
A BILL FOR AN ACT

RELATING TO CRIMINAL PROCEEDINGS.

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

1 SECTION 1. Section 805-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§805-7 [Commitment;]~~ Preliminary hearing; commitment;
4 form of mittimus. (a) In all cases of arrest for offenses that
5 ~~[must]~~ :

6 (1) Must be tried in the first instance before a jury [~~or~~
7 ~~that can~~];

8 (2) Can be tried only on indictment by a grand jury [~~or~~]; or

9 (3) Constitute a felony committed by a law enforcement
10 officer;

11 the judge in whose jurisdiction or on whose warrant the accused
12 was arrested, upon the appearance of the accused, shall [~~proceed~~
13 ~~to consider~~] conduct a preliminary hearing to determine whether
14 there is probable cause to believe that the accused is guilty of
15 the offense with which the accused is charged [~~or~~]; provided that
16 no case described in paragraph (3) shall be presented to a grand
17 jury or charged by written information. The [~~judge shall reduce~~



1 ~~to writing the substance]~~ court shall keep a record of the
2 evidence adduced, with the names of the witnesses.

3 (b) If in the judge's opinion the ~~[testimony]~~ evidence
4 does not warrant commitment for trial, the judge shall release
5 the ~~[prisoner]~~ accused, noting that fact upon the ~~[judge's]~~
6 court's docket. But if in the judge's opinion there is probable
7 cause to believe that the accused is guilty of the offense with
8 which the accused is charged, the judge shall make out and
9 deliver to a police officer a mittimus which may be in the form
10 established by the usage and practice of the issuing court.

11 (c) For purposes of this section, "law enforcement
12 officer" shall have the same meaning as in section 710-1000."

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

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

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S.B. NO. 3035

Report Title:

Grand Jury; Proceedings; Prosecution; Law Enforcement Officers

Description:

Requires a preliminary hearing for a case in which a law enforcement officer is charged with a felony offense.

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