

ACT 95

S.B. NO. 2784

A Bill for an Act Relating to the Power of Arrest.

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

SECTION 1. Chapter 803, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§803- United States marshal or deputy United States marshal; arrest powers. A United States marshal or deputy United States marshal, without a warrant, may arrest a person if:

- (1) The marshal or deputy marshal is on duty;
- (2) One or more of the following situations exists:
 - (A) The person commits an assault or other crime involving physical harm, defined and punishable under chapter 707, against the marshal or deputy marshal or against any other person in the presence of the marshal or deputy marshal;
 - (B) The marshal or deputy marshal has probable cause to believe that a crime as provided in subparagraph (A) has been committed and has probable cause to believe that the person to be arrested has committed the crime; or
 - (C) The marshal or deputy marshal has received information by written, telegraphic, telephonic, radio, or other authoritative source that a law enforcement officer holds a warrant for the person’s arrest; and
- (3) The head of the Hawaii district office for the United States Marshal Service certifies to the State that the marshal or deputy marshal has received proper training within the agency to enable that officer to enforce or administer this section.”

SECTION 2. Section 803-16, Hawaii Revised Statutes, is amended to read as follows:

“~~[§803-16]~~ Officer of United States Customs and Border Protection Service or Citizenship and Immigration [and Naturalization Service;] Services; arrest powers. An officer of the United States Customs and Border Protection Service ~~[and]~~ or the Citizenship and Immigration [and Naturalization Service may;] Services, without a warrant, may arrest a person if:

- (1) The officer is on duty;
- (2) One or more of the following situations exists:

- (A) The person commits an assault or other crime involving physical harm, defined and punishable under chapter 707, against the officer or against any other person in the presence of the officer;
 - (B) The person commits an offense against public order, defined and punishable under chapter 711, in the presence of the officer;
 - (C) The officer has probable cause to believe that a crime as ~~defined~~ provided in subparagraph (A) or (B) has been committed and has probable cause to believe that the person to be arrested has committed the crime;
 - (D) The officer has probable cause to believe that a felony has been committed and probable cause to believe that the person to be arrested has committed the felony; or
 - (E) The officer has received information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source that a law enforcement officer holds a warrant for the person's arrest; ~~and~~ and
- (3) The ~~[Regional Commissioner]~~ Director of the Hawaii district office for the Customs and Border Protection Service, or the [Regional Commissioner of] Citizenship and Immigration [and Naturalization,] Services, as the case may be, ~~[for the district of Hawaii]~~ certifies to the State that the officer has received proper training within the agency to enable that officer to enforce or administer this section.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

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

(Approved May 22, 2008.)

Note

1. Edited pursuant to HRS §23G-16.5.