

ACT 73

H. B. NO. 52

A Bill for an Act Relating to Bonds to Keep the Peace.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Findings and purpose. The legislature finds that although peace bond proceedings are intended to provide preventative justice by deterring a person who has done nothing legally wrong from committing an offense in the future, peace bonds can have an undeniably punitive effect since they result in punishment for persons who are unable to give security and must bear the stigma of imprisonment. The purpose of this Act is to modify the law on peace bonds to assure minimum due process standards in peace bond proceedings.

SECTION 2. Section 709-31, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 709-31 Offense against complainant, arrest.** (a) A complaint may be made to any district judge or magistrate that a person has threatened to commit an offense against the person or property of another.

(b) When a complaint is made pursuant to subsection (a) the judge or magistrate shall examine the complainant and any witnesses he may produce, take their depositions under oath or affirmations in writing, cause the depositions to be subscribed by the persons making them, and reduce the complaint to writing.

(c) If it appears from the depositions that there is just cause to fear the commission of the offense threatened by the person complained of, the judge or magistrate shall issue a warrant or penal summons reciting the substance of the complaint and commanding that person to be arrested and brought before the judge or magistrate or summoned to appear before the judge or magistrate.

SECTION 3. Section 709-33, Hawaii Revised Statutes, is amended to read as follows:

**Sec. 709-33 Trial; bond protecting complainant.**

(a) The judge or magistrate before whom any person is brought under section 709-31 shall examine the complainant and witnesses in support of the complainant, under oath or affirmation, in the presence of the person complained of, in relation to any matters connected with the complaint which are deemed pertinent, after which witnesses in support of the person complained of shall be examined under oath or affirmation. The person complained of may cross-examine the complainant and witnesses in support of the complainant and may be assisted by counsel at the examination proceedings.

(b) If upon examination it appears that there is just cause to fear the commission of the offense by the person complained of, he may be ordered not to commit the offense or may be required to give bond in a sum proportioned to the nature of the offense, with sufficient surety that he will commit no offense against the person or property of the complainant. If it appears that there is no just cause to fear the commission of the offense, then the person complained of shall be discharged and any record of his arrest shall be expunged.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 24, 1971.)

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\* Edited accordingly.