

JAN 22 2008

---

---

# 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. Chapter 803, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§803-       United States marshal or deputy United States  
5 marshal; arrest powers. A United States marshal or deputy  
6 United States marshal, without a warrant, may arrest a person  
7 if:

8           (1) The marshal or deputy marshal is on duty;

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

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

15           (B) The marshal or deputy marshal has probable cause  
16                 to believe that a crime as provided in  
17                 subparagraph (A) has been committed and has



1                   probable cause to believe that the person to be  
2                   arrested has committed the crime; or

3                   (C) The marshal or deputy marshal has received  
4                   information by written, telegraphic, telephonic,  
5                   radio, or other authoritative source that a law  
6                   enforcement officer holds a warrant for the  
7                   person's arrest; and

8                   (3) The head of the Hawaii district office for the United  
9                   States Marshal Service certifies to the State that the  
10                   marshal or deputy marshal has received proper training  
11                   within the agency to enable that officer to enforce or  
12                   administer this section."

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

15                   "[+]§803-16[+] **Officer of United States Customs and Border**  
16 **Protection Service or Citizenship and Immigration [and**  
17 **Naturalization Service;] Services; arrest powers. An officer of  
18 the United States Customs and Border Protection Service [and] or  
19 the Citizenship and Immigration [and Naturalization Service  
20 may,] Services, without a warrant, may arrest a person if:**

21                   (1) The officer is on duty;

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



- 1           (A) The person commits an assault or other crime
- 2           involving physical harm, defined and punishable
- 3           under chapter 707, against the officer or against
- 4           any other person in the presence of the officer;
- 5           (B) The person commits an offense against public
- 6           order, defined and punishable under chapter 711,
- 7           in the presence of the officer;
- 8           (C) The officer has probable cause to believe that a
- 9           crime as [~~defined~~] provided in subparagraph (A)
- 10          or (B) has been committed and has probable cause
- 11          to believe that the person to be arrested has
- 12          committed the crime;
- 13          (D) The officer has probable cause to believe that a
- 14          felony has been committed and probable cause to
- 15          believe that the person to be arrested has
- 16          committed the felony; or
- 17          (E) The officer has received information by written,
- 18          telegraphic, teletypic, telephonic, radio, or
- 19          other authoritative source that a law enforcement
- 20          officer holds a warrant for the person's arrest;
- 21          and



1 (3) The [~~Regional Commissioner~~] head of the Hawaii  
 2 district office for the Customs and Border Protection  
 3 Service, or the [~~Regional Commissioner of~~] Citizenship  
 4 and Immigration [~~and Naturalization,~~] Services, as the  
 5 case may be, for the district of Hawaii certifies to  
 6 the State that the officer has received proper  
 7 training within the agency to enable that officer to  
 8 enforce or administer this section."

9 SECTION 3. Statutory material to be repealed is bracketed  
 10 and stricken. New statutory material is underscored.

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

12

INTRODUCED BY:

*[Handwritten Signature]*  
*by request*



**Report Title:**

Power of Arrest; United States Marshal Service

**Description:**

Authorizes agents of the United States Marshal Service to make arrests under state law. Updates references to former U.S. Customs Service and Immigration and Naturalization Service to reflect current names of agencies within the federal Department of Homeland Security.

