

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO INFORMATION CHARGING.

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

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

3           1. By amending subsections (a) and (b) to read:

4           "(a) Criminal charges may be instituted by written  
5 information for a felony when the charge is a class C felony  
6 ~~[under:]~~, except under:

7           ~~(1) Section 19-3.5 (voter fraud);~~

8           ~~(2) Section 128D-10 (knowing releases);~~

9           ~~(3) Section 132D-14(a)(1), (2)(A), and (3) (relating to~~  
10 ~~penalties for failure to comply with requirements of~~  
11 ~~sections 132D-7, 132D-10, and 132D-16);~~

12           ~~(4) Section 134-7(a) and (b) (ownership or possession~~  
13 ~~prohibited);~~

14           ~~(5) Section 134-8 (ownership, etc., of automatic firearms,~~  
15 ~~silencers, etc., prohibited; penalties);~~

16           ~~(6) Section 134-9 (licenses to carry);~~



# S.B. NO. 326

- 1        ~~(7) Section 134-17(a) (relating to false information or~~
- 2            ~~evidence concerning psychiatric or criminal history);~~
- 3        ~~(8) Section 134-24 (place to keep unloaded firearms other~~
- 4            ~~than pistols and revolvers);~~
- 5        ~~(9) Section 134-51 (deadly weapons);~~
- 6        ~~(10) Section 134-52 (switchblade knives);~~
- 7        ~~(11) Section 134-53 (butterfly knives);~~
- 8        ~~(12) Section 188-23 (possession or use of explosives,~~
- 9            ~~electrofishing devices, and poisonous substances in~~
- 10           ~~state waters prohibited);~~
- 11        ~~(13) Section 231-34 (attempt to evade or defeat tax);~~
- 12        ~~(14) Section 231-36 (false and fraudulent statements);~~
- 13        ~~(15) Section 245-37 (sale or purchase of packages of~~
- 14            ~~cigarettes without stamps);~~
- 15        ~~(16) Section 245-38 (vending unstamped cigarettes);~~
- 16        ~~(17) Section 245-51 (export and foreign cigarettes~~
- 17            ~~prohibited);~~
- 18        ~~(18) Section 245-52 (alteration of packaging prohibited);~~
- 19        ~~(19) Section 291C-12.5 (accidents involving substantial~~
- 20            ~~bodily injury);~~



# S.B. NO. 326

- 1       ~~(20) Section 291E 61.5 (habitually operating a vehicle~~
- 2             ~~under the influence of an intoxicant);~~
- 3       ~~(21) Section 329 41 (prohibited acts B penalties);~~
- 4       ~~(22) Section 329 42 (prohibited acts C penalties);~~
- 5       ~~(23) Section 329 43.5 (prohibited acts related to drug~~
- 6             ~~paraphernalia);~~
- 7       ~~(24) Section 329C 2 (manufacture, distribution, or~~
- 8             ~~possession with intent to distribute an imitation~~
- 9             ~~controlled substance to a person under eighteen years~~
- 10            ~~of age);~~
- 11       ~~(25) Section 346 34(d) (2) and (e) (relating to fraud~~
- 12             ~~involving food stamps or coupons);~~
- 13       ~~(26) Section 346 43.5 (medical assistance [fraud];~~
- 14             ~~penalties);~~
- 15       ~~(27) Section 383 141 (falsely obtaining benefits, etc.);~~
- 16       ~~(28) Section 431:2 403(b) (2) (insurance fraud);~~
- 17       ~~(29) Section 482D 7 (violation of fineness standards and~~
- 18             ~~stamping requirements);~~
- 19       ~~(30) Section 485A 301 (securities registration~~
- 20             ~~requirement);~~



