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# A BILL FOR AN ACT

RELATING TO ARRESTS.

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

1           SECTION 1. The purpose of this Act is to address  
2 overcrowding in state correctional facilities and reduce the  
3 unnecessary pretrial detention of certain alleged offenders by:

4           (1) Providing that after making an arrest, a police  
5 officer may issue to the arrestee an appearance ticket  
6 that states the date and time of the initial court  
7 appearance, and thereafter release the arrestee from  
8 custody; and

9           (2) Broadening the range of offenses for which a police  
10 officer may issue a citation in lieu of making an  
11 arrest, provided that certain conditions are met.

12           SECTION 2. Chapter 804, Hawaii Revised Statutes, is  
13 amended by adding a new section to part I to be appropriately  
14 designated and to read as follows:

15           "§804-           Appearance ticket; issuance; contents;  
16 exceptions; failure to appear. (a) Except as provided in  
17 subsection (c), if a police officer has arrested a person



1 without a warrant for a felony, misdemeanor, petty misdemeanor,  
2 or violation, the officer may issue to and serve upon the person  
3 an appearance ticket and release the person from custody;  
4 provided that the date and time of the person's initial court  
5 appearance has already been set. An appearance ticket issued  
6 under this section shall be forwarded without delay to the court  
7 and to the appropriate county prosecuting attorney for immediate  
8 review. As used in this section, "appearance ticket" means a  
9 written notice issued and subscribed by a police officer that  
10 directs the named person to appear in a specified court at a  
11 specified future date and time, in connection with the named  
12 person's alleged commission of the offense stated on the  
13 appearance ticket, in violation of state law or county  
14 ordinance.

15 (b) All appearance tickets issued under this section  
16 shall:

- 17 (1) Be numbered consecutively for tracking purposes;  
18 (2) Provide a space for the named person's mobile  
19 telephone number and electronic mail address, if  
20 applicable;



1       (3) Provide a space for written acknowledgement of receipt  
2           by the named person;

3       (4) Be in a form required by the attorney general, the  
4           judiciary's administrative director of the courts, and  
5           the director of law enforcement; and

6       (5) Consist of the following parts:

7           (A) The original notice to appear that was issued by  
8           the police officer, which shall be filed with the  
9           court;

10          (B) The first copy, which shall be the abstract of  
11          court record;

12          (C) The second copy, which shall be retained by the  
13          county police department; and

14          (D) The third copy, which shall be issued to the  
15          named person.

16        (c) An appearance ticket shall not be issued, and the  
17        person shall remain in custody unless bail or bond is posted or  
18        release is granted by the court, in a case involving any of the  
19        following offenses:

20           (1) A "serious crime" as defined in section 804-3(a);



# H.B. NO. 1335

- 1        (2) Abuse of a family or household member under  
2                    section 709-906;
- 3        (3) Violation of a domestic abuse protective order issued  
4                    pursuant to chapter 586, or of a temporary restraining  
5                    order or injunction against harassment issued pursuant  
6                    to section 604-10.5;
- 7        (4) Operating a vehicle under the influence of an  
8                    intoxicant under section 291E-61, habitually operating  
9                    a vehicle under the influence of an intoxicant under  
10                   section 291E-61.5, or operating a vehicle after  
11                   license and privilege have been suspended or revoked  
12                   for operating a vehicle under the influence of an  
13                   intoxicant under section 291E-62;
- 14        (5) An offense involving physical assault or sexual  
15                   assault; or
- 16        (6) An offense for which the penalty requires a mandatory  
17                   term of imprisonment.
- 18        (d) If the person named on the appearance ticket fails to  
19                   appear in court at the scheduled date and time, or if the court  
20                   has reasonable cause to believe that the named person will not  
21                   appear, a warrant for the named person's arrest may be issued.



1 A knowing failure to appear as required by the appearance ticket  
2 may be punished by a fine of not more than \$1,000 or  
3 imprisonment of not more than thirty days, or both."

