
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, provide specific directives to law enforcement
10 officers regarding entering homes to arrest offenders that
11 afford greater protection than the constitution.

12 The purpose of this Act is to specify the exact procedure
13 that must be used by the police before entering homes to arrest
14 persons suspected of a crime.

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



1 **"§803-11 Entering house to arrest.** ~~[Whenever]~~ (a) Absent
2 exigent circumstances, whenever it is necessary to enter a house
3 to arrest an offender, and entrance is refused, the officer or
4 person making the arrest may force an entrance by breaking doors
5 or other barriers. But before breaking any door~~[r]~~:

6 (1) In the case of an arrest with warrant, the officer or
7 person shall first knock on the door and state in a
8 loud voice "Police!" or the equivalent as "Sheriff!"
9 and "We have a warrant! Open the door!"; or

10 (2) In the case of a lawful arrest without warrant, the
11 officer or person shall first knock on the door and
12 state in a loud voice "Police!" or the equivalent as
13 "Sheriff!" and "You are under arrest! Open the door!"
14 ~~[the officer or person shall first demand entrance in~~
15 ~~a loud voice, and state that the officer or person is~~
16 ~~the bearer of a warrant of arrest; or if it is in a~~
17 ~~case in which arrest is lawful without warrant, the~~
18 ~~officer or person shall substantially state that~~
19 ~~information in an audible voice.]~~

20 (b) The officer or person shall wait a reasonable amount
21 of time before inferring constructive refusal to enter. In



1 determining a reasonable amount of time, the following shall be
2 taken into consideration:

- 3 (1) The size and layout of the residence;
- 4 (2) The time of day;
- 5 (3) The nature of the suspected offense;
- 6 (4) The evidence demonstrating guilt;
- 7 (5) The officer's observations that would support a forced
8 entry; and
- 9 (6) Any exigent circumstances."

10 SECTION 3. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun, before its effective date.

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2006.

H.B. NO. 2299

Report Title:

Criminal Defendants; Constitutional Rights

Description:

Specifies the exact procedure to be followed by the police when entering a home to arrest a person suspected of a crime.

(HB2299 CD1)

