

# H.B. NO. 2296

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## A BILL FOR AN ACT

RELATING TO INFORMATION CHARGING.

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

1           SECTION 1. Section 806-83, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) Criminal charges may be instituted by written  
4 information for a felony when the charge is a class C felony  
5 under section 19-3.5 (voter fraud); section 128D-10 (knowing  
6 releases); section 132D-14(1), (2)(a), and (3) [7] (penalties for  
7 failure to comply with requirements of sections 132D-7, 132D-10,  
8 and 132D-16); section 134-6 (carrying or use of firearm in the  
9 commission of a separate felony); section 134-7(a) and (b)  
10 (ownership or possession prohibited); section 134-8 (prohibited  
11 ownership); section 134-9 (licenses to carry); section 134-17(a)  
12 (relating to false information or evidence concerning  
13 psychiatric or criminal history); section 134-51 (deadly  
14 weapons); section 134-52 (switchblade knives); section 134-53  
15 (butterfly knives); section 188-23 (possession or use of  
16 explosives, electrofishing devices, and poisonous substances in  
17 state waters prohibited); section 231-34 (attempt to evade or

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1 defeat tax); section 231-36 (false and fraudulent statements);  
2 section 245-37 (sale or purchase of packages of cigarettes  
3 without stamps); section 245-38 (vending unstamped cigarettes);  
4 section 245-51 (sale of export cigarettes prohibited); section  
5 245-52 (alteration of packaging prohibited); section 291C-12.5  
6 (accidents involving substantial bodily injury); section 291E-  
7 61.5 (habitually operating a vehicle under the influence of an  
8 intoxicant); section 329-41 (prohibited acts B); section 329-42  
9 (prohibited acts C); section 329-43.5 (prohibited acts related  
10 to drug paraphernalia); section 329C-2 (manufacture,  
11 distribution, or possession with intent to distribute an  
12 imitation controlled substance to a person under eighteen years  
13 of age); section 346-34(d)(2) and (e) (fraud involving food  
14 stamps or coupons with a value exceeding \$300); section 346-43.5  
15 (medical assistance fraud); section 383-141 (falsely obtaining  
16 benefits); section 431:10C-307.7 (insurance fraud); section  
17 482D-7 (violation of fineness standards and stamping  
18 requirements); section 485-8 (registration of securities);  
19 section 485-14 (registration of dealers, investment advisers,  
20 salespersons, and investment adviser representatives); section  
21 485-25 (fraudulent and other prohibited practices); section 707-  
22 703 (negligent homicide in the second degree); section 707-705

1 (negligent injury in the first degree); section 707-711 (assault  
2 in the second degree); section 707-713 (reckless endangering in  
3 the first degree); section 707-721 (unlawful imprisonment in the  
4 first degree); section 707-726 (custodial interference in the  
5 first degree); section 707-757 (electronic enticement of a child  
6 in the second degree); section 707-766 (extortion in the second  
7 degree); section 708-811 (burglary in the second degree);  
8 section 708-821 (criminal property damage in the second degree);  
9 section 708-831 (theft in the second degree); section 708-833.5  
10 (shoplifting); section 708-835.5 (theft of livestock); section  
11 708-836 (unauthorized control of propelled vehicle); section  
12 708-836.5 (unauthorized entry into motor vehicle); section 708-  
13 839.5 (theft of utility services); section 708-839.8 (identity  
14 theft in the third degree); section 708-852 (forgery in the  
15 second degree); section 708-854 (criminal possession of a  
16 forgery device); section 708-858 (suppressing a testamentary or  
17 recordable instrument); section 708-875 (trademark  
18 counterfeiting); section 708-891.5 (computer fraud in the second  
19 degree); section 708-892.5 (computer damage in the second  
20 degree); section 708-895.6 (unauthorized computer access in the  
21 second degree); section 708-8100 (fraudulent use of a credit  
22 card); section 708-8102 (theft/forgery of credit cards); section