# S.B. NO. 326

- 1       ~~(31) Section 485A 401 (broker-dealer registration~~
- 2           ~~requirement and exemptions);~~
- 3       ~~(32) Section 485A 402 (agent registration requirement and~~
- 4           ~~exemptions);~~
- 5       ~~(33) Section 485A 403 (investment adviser registration~~
- 6           ~~requirement and exemptions);~~
- 7       ~~(34) Section 485A 404 (investment adviser representative~~
- 8           ~~registration requirement and exemptions);~~
- 9       ~~(35) Section 485A 405 (federal covered investment adviser~~
- 10           ~~notice filing requirement);~~
- 11       ~~(36) Section 485A 501 (general fraud);~~
- 12       ~~(37) Section 485A 502 (prohibited conduct in providing~~
- 13           ~~investment advice);~~
- 14       ~~(38) Section 707 703 (negligent homicide in the second~~
- 15           ~~degree);~~
- 16       ~~(39) Section 707 705 (negligent injury in the first~~
- 17           ~~degree);~~
- 18       ~~(40) Section 707 711 (assault in the second degree);~~
- 19       ~~(41) Section 707 713 (reckless endangering in the first~~
- 20           ~~degree);~~



# S.B. NO. 326

- 1       ~~(42) Section 707-721 (unlawful imprisonment in the first~~
- 2               ~~degree);~~
- 3       ~~(43) Section 707-726 (custodial interference in the first~~
- 4               ~~degree);~~
- 5       ~~(44) Section 707-757 (electronic enticement of a child in~~
- 6               ~~the second degree);~~
- 7       ~~(45) Section 707-766 (extortion in the second degree);~~
- 8       ~~(46) Section 708-811 (burglary in the second degree);~~
- 9       ~~(47) Section 708-812.6 (unauthorized entry in a dwelling in~~
- 10              ~~the second degree);~~
- 11       ~~(48) Section 708-821 (criminal property damage in the~~
- 12              ~~second degree);~~
- 13       ~~(49) Section 708-831 (theft in the second degree);~~
- 14       ~~(50) Section 708-833.5 (shoplifting);~~
- 15       ~~(51) Section 708-835.5 (theft of livestock);~~
- 16       ~~(52) Section 708-836 (unauthorized control of propelled~~
- 17              ~~vehicle);~~
- 18       ~~(53) Section 708-836.5 (unauthorized entry into motor~~
- 19              ~~vehicle in the first degree);~~
- 20       ~~(54) Section 708-839.5 (theft of utility services);~~



# S.B. NO. 326

- 1       ~~(55) Section 708-839.55 (unauthorized possession of~~
- 2               ~~confidential personal information);~~
- 3       ~~(56) Section 708-839.8 (identity theft in the third~~
- 4               ~~degree);~~
- 5       ~~(57) Section 708-852 (forgery in the second degree);~~
- 6       ~~(58) Section 708-854 (criminal possession of a forgery~~
- 7               ~~device);~~
- 8       ~~(59) Section 708-858 (suppressing a testamentary or~~
- 9               ~~recordable instrument);~~
- 10       ~~(60) Section 708-875 (trademark counterfeiting);~~
- 11       ~~(61) Section 708-891.6 (computer fraud in the third~~
- 12               ~~degree);~~
- 13       ~~(62) Section 708-892.6 (computer damage in the third~~
- 14               ~~degree);~~
- 15       ~~(63) Section 708-895.7 (unauthorized computer access in the~~
- 16               ~~third degree);~~
- 17       ~~(64) Section 708-8100 (fraudulent use of a credit card);~~
- 18       ~~(65) Section 708-8102 (theft, forgery, etc., of credit~~
- 19               ~~cards);~~
- 20       ~~(66) Section 708-8103 (credit card fraud by a provider of~~
- 21               ~~goods or services);~~



