

JAN 18 2013

A BILL FOR AN ACT

RELATING TO FELONIES FOR WHICH CRIMINAL CHARGES MAY BE
INSTITUTED BY WRITTEN INFORMATION.

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

1 SECTION 1. Section 806-83, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§806-83 Felonies for which criminal charges may be**
4 **instituted by written information.** (a) Criminal charges may be
5 instituted by written information for a felony when the charge
6 is a class C felony, except under [~~section 19-3.5 (voter fraud);~~
7 ~~section 128D-10 (knowing releases); section 132D-14(a)(1),~~
8 ~~(2)(A), and (3) (relating to penalties for failure to comply~~
9 ~~with requirements of sections 132D-7, 132D-10, and 132D-16);~~
10 ~~section 134-24 (place to keep unloaded firearms other than~~
11 ~~pistols and revolvers); section 134-7(a) and (b) (ownership or~~
12 ~~possession prohibited); section 134-8 (ownership, etc., of~~
13 ~~automatic firearms, silencers, etc., prohibited; penalties);~~
14 ~~section 134-9 (licenses to carry); section 134-17(a) (relating~~
15 ~~to false information or evidence concerning psychiatric or~~
16 ~~criminal history); section 134-51 (deadly weapons); section 134-~~
17 ~~52 (switchblade knives); section 134-53 (butterfly knives);~~



1 ~~section 188 23 (possession or use of explosives, electrofishing~~
2 ~~devices, and poisonous substances in state waters prohibited);~~
3 ~~section 231 34 (attempt to evade or defeat tax); section 231 36~~
4 ~~(false and fraudulent statements); section 245 37 (sale or~~
5 ~~purchase of packages of cigarettes without stamps); section 245~~
6 ~~38 (vending unstamped cigarettes); section 245 51 (export and~~
7 ~~foreign cigarettes prohibited); section 245 52 (alteration of~~
8 ~~packaging prohibited); section 291C 12.5 (accidents involving~~
9 ~~substantial bodily injury); section 291E 61.5 (habitually~~
10 ~~operating a vehicle under the influence of an intoxicant);~~
11 ~~section 329 41 (prohibited acts B penalties); section 329 42~~
12 ~~(prohibited acts C penalties); section 329 43.5 (prohibited~~
13 ~~acts related to drug paraphernalia); section 329C 2~~
14 ~~(manufacture, distribution, or possession with intent to~~
15 ~~distribute an imitation controlled substance to a person under~~
16 ~~eighteen years of age); section 346 34(d)(2) and (e) (relating~~
17 ~~to fraud involving food stamps or coupons); section 346 43.5~~
18 ~~(medical assistance frauds; penalties); section 383 141 (falsely~~
19 ~~obtaining benefits, etc.); section 431:2 403(b)(2) (insurance~~
20 ~~fraud); section 482D 7 (violation of fineness standards and~~
21 ~~stamping requirements); section 485A 301 (securities~~
22 ~~registration requirement); section 485A 401 (broker dealer~~



1 ~~registration requirement and exemptions); section 485A 402~~
2 ~~(agent registration requirement and exemptions); section 485A-~~
3 ~~403 (investment advisor registration requirement and~~
4 ~~exemptions); section 485A 404 (investment advisor representative~~
5 ~~registration requirement and exemptions); section 485A 405~~
6 ~~(federal covered investment adviser notice filing requirement);~~
7 ~~section 485A 501 (general fraud); section 485A 502 (prohibited~~
8 ~~conduct in providing investment advice); section 707 703~~
9 ~~(negligent homicide in the second degree); section 707 705~~
10 ~~(negligent injury in the first degree); section 707 711 (assault~~
11 ~~in the second degree); section 707 713 (reckless endangering in~~
12 ~~the first degree); section 707 721 (unlawful imprisonment in the~~
13 ~~first degree); section 707 726 (custodial interference in the~~
14 ~~first degree); section 707 757 (electronic enticement of a child~~
15 ~~in the second degree); section 707 766 (extortion in the second~~
16 ~~degree); section 708 811 (burglary in the second degree);~~
17 ~~section 708 812.6 (unauthorized entry in a dwelling); section~~
18 ~~708 821 (criminal property damage in the second degree); section~~
19 ~~708 831 (theft in the second degree); section 708 833.5~~
20 ~~(shoplifting); section 708 835.5 (theft of livestock); section~~
21 ~~708 836 (unauthorized control of propelled vehicle); section~~
22 ~~708 836.5 (unauthorized entry into motor vehicle in the first~~



