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# A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1           SECTION 1. The legislature finds that although section  
2 803-6, Hawaii Revised Statutes, gives law enforcement officers  
3 the discretion to issue citations for misdemeanors, petty  
4 misdemeanors, and violations, law enforcement officers are  
5 reluctant to exercise this discretion. Issuing citations in  
6 lieu of arresting these nonviolent offenders will free up space  
7 in police cellblocks, county jails, and courthouse holding cells  
8 without jeopardizing public safety.

9           The legislature further finds that expanding the discretion  
10 of law enforcement officers to include citations for nonviolent  
11 class C felonies may be appropriate in certain circumstances.  
12 Currently, no other state provides for the issuance of citations  
13 for felony offenses. However, Alaska is considering expanding  
14 the use of law enforcement discretion to issue citations for  
15 class C felonies. Like Hawaii, Alaska has a statutory provision  
16 that specifies when a law enforcement officer may issue a  
17 citation, in lieu of making an arrest.



1 Citation issuance is a viable alternative to arrest for  
2 low-risk defendants who have not demonstrated a risk of  
3 non-appearance in court that still protects the public from the  
4 risk of further crime.

5 SECTION 2. Section 803-6, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) In any case in which it is lawful for a police  
8 officer to arrest a person without a warrant for a nonviolent  
9 class C felony, any misdemeanor, any petty misdemeanor, or any  
10 violation, the police officer may [~~, but need not,~~] exercise  
11 discretion and issue a citation in lieu of the requirements of  
12 [+]subsection[+] (a), if the police officer finds and is  
13 reasonably satisfied that the [person]:

- 14 (1) [Will] Person will appear in court at the time  
15 designated;
- 16 (2) [Has] Person has no outstanding arrest warrants which  
17 would justify the person's detention or give  
18 indication that the person might fail to appear in  
19 court; [and]
- 20 (3) [That the offense] Offense is of such nature that  
21 there will be no further police contact on or about



1 the date in question, or in the immediate future[-];  
2 and

3 (4) Offense does not involve operating a vehicle while  
4 under the influence of an intoxicant, habitually  
5 operating a vehicle while under the influence of an  
6 intoxicant, solicitation of a minor for prostitution,  
7 aggravated harassment by stalking, theft in the second  
8 degree, domestic violence, sexual assault, robbery, or  
9 any offense enumerated in chapter 707."

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

12 SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Law Enforcement; Police; Discretion; Citation; Class C Felony

**Description:**

Specifies that police officers have the discretion to issue citations, in lieu of making a lawful arrest without warrant, for nonviolent class C felonies, misdemeanors, petty misdemeanors, and violations, subject to certain findings by the officer. (SB1422 HD2)

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