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- 1       ~~(67) Section 708-8104 (possession of unauthorized credit~~
- 2           ~~card machinery or incomplete cards);~~
- 3       ~~(68) Section 708-8200 (cable television service fraud in~~
- 4           ~~the first degree);~~
- 5       ~~(69) Section 708-8202 (telecommunication service fraud in~~
- 6           ~~the first degree);~~
- 7       ~~(70) Section 709-903.5 (endangering the welfare of a minor~~
- 8           ~~in the first degree);~~
- 9       ~~(71) Section 709-906 (abuse of family or household~~
- 10           ~~members);~~
- 11       ~~(72) Section 710-1016.3 (obtaining a government issued~~
- 12           ~~identification document under false pretenses in the~~
- 13           ~~first degree);~~
- 14       ~~(73) Section 710-1016.6 (impersonating a law enforcement~~
- 15           ~~officer in the first degree);~~
- 16       ~~(74) Section 710-1017.5 (sale or manufacture of deceptive~~
- 17           ~~identification document);~~
- 18       ~~(75) Section 710-1018 (securing the proceeds of an~~
- 19           ~~offense);~~
- 20       ~~(76) Section 710-1021 (escape in the second degree);~~



- 1       ~~(77) Section 710 1023 (promoting prison contraband in the~~
- 2               ~~second degree);~~
- 3       ~~(78) Section 710 1024 (bail jumping in the first degree);~~
- 4       ~~(79) Section 710 1029 (hindering prosecution in the first~~
- 5               ~~degree);~~
- 6       ~~(80) Section 710 1060 (perjury);~~
- 7       ~~(81) Section 710 1072.5 (obstruction of justice);~~
- 8       ~~(82) Section 711 1103 (riot);~~
- 9       ~~(83) Section 711 1109.35 (cruelty to animals by fighting~~
- 10              ~~dogs in the second degree);~~
- 11       ~~(84) Section 711 1110.9 (violation of privacy in the first~~
- 12              ~~degree);~~
- 13       ~~(85) Section 711 1112 (interference with the operator of a~~
- 14              ~~public transit vehicle);~~
- 15       ~~(86) Section 712 1221 (promoting gambling in the first~~
- 16              ~~degree);~~
- 17       ~~(87) Section 712 1222.5 (promoting gambling aboard ships);~~
- 18       ~~(88) Section 712 1224 (possession of gambling records in~~
- 19              ~~the first degree);~~
- 20       ~~(89) Section 712 1243 (promoting a dangerous drug in the~~
- 21              ~~third degree);~~





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- 1       ~~(90) Section 712-1246 (promoting a harmful drug in the~~
- 2           ~~third degree);~~
- 3       ~~(91) Section 712-1247 (promoting a detrimental drug in the~~
- 4           ~~first degree);~~
- 5       ~~(92) Section 712-1249.6(1) (a), (b), or (c) (promoting a~~
- 6           ~~controlled substance in, on, or near schools, school~~
- 7           ~~vehicles, public parks, or public housing projects or~~
- 8           ~~complexes);~~
- 9       ~~(93) Section 803-42 (interception, access, and disclosure~~
- 10           ~~of wire, oral, or electronic communications, use of~~
- 11           ~~pen register, trap and trace device, and mobile~~
- 12           ~~tracking device prohibited); or~~
- 13       ~~(94) Section 846E-9 (failure to comply with covered~~
- 14           ~~offender registration requirements).]~~
- 15       (1) Section 707-712.5 (assault against a law enforcement
- 16           officer in the first degree);
- 17       (2) Section 707-732 (sexual assault in the third degree);
- 18       (3) Section 707-741 (incest);
- 19       (4) Section 707-752 (promoting child abuse in the third
- 20           degree);



# S.B. NO. 326

- 1        (5) Section 709-904.5 (compensation by an adult of
- 2                juveniles for crimes);
- 3        (6) Section 710-1070 (bribery of or by a witness);
- 4        (7) Section 710-1071 (intimidating a witness);
- 5        (8) Section 710-1072.2 (retaliating against a witness);
- 6        (9) Section 710-1073 (bribery of or by a juror);
- 7        (10) Section 710-1075 (jury tampering);
- 8        (11) Section 710-1075.5 (retaliating against a juror);
- 9        (12) Section 711-1106.4 (aggravated harassment by
- 10               stalking);
- 11        (13) Section 711-1110.9 (violation of privacy in the first
- 12               degree);
- 13        (14) Section 712-1208 (promoting travel for prostitution);
- 14        (15) Section 712-1215 (promoting pornography for minors);
- 15        (16) Section 712-1218 (failure to maintain age verification
- 16               records of sexual performers);
- 17        (17) Section 712-1218.5 (failure to maintain age
- 18               verification records of sexually exploited
- 19               individuals); and



1        (18) Section 712-1219 (failure to affix information  
2        disclosing location of age verification records of  
3        sexual performers).