1 ~~degree); section 708 839.5 (theft of utility services); section~~
2 ~~708 839.55 (unauthorized possession of confidential personal~~
3 ~~information); section 708 839.8 (identity theft in the third~~
4 ~~degree); section 708 852 (forgery in the second degree); section~~
5 ~~708 854 (criminal possession of a forgery device); section 708~~
6 ~~858 (suppressing a testamentary or recordable instrument);~~
7 ~~section 708 875 (trademark counterfeiting); section 708 891.5~~
8 ~~(computer fraud in the second degree); section 708 892.5~~
9 ~~(computer damage in the second degree); section 708 895.6~~
10 ~~(unauthorized computer access in the second degree); section~~
11 ~~708 8100 (fraudulent use of a credit card); section 708 8102~~
12 ~~(theft, forgery, etc., of credit cards); section 708 8103~~
13 ~~(credit card fraud by a provider of goods or services); section~~
14 ~~708 8104 (possession of unauthorized credit card machinery or~~
15 ~~incomplete cards); section 708 8200 (cable television service~~
16 ~~fraud in the first degree); section 708 8202 (telecommunication~~
17 ~~service fraud in the first degree); section 709 903.5~~
18 ~~(endangering the welfare of a minor in the first degree);~~
19 ~~section 709 906 (abuse of family or household members); section~~
20 ~~710 1016.3 (obtaining a government issued identification~~
21 ~~document under false pretenses in the first degree); section~~
22 ~~710 1016.6 (impersonating a law enforcement officer in the first~~



1 ~~degree); section 710 1017.5 (sale or manufacture of deceptive~~
2 ~~identification document); section 710 1018 (securing the~~
3 ~~proceeds of an offense); section 710 1021 (escape in the second~~
4 ~~degree); section 710 1023 (promoting prison contraband in the~~
5 ~~second degree); section 710 1024 (bail jumping in the first~~
6 ~~degree); section 710 1029 (hindering prosecution in the first~~
7 ~~degree); section 710 1060 (perjury); section 710 1072.5~~
8 ~~(obstruction of justice); section 711 1103 (riot); section 711~~
9 ~~1109.3 (cruelty to animals; fighting dogs); section 711 1110.9~~
10 ~~(violation of privacy in the first degree); section 711 1112~~
11 ~~(interference with the operator of a public transit vehicle);~~
12 ~~section 712 1221 (promoting gambling in the first degree);~~
13 ~~section 712 1222.5 (promoting gambling aboard ships); section~~
14 ~~712 1224 (possession of gambling records in the first degree);~~
15 ~~section 712 1243 (promoting a dangerous drug in the third~~
16 ~~degree); section 712 1246 (promoting a harmful drug in the third~~
17 ~~degree); section 712 1247 (promoting a detrimental drug in the~~
18 ~~first degree); section 712 1249.6 (promoting a controlled~~
19 ~~substance in, on, or near schools, school vehicles, or public~~
20 ~~parks); section 803 42 (interception, access, and disclosure of~~
21 ~~wire, oral, or electronic communications, use of pen register,~~
22 ~~trap and trace device, and mobile tracking device prohibited);~~



