

ACT 114

H.B. NO. 840

A Bill for an Act Relating to Charging by Written Information.

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

SECTION 1. Section 806-83, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a), (b), and (c) to read:

“(a) Criminal charges may be instituted by written information for a felony when the charge is a class C felony under section 19-3.5 (voter fraud); section 128D-10 (knowing releases); section 132D-14(a)(1), (2)(A), and (3) (relating to penalties for failure to comply with requirements of sections 132D-7, 132D-10, and 132D-16); section 134-24 (place to keep unloaded firearms other than pistols and revolvers); section 134-7(a) and (b) (ownership or possession prohibited); section 134-8 (~~prohibited~~ ownership, etc., of automatic firearms, silencers, etc., prohibited; penalties); section 134-9 (licenses to carry); section 134-17(a) (relating to false information or evidence concerning psychiatric or criminal history); section 134-51 (deadly weapons); section 134-52 (switchblade knives); section 134-53 (butterfly knives); section 188-23 (possession or use of explosives, electrofishing devices, and poisonous substances in state waters prohibited); section 231-34 (attempt to evade or defeat tax); section 231-36 (false and fraudulent statements); section 245-37 (sale or purchase of packages of cigarettes without stamps); section 245-38 (vending unstamped cigarettes); section 245-51 (~~sale of~~ export and foreign cigarettes prohibited); section 245-52 (alteration of packaging prohibited); section 291C-12.5 (accidents involving substantial bodily injury); section 291E-61.5 (habitually operating a vehicle under the influence of an intoxicant); section 329-41 (prohibited acts B—penalties); section 329-42 (prohibited acts C—penalties); section 329-43.5 (prohibited acts related to drug paraphernalia); section 329C-2 (manufacture, distribution, or possession with intent to distribute an imitation controlled substance to a person under eighteen years of age); section 346-34(d)(2) and (e) (relating to fraud involving food stamps or coupons [with a value exceeding \$300]); section 346-43.5 (medical assistance [~~fraud~~ frauds; penalties]); section 383-141 (falsely obtaining benefits, etc.); section 431:2-403(b)(2) (insurance fraud); section 482D-7 (violation of fitness standards and stamping requirements); section 485A-301 (~~registration of~~ securities registration requirement); section 485A-401 (~~broker-dealer registration [of broker-dealers] requirement and exemptions)~~; section 485A-402 (~~agent registration [of agents] requirement and exemptions)~~; section 485A-403 (~~investment advisor registration [of investment advisors] requirement and ex-~~

