

JAN 23 2025

A BILL FOR AN ACT

RELATING TO CONTENTS OF CITATIONS.

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

1 SECTION 1. Section 803-6, Hawaii Revised Statutes, is
2 amended by amending subsections (b) and (c) to read as follows:

3 "(b) In any case in which it is lawful for a police
4 officer to arrest a person without a warrant for a misdemeanor,
5 petty misdemeanor, or violation, the police officer may, but
6 need not, issue a citation in lieu of the requirements of
7 [+]subsection[+] (a), if the police officer finds and is
8 reasonably satisfied that [~~the person~~]:

9 (1) [~~will~~] The person will appear in court at the time
10 designated;

11 (2) [~~Has~~] The person has no outstanding arrest warrants
12 [~~which~~] that would justify the person's detention or
13 give indication that the person might fail to appear
14 in court; and

15 (3) [~~That the~~] The offense is of such nature that there
16 will be no further police contact on or about the date
17 in question[~~7~~] or in the immediate future.

18 (c) The citation shall contain:

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- 1 (1) The name [~~and current address~~] of the offender;
- 2 (2) The current address of the offender, if available;
- 3 ~~(2)~~ (3) The last four digits of the offender's social
- 4 security number~~[+]~~, if available;
- 5 ~~(3)~~ (4) A description of the offender;
- 6 ~~(4)~~ (5) The nature of the offense;
- 7 ~~(5)~~ (6) The time and date of the offense;
- 8 ~~(6)~~ (7) A notice of time and date for court appearance;
- 9 ~~(7)~~ (8) The signature and badge number of the officer;
- 10 ~~(8)~~ (9) The signature of the offender agreeing to court
- 11 appearance~~[+]~~, unless the offender refuses, or is
- 12 unable to sign;
- 13 ~~(9)~~ (10) Any remarks; and
- 14 ~~(10)~~ (11) A notice directing the offender to appear at the
- 15 time and place designated to stand trial for the
- 16 offense indicated and a notice that failure to obey
- 17 the citation may result in a fine or imprisonment, or
- 18 both~~[+]~~ ;
- 19 provided that omission of any of the information listed in
- 20 paragraphs (1) to (11) or any error in the citation shall not be
- 21 a ground for dismissal of a charge or for reversal of a

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1 conviction if the omission or error did not prejudice the
2 defendant."

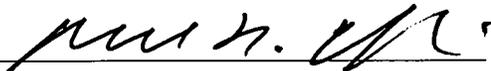
3 SECTION 2. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST

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Report Title:

Citations; Misdemeanor; Petty Misdemeanor; Violation

Description:

Clarifies that the omission of certain information or any error in a citation does not constitute ground for dismissal of a charge or for reversal of a conviction, if the omission or error did not prejudice the defendant.

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

JUSTIFICATION SHEET

SB. NO. 1317

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO CONTENTS OF CITATIONS.

PURPOSE: To clarify that the omission of certain information or any error in a citation does not constitute ground for dismissal of a charge or for reversal of a conviction, if the omission or error did not prejudice the defendant.

MEANS: Amend section 806-3(b) and (c), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Deputy attorneys general and prosecutors have seen a number of motions for dismissal at the district courts that relate to the information to be included in criminal or traffic citations pursuant to section 806-3(c), HRS. Currently, judges have been split on the issue of dismissal of citation cases for the omission of certain information listed in section 806-3(c), HRS.

Although 806-3, HRS, authorizes police officers to issue a citation in lieu of arresting an individual, it is sometimes impossible or impracticable for them to obtain a social security number or other information currently listed under section 806-3, HRS. If the defendant is unwilling or unable to provide the information and does not have a driver's license or prior criminal record in Hawai'i, the officer may not have any other means of obtaining the information. The absence of such information should not jeopardize the entire case, if such absence does not prejudice the defendant.

The proposed amendments to section 806-3(b), HRS, would clarify that harmless omission or error in a citation is not ground for invalidating the citation. The proposed

wording is based on similar wording from Rule 7(d), Hawai'i Rules of Penal Procedure, and Rule 7(c)(2), Federal Rules of Criminal Procedure.

Impact on the public: This bill will prevent defendants who receive citations for a misdemeanor, petty misdemeanor, or violation offense from avoiding the consequences of citations by refusing to provide, or making it difficult for citing law enforcement officers to obtain, the information pursuant to section 803-6, and from taking advantage of harmless errors or omissions in a citation to avoid the potential consequences of that citation.

Impact on the department and other agencies: Clarifying that harmless errors or omissions do not invalidate a citation otherwise properly issued will provide the limited flexibility needed for law enforcement officers to effectively issue citations.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: County prosecutors, county police departments, and the Department of Law Enforcement.

EFFECTIVE DATE: Upon approval.