
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 the State's high cost of living and the significant percentage
9 of 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 Additionally, in the 2018 criminal pretrial task force
6 recommendations to the legislature, the first recommendation for
7 reducing the pretrial jail population was to:

8 Reinforce that law enforcement officers have
9 discretion to issue citations, in lieu of arrest, for
10 low level offenses and broaden discretion to include
11 non-violent Class C felonies. For low-risk defendants
12 who have not demonstrated a risk of non-appearance in
13 court or a risk of recidivism, officers should issue
14 citations rather than arrest.

15 The legislature finds that this Act does not address
16 felonies and therefore only applies to misdemeanors, petty
17 misdemeanors, and violations. As such, it is not as expansive
18 as laws enacted in many states or the recommendation made by the
19 criminal pretrial task force.

20 Accordingly, the purpose of this Act is to reduce
21 unnecessary arrests in criminal cases by:



- 1 (1) Amending the factors under which officers may arrest
2 and detain persons without a warrant for petty
3 misdemeanors and violations, and requiring officers to
4 document the justification for the arrests;
- 5 (2) Amending the circumstances under which officers may
6 issue citations in lieu of arrest;
- 7 (3) Requiring officers to issue citations in lieu of
8 arrest for certain petty misdemeanors and violations,
9 unless public safety or flight risks are present or
10 the alleged offense involves operating a vehicle under
11 the influence of an intoxicant or the abuse of family
12 or household members;
- 13 (4) Improving court appearance rates through a redesigned
14 citation form and updated required citation
15 information; and
- 16 (5) Requiring the criminal justice research institute to
17 submit reports on the use of criminal citations.

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

20 "**§803-5 By police officer without warrant.** (a) A police
21 officer or other officer of justice[7] may, without warrant,



1 arrest and detain for examination any person when the officer
2 has probable cause to believe that [~~such~~] the person [~~has~~]
3 committed any felony or misdemeanor offense, whether in the
4 officer's presence or otherwise.

5 (b) A police officer or other officer of justice may,
6 without warrant, arrest and detain for examination any person
7 when the officer has probable cause to believe that the person
8 committed any petty misdemeanor or violation, whether in the
9 officer's presence or otherwise, and the officer is reasonably
10 satisfied that the person:

11 (1) Has not offered satisfactory evidence of the person's
12 identity;

13 (2) Will not appear in court at the time designated;

14 (3) Has an outstanding arrest warrant that would justify
15 the person's detention or gives indication that the
16 person might fail to appear in court;

17 (4) Committed an offense of such nature that there will be
18 further police contact on or about the date in
19 question, or in the immediate future;

20 (5) Must be detained to prevent bodily injury to that
21 person or another person;



- 1 (6) Committed the offense of operating a vehicle under the
- 2 influence of an intoxicant under section 291E-61; or
- 3 (7) Committed the offense of abuse of family or household
- 4 members under section 709-906.

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

8 ~~[(b)]~~ (d) For the purposes of this section, a police
 9 officer has probable cause to make an arrest when the facts and
 10 circumstances within the officer's knowledge and of which the
 11 officer has reasonably trustworthy information are sufficient in
 12 themselves to warrant a person of reasonable caution in the
 13 belief that a crime has been or is being committed."

14 SECTION 3. Section 803-6, Hawaii Revised Statutes, is
 15 amended to read as follows:

16 "**§803-6 Arrest, how made[-]; citations in lieu of arrest.**

17 (a) At or before the time of making an arrest, the person shall
 18 declare that the person is an officer of justice, if [~~such is~~
 19 ~~the case.~~] applicable. If the person has a warrant, the person
 20 [~~should~~] shall show it; or if the person makes the arrest
 21 without warrant in any of the cases in which it is authorized by



1 law, the person [~~should~~] shall give the party arrested clearly
2 to understand for what cause the person undertakes to make the
3 arrest, and shall require the party arrested to submit and be
4 taken to the police station or judge. This done, the arrest is
5 complete.

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

13 (1) The person has not offered satisfactory evidence of
14 the person's identity;

15 [~~(1)~~] (2) The person will not appear in court at the time
16 designated;

17 [~~(2)~~] (3) The person has [~~no~~] an outstanding arrest
18 [~~warrants~~] warrant that would justify the person's
19 detention or [~~give~~] gives indication that the person
20 might fail to appear in court; [~~and~~



1 ~~(3)]~~ (4) The offense is of such nature that there will be
2 ~~[no]~~ further police contact on or about the date in
3 question or in the immediate future~~[-]~~; or

4 (5) The person must be detained to prevent bodily injury
5 to that person or another person.