emptions); section 485A-404 (investment advisor representative registration [of investment advisor representatives] requirement and exemptions); section 485A-405 ([registration of] federal covered investment [advisors] adviser notice filing requirement); section 485A-501 (general fraud); section 485A-502 (prohibited conduct in providing investment advice); section 707-703 (negligent homicide in the second degree); section 707-705 (negligent injury in the first degree); section 707-711 (assault in the second degree); section 707-713 (reckless endangering in the first degree); section 707-721 (unlawful imprisonment in the first degree); section 707-726 (custodial interference in the first degree); section 707-757 (electronic enticement of a child in the second degree); section 707-766 (extortion in the second degree); section 708-811 (burglary in the second degree); section 708-812.6 (unauthorized entry in a dwelling); section 708-821 (criminal property damage in the second degree); section 708-831 (theft in the second degree); section 708-833.5 (shoplifting); section 708-835.5 (theft of livestock); section 708-836 (unauthorized control of propelled vehicle); section 708-836.5 (unauthorized entry into motor vehicle in the first degree); section 708-839.5 (theft of utility services); section 708-839.55 (unauthorized possession of confidential personal information); section 708-839.8 (identity theft in the third degree); section 708-852 (forgery in the second degree); section 708-854 (criminal possession of a forgery device); section 708-858 (suppressing a testamentary or recordable instrument); section 708-875 (trademark counterfeiting); section 708-891.5 (computer fraud in the second degree); section 708-892.5 (computer damage in the second degree); section 708-895.6 (unauthorized computer access in the second degree); section 708-8100 (fraudulent use of a credit card); section 708-8102 (theft/forgery) theft, forgery, etc., of credit cards; section 708-8103 (credit card fraud by a provider of goods or services); section 708-8104 (possession of unauthorized credit card machinery or incomplete cards); section 708-8200 (cable television service fraud in the first degree); section 708-8202 (telecommunication service fraud in the first degree); section 709-903.5 (endangering the welfare of a minor in the first degree); section 709-906 (abuse of family or household members); section 710-1016.3 (obtaining a government-issued identification document under false pretenses in the first degree); section 710-1016.6 (impersonating a law enforcement officer in the first degree); section 710-1017.5 (sale or manufacture of deceptive identification document); section 710-1018 (securing the proceeds of an offense); section 710-1021 (escape in the second degree); section 710-1023 (promoting prison contraband in the second degree); section 710-1024 (bail jumping in the first degree); section 710-1029 (hindering prosecution in the first degree); section 710-1060 (perjury); section 710-1072.5 (obstruction of justice); section 711-1103 (riot); section 711-1109.3 (cruelty to animals/fighting) animals; fighting dogs); section 711-1110.9 (violation of privacy in the first degree); section 711-1112 (interference with the operator of a public transit vehicle); section 712-1221 (promoting gambling in the first degree); section 712-1222.5 (promoting gambling aboard ships); section 712-1224 (possession of gambling records in the first degree); section 712-1243 (promoting a dangerous drug in the third degree); section 712-1246 (promoting a harmful drug in the third degree); section 712-1247 (promoting a detrimental drug in the first degree); section 712-1249.6 (promoting a controlled substance in, on, or near schools [of], school vehicles, or public parks); section 803-42 (interception, access, and disclosure of wire, oral, or electronic communications, use of pen register, trap and trace device, and mobile tracking device prohibited); or section 846E-9(b) (failure to comply with covered offender registration requirements).

(b) Criminal charges may be instituted by written information for a felony when the charge is a class B felony under section 134-7(b) (ownership or possession prohibited, when; penalty); 134-23 (place to keep loaded firearms

other than pistols and revolvers; penalties); section 134-25 (place to keep pistol or revolver; penalty); section 134-26 (carrying or possessing a loaded firearm on a public highway; penalty); [~~section 134-7(b) (ownership or possession prohibited);~~] section 329-43.5 (prohibited acts related to drug paraphernalia); section 708-810 (burglary in the first degree); section ~~[708-830]~~ 708-830.5 (theft in the first degree); section 708-839.7 (identity theft in the second degree); section 708-851 (forgery in the first degree); section 708-891 (computer fraud in the first degree); section 708-892 (computer damage in the first degree); section 712-1240.8 (methamphetamine trafficking in the second degree); section 712-1242 (promoting a dangerous drug in the second degree); section 712-1245 (promoting a harmful drug in the second degree); or section 712-1249.5 (commercial promotion of marijuana in the second degree).

(c) Criminal charges may be instituted by written information for a felony when the charge is a felony under section 19-3 (election ~~[fraud]~~ frauds); section 480-4 (combinations in restraint of trade, price-fixing and limitation of production prohibited); section 480-6 (refusal to deal); or section 480-9 (monopolization).”

2. By amending subsection (e) to read:

“(e) Criminal charges may be instituted by written information for a felony when the charge is a charge that involves ~~[section]~~ 702-221 (liability for conduct of another), ~~[section]~~ 702-222 (~~[accomplice]~~ liability for the conduct of another; complicity), ~~[section]~~ 702-223 (liability for the conduct of another; complicity with respect to the result), ~~[section]~~ 705-500 (criminal attempt), ~~[section]~~ 705-510 (criminal solicitation), or ~~[section]~~ 705-520 (criminal conspiracy), and the underlying offense is an offense listed above in subsection (a), (b), (c), or (d).”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 2010.)