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# A BILL FOR AN ACT

RELATING TO CRIMINAL JUSTICE REFORM.

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

1       SECTION 1. The legislature finds that arrests are commonly  
2 made at the initiation of a criminal case, but sometimes occur  
3 needlessly when the issuance of a citation to appear in court  
4 would have sufficed. Arrests consume a significant portion of  
5 the limited resources of understaffed police departments,  
6 increase the number of people held in custody before trial, and  
7 contribute to overcrowding in correctional facilities. Given  
8 Hawaii's high cost of living and the significant percentage of  
9 families who live paycheck to paycheck, many arrestees cannot  
10 afford to post bail before trial.

11       The legislature also finds that arrests are highly  
12 disruptive to a person's life. Despite the fundamental  
13 principle of the presumption of innocence on which the justice  
14 system is built, arrests cause embarrassment and, in some cases,  
15 trauma, when they occur in the presence of family members,  
16 neighbors, or coworkers, or are publicized in the media.  
17 Further, an arrest can significantly jeopardize the arrestee's



1 housing and employment and set into motion a chain of economic  
2 and logistical hardships for the arrestee's family, especially  
3 when the arrestee is the main source of household income and  
4 cares for multiple dependents.

5 Accordingly, the purpose of this Act is to reduce the  
6 number of unnecessary arrests made in criminal cases by:

7 (1) Establishing factors under which officers may, without  
8 warrant, arrest and detain persons for petty  
9 misdemeanors and violations; and

10 (2) Requiring officers to record the factors that  
11 justified the warrantless arrest.

12 SECTION 2. Section 803-5, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§803-5 By police officer without warrant.** (a) A police  
15 officer or other officer of justice, may, without warrant,  
16 arrest and detain for examination any person when the officer  
17 has probable cause to believe that ~~[such]~~ the person ~~[has]~~  
18 committed any felony or misdemeanor offense, whether in the  
19 officer's presence or otherwise.

20 (b) A police officer or other officer of justice, may,  
21 without warrant, arrest and detain for examination any person



1 when the officer has probable cause to believe that the person  
2 committed any petty misdemeanor or violation, whether in the  
3 officer's presence or otherwise, and the officer is reasonably  
4 satisfied that the person:

- 5     (1) Will not appear in court at the time designated;  
6     (2) Has an outstanding arrest warrant that would justify  
7     the person's detention or gives indication that the  
8     person might fail to appear in court;  
9     (3) Committed an offense of such nature that there will be  
10    further police contact on or about the date in  
11    question, or in the immediate future; or  
12    (4) Must be detained to prevent bodily injury to that  
13    person or another person.

14    (c) In any case in which an officer arrests an individual  
15 for a petty misdemeanor or violation, the officer shall record  
16 which of the factors under subsection (b) justified the arrest.

17    ~~[(b)]~~ (d) For purposes of this section, a police officer  
18 has probable cause to make an arrest when the facts and  
19 circumstances within the officer's knowledge and of which the  
20 officer has reasonably trustworthy information are sufficient in



1 themselves to warrant a person of reasonable caution in the  
2 belief that a crime has been or is being committed."

3 SECTION 3. Section 803-6, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending its title to read:

6 "**\$803-6 Arrest, how made[-]; citations in lieu of arrest.**"

7 2. By amending subsection (b) to read:

8 "(b) In any case in which [~~it is lawful for~~] a police  
9 officer [~~to arrest~~] has probable cause to believe that a person  
10 [~~without a warrant for~~] committed a misdemeanor, petty  
11 misdemeanor, or violation, the police officer may, but need not,  
12 issue a citation in lieu of the requirements of [+]subsection[+]  
13 (a), if the police officer finds and is reasonably satisfied  
14 that the person:

15 (1) Will appear in court at the time designated;

16 (2) Has no outstanding arrest warrants [~~which~~] that would  
17 justify the person's detention or give indication that  
18 the person might fail to appear in court; and

19 (3) That the offense is of such nature that there will be  
20 no further police contact on or about the date in  
21 question, or in the immediate future."



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

4       SECTION 5. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6       SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

Arrests; Warrantless; Citations

**Description:**

Establishes factors under which officers may, without warrant, arrest and detain persons for petty misdemeanors and violations. Requires officers to record the factors that justified the warrantless arrest. (HD1)

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