4        (b) Criminal charges may be instituted by written  
5 information for a felony when the charge is a class B felony  
6 [under:], except under:

7        ~~(1) Section 134-7(b) (ownership or possession prohibited,~~  
8        ~~when; penalty);~~

9        ~~(2) Section 134-23 (place to keep loaded firearms other~~  
10        ~~than pistols and revolvers; penalties);~~

11        ~~(3) Section 134-25 (place to keep pistol or revolver;~~  
12        ~~penalty);~~

13        ~~(4) Section 134-26 (carrying or possessing a loaded~~  
14        ~~firearm on a public highway; penalty);~~

15        ~~(5) Section 329-43.5 (prohibited acts related to drug~~  
16        ~~paraphernalia);~~

17        ~~(6) Section 708-810 (burglary in the first degree);~~

18        ~~(7) Section 708-830.5 (theft in the first degree);~~

19        ~~(8) Section 708-839.7 (identity theft in the second~~  
20        ~~degree);~~

21        ~~(9) Section 708-851 (forgery in the first degree);~~



# S.B. NO. 326

- 1       ~~(10) Section 708-891.5 (computer fraud in the second~~  
2           ~~degree);~~
- 3       ~~(11) Section 708-892.5 (computer damage in the second~~  
4           ~~degree);~~
- 5       ~~(12) Section 712-1242 (promoting a dangerous drug in the~~  
6           ~~second degree);~~
- 7       ~~(13) Section 712-1245 (promoting a harmful drug in the~~  
8           ~~second degree); or~~
- 9       ~~(14) Section 712-1249.5 (commercial promotion of marijuana~~  
10           ~~in the second degree).]~~
- 11       (1) Section 707-720 (kidnapping);
- 12       (2) Section 707-731 (sexual assault in the second degree);
- 13       (3) Section 707-751 (promoting child abuse in the second  
14           degree);
- 15       (4) Section 708-841 (robbery in the second degree);
- 16       (5) Section 710-1031 (intimidating a correctional worker);
- 17       and
- 18       (6) Section 712-1203 (promoting prostitution)."
- 19       2. By amending subsections (d) and (e) to read:
- 20       "(d) Criminal charges may be instituted by written
- 21       information for a felony when the charge is a charge under



1 section 329-46 (prohibited acts related to visits to more than  
2 one practitioner to obtain controlled substance prescriptions)  
3 and the comparable offense under part IV of chapter 712 [~~as~~] is  
4 not enumerated in subsection (a), (b), or (c).

5 (e) Criminal charges may be instituted by written  
6 information for a felony when the charge is a charge that  
7 involves section 702-221 (liability for conduct of another),  
8 section 702-222 (liability for the conduct of another;  
9 complicity), section 702-223 (liability for the conduct of  
10 another; complicity with respect to the result), section 705-500  
11 (criminal attempt), section 705-510 (criminal solicitation), or  
12 section 705-520 (criminal conspiracy), and the underlying  
13 offense is an offense not listed [~~above~~] in subsection (a), (b),  
14 (c), or (d)."

15 SECTION 2. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 3. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



# S.B. NO. 326

1 SECTION 4. This Act shall take effect on July 1, 2017.

2

INTRODUCED BY: ~~SEN. A.C. Fitch~~  
*John Mercedo R.*



# S.B. NO. 326

**Report Title:**

Penal Code; Information Charging; Felony Offenses

**Description:**

Amends the listing of felony offenses for which criminal charges may be instituted by written information.

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

