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# A BILL FOR AN ACT

RELATING TO CHAPTER 803.

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

1           SECTION 1.   Article I, section 6 of the Hawaii State  
2   Constitution vests the people with a right to privacy.  The  
3   legislature is tasked with taking affirmative steps to implement  
4   this right to privacy.  While article I, section 7 of the Hawaii  
5   State Constitution protects the rights of the people of Hawaii  
6   to be secure in their persons, houses, papers, and effects  
7   against unreasonable searches, seizures, and invasions of  
8   privacy, statutory provisions of section 803-11, Hawaii Revised  
9   Statutes (HRS), provide specific directives to law enforcement  
10   officers regarding entering homes to arrest offenders that  
11   afford greater protection than the constitution.  When entering  
12   homes to make arrests, mere reasonableness is insufficient.  In  
13   other words, substantial compliance to statutory provisions is  
14   insufficient and strict compliance is demanded.

15           When section 803-11, HRS, was first established in the  
16   middle of the 19<sup>th</sup> century, the legislature must have determined  
17   the minimum requirements for reasonableness.  Despite the long  
18   tradition of protection afforded by the specific language of



1 this statute, times may have changed and strict compliance to  
2 the requirements of the statute may no longer be appropriate.

3 The purpose of this Act is to invite the courts to construe  
4 the confines of reasonableness, keeping in mind that the courts  
5 are the guardians of constitutional protections for the people  
6 with one of those protections being the right to privacy.

7 SECTION 2. Section 803-11, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **§803-11 Entering house to arrest.** Whenever it is  
10 necessary to enter a house to arrest an offender, and entrance  
11 is refused, the officer or person making the arrest may force an  
12 entrance by breaking doors or other barriers. But before  
13 breaking any door, the officer or person shall first demand  
14 entrance in a loud voice, and state that the officer or person  
15 is the bearer of a warrant of arrest; or if it is in a case in  
16 which arrest is lawful without warrant, the officer or person  
17 shall substantially state that information in an audible voice.  
18 The officer or person making the arrest shall substantially  
19 comply with the requirements of this section."

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

22 SECTION 4. This Act shall take effect on July 1, 2069.



HB NO. 2299

**Report Title:**

Criminal Defendants'; constitutional rights

**Description:**

Requires merely substantial compliance with the requirements of statute when police enter a home to arrest a person suspected of a crime. (HB2299 HD1)

HB2299 HD1 HMS 2006-2435

