

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO CRIMINAL PROCEEDINGS.

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

1 SECTION 1. Section 805-7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§805-7 [~~Commitment;~~] Preliminary hearing; commitment;  
4 form of mittimus. (a) In all cases of arrest for offenses that  
5 [~~must~~]:

6 (1) Must be tried in the first instance before a jury[~~, or~~  
7 ~~that can~~];

8 (2) Can be tried only on indictment by a grand jury[~~;~~]; or

9 (3) Constitute a felony committed by a law enforcement  
10 officer;

11 the judge in whose jurisdiction or on whose warrant the accused  
12 was arrested, upon the appearance of the accused, shall [~~proceed~~  
13 ~~to consider~~] conduct a preliminary hearing to determine whether  
14 there is probable cause to believe that the accused is guilty of  
15 the offense with which the accused is charged[~~;~~]; provided that  
16 no case described in paragraph (3) shall be presented to a grand  
17 jury or charged by written information. The [~~judge shall reduce~~



1 ~~to writing the substance]~~ court shall keep a record of the  
2 evidence adduced, with the names of the witnesses.

3 (b) If in the judge's opinion the [~~testimony~~] evidence  
4 does not warrant commitment for trial, the judge shall release  
5 the [~~prisoner,~~] accused, noting that fact upon the [~~judge's~~]  
6 court's docket. But if in the judge's opinion there is probable  
7 cause to believe that the accused is guilty of the offense with  
8 which the accused is charged, the judge shall make out and  
9 deliver to a police officer a mittimus which may be in the form  
10 established by the usage and practice of the issuing court.

11 (c) For purposes of this section, "law enforcement  
12 officer" shall have the same meaning as in section 710-1000."

13 SECTION 2. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect on July 1, 2017.

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INTRODUCED BY: ~~D.C. Fish-Agnew~~  
Will Egan



# S.B. NO. 323

**Report Title:**

Grand Jury; Proceedings; Prosecution; Law Enforcement Officers

**Description:**

Requires a preliminary hearing for a case in which a law enforcement officer is charged with a felony offense.

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