6 (c) In any case in which it is lawful under subsection (b)
7 for a police officer to issue a citation for a petty misdemeanor
8 or violation, the police officer shall issue a citation in lieu
9 of the requirements of subsection (a); provided that a police
10 officer need not issue a citation in lieu of the requirements of
11 subsection (a) if it is lawful for the police officer to arrest
12 the person for:

13 (1) A felony or misdemeanor offense;

14 (2) The offense of operating a vehicle under the influence
15 of an intoxicant under section 291E-61; or

16 (3) The offense of abuse of family or household members
17 under section 709-906.

18 Nothing in this subsection shall limit law enforcement
19 discretion to issue a citation pursuant to subsection (b).

20 (d) No later than July 1, 2027, the judiciary shall
21 promulgate a citation form for use by police officers that



1 includes, at a minimum, all of the information described in
2 subsection (e). To the extent possible, the citation form shall
3 be designed to:

4 (1) Facilitate data collection and sharing, including
5 between law enforcement agencies, the criminal justice
6 research institute, and any court reminder system
7 managed by the judiciary; and

8 (2) Maximize the rate at which persons appear in court in
9 response to the citation, by adhering to research and
10 best practices on form design to improve court
11 appearance rates.

12 [~~(e)~~] (e) The citation shall contain:

13 (1) The name of the offender;

14 (2) The current address of the offender, if available;

15 (3) The offender's cell phone number and electronic mail
16 address, if available;

17 [~~(3)~~] (4) The last four digits of the offender's social
18 security number, if available;

19 [~~(4)~~] (5) A description of the offender;

20 [~~(5)~~] (6) The nature of the offense;

21 [~~(6)~~] (7) The time and date of the offense;



1 [~~7~~] (8) A notice of the time [and], date, and location
2 for court appearance;
3 [~~8~~] (9) The signature and badge number of the officer;
4 [~~9~~] (10) The signature of the offender agreeing to court
5 appearance, unless the offender refuses, or is unable
6 to sign;
7 [~~10~~] (11) Any remarks; [~~and~~]
8 [~~11~~] (12) A notice directing the offender to appear at the
9 time and place designated to stand trial for the
10 offense indicated and a notice that failure to obey
11 the citation may result in a fine or imprisonment, or
12 both; and
13 (13) The phone number and internet address of the court for
14 questions or additional information relating to the
15 court appearance;
16 provided that omission of any of the information listed in
17 paragraphs (1) to [~~11~~] (13) or any error in the citation shall
18 not be a ground for dismissal of a charge or for reversal of a
19 conviction if the omission or error did not prejudice the
20 defendant. To the extent practicable, the citation shall place



1 information described in paragraphs (8), (12), and (13) at the
2 top of the citation, before other administrative fields.

3 [~~d~~] (f) Where a citation has been issued in lieu of the
4 requirements of subsection (a), the officer who issues the
5 summons or citation may subscribe to the complaint:

6 (1) Under oath administered by any police officer whose
7 name has been submitted to the prosecuting officer and
8 who has been designated by the chief of police to
9 administer the oath; or

10 (2) By declaration in accordance with the rules of court.

11 [~~e~~] (g) If a person fails to appear in answer to the
12 citation~~[f]~~, or if there is reasonable cause to believe that the
13 person will not appear, a warrant for the person's arrest may be
14 issued. A knowing failure to appear in answer to the citation
15 may be punished by a fine of [~~not~~] no more than \$1,000 or
16 imprisonment of [~~not~~] no more than thirty days, or both."

17 SECTION 4. (a) The criminal justice research institute
18 shall submit a report, with findings, on the use of criminal
19 citations under section 803-6, Hawaii Revised Statutes, to the
20 legislature no later than twenty days prior to the convening of
21 the regular sessions of 2027, 2028, and 2029.



1 (b) The judiciary, department of the attorney general, and
2 other criminal justice agencies, as needed, shall provide data
3 to the criminal justice research institute to complete the
4 report.

5 (c) Each report shall include data, analyzed by fiscal
6 year, that includes, but is not limited to:

7 (1) The number of criminal citation cases filed with the
8 judiciary, including analysis by most serious offense
9 level and by county;

10 (2) The number of charges in criminal citation cases; and

11 (3) The length of the pretrial period for criminal
12 citation cases.

13 SECTION 5. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on July 1, 3000.



Report Title:

Judiciary; Arrests; Warrantless; Citations; Reports

Description:

Establishes factors under which officers may arrest and detain persons without a warrant for petty misdemeanors and violations, and requires officers to document the justification for the arrests. Amends the circumstances under which officers may issue citations in lieu of arrest. Requires officers to issue citations in lieu of arrest for certain petty misdemeanors and violations, unless public safety or flight risks are present or the alleged offense involves operating a vehicle under the influence of an intoxicant or the abuse of family or household members. Requires the Judiciary to promulgate a standardized citation form and updates the required information for citations. Requires the Criminal Justice Research Institute to submit reports. Effective 7/1/3000. (HD1)

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

