

PROPOSED

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2073
S.D. 2

A BILL FOR AN ACT

RELATING TO THE POWER OF ARREST.

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

1 SECTION 1. Section 803-16, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~{}~~§803-16~~[]} ~~Officer of United States Customs Service or~~
4 ~~Immigration and Naturalization Service;~~ Federal law enforcement
5 officers; arrest powers. [~~An officer of the United States~~
6 ~~Customs Service and the Immigration and Naturalization Service~~
7 ~~may,~~] (a) A federal law enforcement officer, without a warrant,
8 may arrest a person if:~~

9 (1) The officer is on duty;

10 (2) One or more of the following situations exists:

11 (A) The person commits an assault or other crime
12 involving physical harm, defined and punishable
13 under chapter 707, against the officer or against
14 any other person in the presence of the officer;

15 (B) The person commits an offense against public
16 order, defined and punishable under chapter 711,
17 in the presence of the officer;



- 1 (C) The officer has probable cause to believe that a
2 crime as defined in subparagraph (A) or (B) has
3 been committed and has probable cause to believe
4 that the person to be arrested has committed the
5 crime;
- 6 (D) The officer has probable cause to believe that a
7 felony has been committed and probable cause to
8 believe that the person to be arrested has
9 committed the felony; or
- 10 (E) The officer has received information by written,
11 telegraphic, teletypic, telephonic, radio, or
12 other authoritative source that a law enforcement
13 officer holds a warrant for the person's arrest;
14 and
- 15 (3) The [~~Regional Commissioner of Customs or the Regional~~
16 ~~Commissioner of Immigration and Naturalization, as the~~
17 ~~case may be, for the district of Hawaii have certifies~~
18 ~~to the State that the officer has~~] head of the Hawaii
19 district office for each of the federal agencies
20 referred to in subsection (b) provides to the state
21 attorney general a list of federal law enforcement
22 officers certified to have received proper training



1 within the agency to enable that officer to enforce or
2 administer this section.

3 (b) For purposes of this section, "federal law enforcement
4 officer" means:

5 (1) A special agent of the Federal Bureau of
6 Investigation;

7 (2) A special agent of the United States Secret Service;

8 (3) A special agent of the United States Department of
9 Homeland Security, Citizenship and Immigration
10 Service, or Customs and Border Protection;

11 (4) A special agent of the Bureau of Alcohol, Tobacco,
12 Firearms, and Explosives;

13 (5) A special agent of the Drug Enforcement
14 Administration; and

15 (6) A United States marshal or deputy United States
16 marshal."

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

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

PROPOSED

Report Title:

Power of Arrest; Federal Law Enforcement Officers

Description:

Extends the power of federal officers to make arrests under state law, currently limited to Customs and Immigrations Service officers, to agents of the Federal Bureau of Investigation, Drug Enforcement Administration, Bureau of Alcohol, Tobacco, Firearms, and Explosives, United States Secret Service, and United States Marshal Service. (SD2)

