special fund.

11 SECTION 4. There is appropriated out of the law  
 12 enforcement standards board special fund the sum of \$100,000 or  
 13 so much thereof as may be necessary for fiscal year 2018-2019  
 14 for the purposes of this Act.

15 The sum appropriated shall be expended by the department of  
 16 the attorney general for the purposes of this Act.

17 SECTION 5. This Act does not affect rights and duties that  
 18 matured, penalties that were incurred, and proceedings that were  
 19 begun before its effective date.

20 SECTION 6. This Act shall take effect on July 1, 2018;  
 21 provided that the law enforcement standards board established



1 under this Act shall finalize its standards and certification  
2 process by July 1, 2019.

APPROVED this            day of                               , 2018

GOVERNOR OF THE STATE OF HAWAII





HB No. 2071, HD 2, SD 2, CD 1

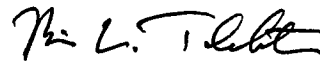
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2018  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018.



Scott K. Saiki  
Speaker  
House of Representatives



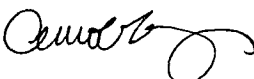
Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI'I**

Date: May 1, 2018  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.

  
President of the Senate

  
Clerk of the Senate