4 SECTION 3. Section 803-6, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§803-6 Arrest, how made[-]; citation in lieu of arrest;  
7 exceptions; failure to appear. (a) At or before the time of  
8 making an arrest, the person shall declare that the person is an  
9 officer of justice, if such is the case. If the person has a  
10 warrant the person should show it; or if the person makes the  
11 arrest without warrant in any of the cases in which it is  
12 authorized by law, the person should give the party arrested  
13 clearly to understand for what cause the person undertakes to  
14 make the arrest, and shall require the party arrested to submit  
15 and be taken to the police station or judge. This done, the  
16 arrest is complete[-]; provided that a person who has made an  
17 arrest pursuant to this subsection may, but need not, issue the  
18 arrestee an appearance ticket under section 804- that states  
19 the date and time of the initial court appearance, and  
20 thereafter release the arrestee from custody.



1           (b) In any case in which it is lawful for a police officer  
2 to arrest a person without a warrant for a felony, misdemeanor,  
3 petty misdemeanor, or violation, except when the case involves  
4 an offense described in subsection (f), the police officer may,  
5 but need not, issue a citation in lieu of [~~the requirements of~~]  
6 making an arrest under [{}subsection[{}]] (a), if the police  
7 officer finds and is reasonably satisfied that the [person]:

8           (1) [~~Will~~] Person will appear in court at the time  
9           designated;

10          (2) [~~Has~~] Person has no outstanding arrest warrants  
11          [~~which~~] that would justify the person's detention or  
12          give indication that the person might fail to appear  
13          in court; and

14          (3) [~~That the offense~~] Offense is of [~~such~~] a nature that  
15          there will be no further police contact on or about  
16          the date in question, or in the immediate future.

17          (c) The citation shall contain:

18           (1) The name and current address of the offender;

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

21           (3) A description of the offender;



- 1       (4) The nature of the offense;
- 2       (5) The time and date of the offense;
- 3       (6) A notice of time and date for court appearance;
- 4       (7) The signature and badge number of the officer;
- 5       (8) The signature of the offender agreeing to court
- 6             appearance;
- 7       (9) Any remarks; and
- 8       (10) A notice directing the offender to appear at the time
- 9             and place designated to stand trial for the offense
- 10            indicated and a notice that failure to obey the
- 11            citation may result in a fine or imprisonment, or
- 12            both.
- 13       (d) Where a citation has been issued in lieu of [~~the~~
- 14 ~~requirements of~~] making an arrest under subsection (a), the
- 15 officer who issues the summons or citation may subscribe to the
- 16 complaint:
- 17       (1) Under oath administered by any police officer whose
- 18             name has been submitted to the prosecuting officer and
- 19             who has been designated by the chief of police to
- 20             administer the oath; or
- 21       (2) By declaration in accordance with the rules of court.



1           (e) If a person fails to appear in answer to the citation;  
2 or if there is reasonable cause to believe that the person will  
3 not appear, a warrant for the person's arrest may be issued. A  
4 knowing failure to appear in answer to the citation may be  
5 punished by a fine of not more than \$1,000 or imprisonment of  
6 not more than thirty days, or both.

7           (f) A case involving any of the following offenses shall  
8 not be eligible for the issuance of a citation in lieu of arrest  
9 pursuant to subsection (b):

10           (1) A "serious crime" as defined in section 804-3(a);

11           (2) Abuse of a family or household member under  
12 section 709-906;

13           (3) Violation of a domestic abuse protective order issued  
14 pursuant to chapter 586, or of a temporary restraining  
15 order or injunction against harassment issued pursuant  
16 to section 604-10.5;

17           (4) Operating a vehicle under the influence of an  
18 intoxicant under section 291E-61, habitually operating  
19 a vehicle under the influence of an intoxicant under  
20 section 291E-61.5, or operating a vehicle after  
21 license and privilege have been suspended or revoked





# H.B. NO. 1335

1           for operating a vehicle under the influence of an  
2           intoxicant under section 291E-62;

3           (5) An offense involving physical assault or sexual  
4           assault; or

5           (6) An offense for which the penalty requires a mandatory  
6           term of imprisonment."

7           SECTION 4. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

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

12          SECTION 6. This Act shall take effect on January 1, 2024.

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INTRODUCED BY: *Sey G. L.*

JAN 25 2023



# H.B. NO. 1335

**Report Title:**

Criminal Procedure; Arrest; Citation; Court Appearance;  
Appearance Ticket

**Description:**

Provides that after making an arrest, a police officer may issue to the arrestee an appearance ticket that states the date and time of the initial court appearance, and thereafter release the arrestee from custody. Broadens the range of offenses for which a police officer may issue a citation in lieu of making an arrest, provided that certain conditions are met. Effective 1/1/2024.

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