1 ~~or section 846E 9(b) (failure to comply with covered offender~~
2 ~~registration requirements).]~~ section 707-712.5 (assault against
3 a law enforcement officer in the first degree); section 707-732
4 (sexual assault in the third degree); section 707-741 (incest);
5 section 707-752 (promoting child abuse in the third degree);
6 section 709-904.5(2)(b) (compensation by an adult of juveniles
7 for crimes; grade or class of offense increased); section 710-
8 1070 (bribery of or by a witness); section 710-1071
9 (intimidating a witness); section 710-1072.2 (retaliating
10 against a witness); section 710-1073 (bribery of or by a juror);
11 section 710-1075 (jury tampering); section 710-1075.5
12 (retaliating against a juror); section 711-1106.4 (aggravated
13 harassment by stalking); section 711-1110.9 (violation of
14 privacy in the first degree); section 712-1208 (promoting travel
15 for prostitution); section 712-1215 (promoting pornography for
16 minors); section 712-1218 (failure to maintain age verification
17 records of sexual performers); section 712-1218.5 (failure to
18 maintain age verification records of sexually exploited
19 individuals); or section 712-1219 (failure to affix information
20 disclosing location of age verification records of sexual
21 performers).



1 (b) Criminal charges may be instituted by written
2 information for a felony when the charge is a class B felony,
3 except under [section 134-7(b) (ownership or possession
4 prohibited, when; penalty); 134-23 (place to keep loaded
5 firearms other than pistols and revolvers; penalties); section
6 134-25 (place to keep pistol or revolver; penalty); section 134-
7 26 (carrying or possessing a loaded firearm on a public highway;
8 penalty); section 329-43.5 (prohibited acts related to drug
9 paraphernalia); section 708-810 (burglary in the first degree);
10 section 708-830.5 (theft in the first degree); section 708-839.7
11 (identity theft in the second degree); section 708-851 (forgery
12 in the first degree); section 708-891 (computer fraud in the
13 first degree); section 708-892 (computer damage in the first
14 degree); section 712-1240.8 (methamphetamine trafficking in the
15 second degree); section 712-1242 (promoting a dangerous drug in
16 the second degree); section 712-1245 (promoting a harmful drug
17 in the second degree); or section 712-1249.5 (commercial
18 promotion of marijuana in the second degree).] section 707-731
19 (sexual assault in the second degree); section 707-751
20 (promoting child abuse in the second degree); section 708-841
21 (robbery in the second degree); section 709-904.5(2)(c)
22 (compensation by an adult of juveniles for crimes; grade or



1 class of offense increased); section 710-1031 (intimidating a
2 correctional worker); or section 712-1203 (promoting
3 prostitution in the second degree).

4 (c) Criminal charges may be instituted by written
5 information for a felony when the charge is a felony under
6 section 19-3 (election frauds); section 480-4 (combinations in
7 restraint of trade, price-fixing and limitation of production
8 prohibited); section 480-6 (refusal to deal); or section 480-9
9 (monopolization).

10 (d) Criminal charges may be instituted by written
11 information for a felony when the charge is a charge under
12 section 329-46 (prohibited acts related to visits to more than
13 one practitioner to obtain controlled substance prescriptions)
14 and the comparable offense under part IV of chapter 712 [~~as~~] is
15 not enumerated in subsection (a), (b), or (c).

16 (e) Criminal charges may be instituted by written
17 information for a felony when the charge is a charge that
18 involves section 702-221 (liability for conduct of another),
19 section 702-222 (liability for the conduct of another;
20 complicity), section 702-223 (liability for the conduct of
21 another; complicity with respect to the result), section 705-500
22 (criminal attempt), section 705-510 (criminal solicitation), or




1 section 705-520 (criminal conspiracy), and the underlying
2 offense is an offense not listed above in subsection (a), (b),
3 (c), or (d)."

4 SECTION 2. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on July 1, 2013.

10

INTRODUCED BY: 

By Request



S.B. NO. 445

Report Title:

Criminal Procedure; Felonies; Information Charging

Description:

Authorizes all criminal charges for class B and C felonies to be instituted by written information unless the felony is expressly excluded. Effective July 1, 2013.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

