

JAN 24 2019

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# A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1           SECTION 1. The legislature finds that although section  
2 803-6, Hawaii Revised Statutes, gives law enforcement officers  
3 the discretion to issue citations for misdemeanors, petty  
4 misdemeanors, and violations, law enforcement officers are  
5 reluctant to exercise this discretion. Issuing citations in  
6 lieu of arresting these non-violent offenders would free up  
7 space in police cellblocks, county jails, and courthouse holding  
8 cells without jeopardizing public safety.

9           The legislature further finds that expanding the discretion  
10 of law enforcement officers to include citations for non-violent  
11 class C felonies may be appropriate in certain circumstances.  
12 Currently, no other state provides for the issuance of citations  
13 for felony offenses. However, Alaska is considering expanding  
14 the use of law enforcement discretion to issue citations for  
15 class C felonies. Like Hawaii, Alaska has a statutory provision  
16 that specifies when a law enforcement officer may issue a  
17 citation, in lieu of making an arrest.



1 Citation issuance is a viable alternative to arrest for  
2 low-risk defendants who have not demonstrated a risk of  
3 non-appearance in court while still protecting the public from  
4 the risk of further crime.

5 SECTION 2. Section 803-6, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) In any case in which it is lawful for a police  
8 officer to arrest a person without a warrant for a non-violent  
9 class C felony, any misdemeanor, any petty misdemeanor, or  
10 violation, the police officer may~~[, but need not,]~~ exercise  
11 discretion and issue a citation in lieu of the requirements of  
12 ~~[+]subsection[+]~~ (a), if the police officer finds and is  
13 reasonably satisfied that the person:

- 14 (1) Will appear in court at the time designated;
- 15 (2) Has no outstanding arrest warrants which would justify  
16 the person's detention or give indication that the  
17 person might fail to appear in court; ~~[and]~~
- 18 (3) That the offense is of such nature that there will be  
19 no further police contact on or about the date in  
20 question, or in the immediate future~~[+]~~; and



1           (4) The offense does not involve domestic violence, sexual  
2                   assault, robbery, or any other offense enumerated in  
3                   chapter 707."

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

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

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INTRODUCED BY: Clarence K. Shihira



# S.B. NO. 1422

**Report Title:**

Law Enforcement; Police; Discretion; Citation; Class C Felony

**Description:**

Specifies that law enforcement officers have the discretion to issue citations, in lieu of making an arrest, for non-violent class C felonies, misdemeanors, petty misdemeanors, and violations.

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