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1 708-8103 (credit card fraud by a provider of goods or services);  
2 section 708-8104 (possession of unauthorized credit card  
3 machinery or incomplete cards); section 708-8200 (cable  
4 television service fraud in the first degree); section 708-8202  
5 (telecommunication service fraud in the first degree); section  
6 709-903.5 (endangering the welfare of a minor in the first  
7 degree); [†]section[†] 709-906 (abuse of family or household  
8 members); section 710-1016.3 (obtaining a government-issued  
9 identification document under false pretenses in the first  
10 degree); section 710-1016.6 (impersonating a law enforcement  
11 officer in the first degree); section 710-1017.5 (sale or  
12 manufacture of deceptive identification document); section 710-  
13 1018 (securing the proceeds of an offense); section 710-1021  
14 (escape in the second degree); section 710-1023 (promoting  
15 prison contraband in the second degree); section 710-1024 (bail  
16 jumping in the first degree); section 710-1029 (hindering  
17 prosecution in the first degree); section 710-1060 (perjury);  
18 section 710-1072.5 (obstruction of justice); section 711-1103  
19 (riot); section 711-1109.3 (cruelty to animals/fighting dogs);  
20 section 711-1110.9 (violation of privacy in the first degree);  
21 section 711-1112 (interference with the operator of a public  
22 transit vehicle); section 712-1221 (promoting gambling in the

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1 first degree); section 712-1222.5 (promoting gambling aboard  
2 ships); section 712-1224 (possession of gambling records in the  
3 first degree); section 712-1240.6 (unlawful methamphetamine  
4 trafficking); section 712-1243 (promoting a dangerous drug in  
5 the third degree); section 712-1246 (promoting a harmful drug in  
6 the third degree); section 712-1247 (promoting a detrimental  
7 drug in the first degree); section 712-1249.6 (promoting a  
8 controlled substance in, on, or near schools or school  
9 vehicles); section 803-42 (interception, access, and disclosure  
10 of wire, oral, or electronic communications, use of pen  
11 register, trap and trace device, and mobile tracking device  
12 prohibited); or section [~~846E-9(a)(2) (penalty for failure to~~  
13 ~~comply with requirements of chapter 846E).~~] 846E-9 (failure to  
14 comply with covered offender registration requirements)."

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

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

18  
19 INTRODUCED BY:

Celvin K. Ay

20 BY REQUEST

JAN 23 2006

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO INFORMATION CHARGING.

PURPOSE: To add section 712-1240.6 (unlawful methamphetamine trafficking), Hawaii Revised Statutes, to those felonies that may be initiated by information charging and to amend the language of section 806-83, Hawaii Revised Statutes, to conform to recent amendments to chapter 846E, Hawaii Revised Statutes.

MEANS: Amend section 806-83(a), Hawaii Revised Statutes.

JUSTIFICATION: Section 846E-9, Hawaii Revised Statutes, was recently amended. Therefore the parallel language referencing that section in section 806-83 must now be amended to conform to the new language of section 846E-9. Section 712-1240.6 was enacted after section 806-83 and, therefore, class C felonies under section 712-1240.6 were not included in the list of class C felonies in section 806-83 that may be charged by information charging. Because there are numerous class C felonies charged under section 712-1240.6, the ability to use information charging for these class C felonies would save significant judicial, prosecutorial, and police resources.

Impact on the public: Lay witnesses to class C felonies charged under section 846E-9 and section 712-1240.6 would be required to testify less often.

Impact on the department and other agencies: Police witnesses to class C felonies charged under section 846E-9 and section 712-1240.6 would be required to testify less often and the courts, the prosecutors, and the public

defenders associated with these cases would save time and resources because the preliminary hearings and the grand jury hearings that would otherwise be required would no longer be required.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: Judiciary, county police, county prosecutors, and the Office of the Public Defender.

EFFECTIVE DATE: Upon approval.