

JAN 22 2016

A BILL FOR AN ACT

RELATING TO CRIMINAL PROCEDURE.

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

1 PART I

2 SECTION 1. (a) This Act is intended to produce cost-
3 savings for law enforcement agencies and the courts by requiring
4 a person, when being issued a citation in lieu of arrest, to
5 provide the address of a current residence or facility where the
6 person may be found. It is the legislature's intent to:

7 (1) Ease the effort that law enforcement agencies must
8 make to find a person who does not appear in court
9 when required; and

10 (2) Reduce the waste of the court's time and resources
11 caused when the person does not appear.

12 (b) The purpose of this Act is to improve criminal
13 procedure by:

14 (1) Authorizing the issuance of a citation in lieu of
15 arrest when the detained person resides at a specific
16 address or stays nightly in a homeless facility; and



1 (2) Allowing the court, as a condition of release on bail,
 2 recognizance, or supervised release, to require a
 3 defendant without a current residence to stay nightly
 4 in a homeless facility.

PART II

6 SECTION 2. Section 803-6, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "§803-6 Arrest, how made[-]; citation in lieu of arrest.

9 (a) At or before the time of making an arrest, the person shall
 10 declare that the person is an officer of justice, if such is the
 11 case. If the person has a warrant the person should show it; or
 12 if the person makes the arrest without warrant in any of the
 13 cases in which it is authorized by law, the person should give
 14 the party arrested [~~clearly to understand~~] a clear understanding
 15 for what cause the person undertakes to make the arrest[+] and
 16 shall require the party arrested to submit and be taken to the
 17 police station or judge. This done, the arrest is complete.

18 (b) In any case in which it is lawful for a police officer
 19 to arrest a person without a warrant for a misdemeanor, petty
 20 misdemeanor or violation, the police officer may, but need not,
 21 issue a citation in lieu of the requirements of [+]subsection[+]



1 (a), if the police officer finds and is reasonably satisfied
2 that ~~[the person]~~:

3 (1) ~~[Will]~~ The person will appear in court at the time
4 designated;

5 (2) ~~[Has]~~ The person has no outstanding arrest warrants
6 ~~[which]~~ that would justify the person's detention or
7 give indication that the person might fail to appear
8 in court; ~~[and]~~

9 (3) The person currently resides at a specific address or
10 stays nightly in a homeless facility; and

11 ~~[(3)]~~ (4) [That the] The offense is of such nature that
12 there will be no further police contact on or about
13 the date in question~~[7]~~ or in the immediate future.

14 (c) The citation shall contain:

15 (1) The name of the offender and ~~[current]~~ the address of
16 the ~~[offender7]~~ offender's current residence or a
17 homeless facility at which the offender stays nightly;

18 (2) The last four digits of the offender's social security
19 number;

20 (3) A description of the offender;

21 (4) The nature of the offense;



- 1 (5) The time and date of the offense;
- 2 (6) A notice of time and date for court appearance;
- 3 (7) The signature and badge number of the officer;
- 4 (8) The signature of the offender agreeing to court
- 5 appearance;
- 6 (9) Any remarks; and
- 7 (10) A notice directing the offender to appear at the time
- 8 and place designated to stand trial for the offense
- 9 indicated and a notice that failure to obey the
- 10 citation may result in a fine or imprisonment, or
- 11 both.

12 (d) Where a citation has been issued in lieu of the
13 requirements of subsection (a), the officer who issues the
14 summons or citation may subscribe to the complaint:

15 (1) Under oath administered by any police officer whose
16 name has been submitted to the prosecuting officer and
17 who has been designated by the chief of police to
18 administer the oath; or

19 (2) By declaration in accordance with the rules of court.

20 (e) If a person fails to appear in answer to the
21 citation[+] or if there is reasonable cause to believe that the



1 person will not appear, a warrant for the person's arrest may be
2 issued. A knowing failure to appear in answer to the citation
3 may be punished by a fine of not more than \$1,000 or
4 imprisonment of not more than thirty days or both."

5 SECTION 3. Section 804-7.1, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§804-7.1 Conditions of release on bail, recognizance, or
8 supervised release. Upon a showing that there exists a danger
9 that the defendant will commit a serious crime or will seek to
10 intimidate witnesses, or will otherwise unlawfully interfere
11 with the orderly administration of justice, the judicial officer
12 named in section 804-5 may deny the defendant's release on bail,
13 recognizance, or supervised release.

14 Upon the defendant's release on bail, recognizance, or
15 supervised release, however, the court may enter an order:

16 (1) Prohibiting the defendant from approaching or
17 communicating with particular persons or classes of
18 persons, except that no such order should be deemed to
19 prohibit any lawful and ethical activity of
20 defendant's counsel;



- 1 (2) Prohibiting the defendant from going to certain
- 2 described geographical areas or premises;
- 3 (3) Prohibiting the defendant from possessing any
- 4 dangerous weapon, engaging in certain described
- 5 activities, or indulging in intoxicating liquors or
- 6 certain drugs;
- 7 (4) Requiring the defendant to report regularly to and
- 8 remain under the supervision of an officer of the
- 9 court;
- 10 (5) Requiring the defendant to maintain employment[7] or,
- 11 if unemployed, to actively seek employment[7] or
- 12 attend an educational or vocational institution;
- 13 (6) Requiring the defendant to comply with a specified
- 14 curfew;
- 15 (7) Requiring the defendant to seek and maintain mental
- 16 health treatment or testing, including treatment for
- 17 drug or alcohol dependency, or to remain in a
- 18 specified institution for that purpose;
- 19 (8) Requiring the defendant to remain in the jurisdiction
- 20 of the judicial circuit in which the charges are
- 21 pending unless approval is obtained from a court of

1 competent jurisdiction to leave the jurisdiction of
2 the court;

3 (9) Requiring the defendant, if having no current
4 residence, to:

5 (A) Stay nightly in a specified homeless facility;
6 and

7 (B) Consent to the release of information by the
8 homeless facility regarding the presence or
9 absence of the defendant at the facility during
10 the nights the defendant is directed to stay at
11 the specified homeless facility to the court,
12 police department, and the prosecuting attorney;

13 ~~[(9)]~~ (10) Requiring the defendant to satisfy any other
14 condition reasonably necessary to ~~[assure]~~ ensure the
15 appearance of the person as required and to ~~[assure]~~
16 ensure the safety of any other person or community; or

17 ~~[(10)]~~ (11) Imposing any combination of conditions listed
18 above.

19 The judicial officer may revoke a defendant's bail upon
20 proof that the defendant has breached any of the conditions
21 imposed."



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PART III

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2016-2017 to implement this Act commencing January 1, 2017.

The sum appropriated shall be expended by the judiciary for the purposes of this Act.

PART IV

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on January 1, 2017; provided that part III shall take effect on July 1, 2016.

INTRODUCED BY:

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Report Title:

Citation In Lieu Of Arrest; Release Conditions; Appropriation

Description:

Authorizes a police officer to issue a citation in lieu of making an arrest if the person resides at a specific address or stays nightly in a homeless facility. Allows the court, as a condition of release on bail, recognizance, or supervised release, to require a defendant without a current residence to stay nightly in a homeless facility. Appropriates general funds to the judiciary for implementation. Effective 01/01/2017.

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