



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 998, RELATING TO CONTENTS OF CITATIONS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

DATE: Wednesday, February 19, 2025 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Mark Tom, Deputy Attorney General, or
Tricia M. Nakamatsu, Deputy Attorney General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General strongly supports this bill and offers the following comments.

The purpose of the bill is to clarify that the omission of certain unavailable information or an error in a citation does not constitute grounds for dismissal of a charge or reversal of a conviction if the omission or error did not prejudice the defendant.

Currently, the process of making an arrest or issuing a citation is governed by section 803-6, Hawaii Revised Statutes (HRS). Regarding citations, section 803-6(b) and (c), HRS, currently outlines guidelines and a list of required information as follows:

"(b) In any case in which it is lawful for a police officer to arrest a person without a warrant for a misdemeanor, petty misdemeanor or violation, the police officer may, but need not, issue a citation in lieu of the requirements of [subsection] (a), if the police officer finds and is reasonably satisfied that the person:

- (1) Will appear in court at the time designated;
 - (2) Has no outstanding arrest warrants which would justify the person's detention or give indication that the person might fail to appear in court; and
 - (3) That the offense is of such nature that there will be no further police contact on or about the date in question, or in the immediate future.
- (c) The citation shall contain:
- (1) The name and current address of the offender;
 - (2) The last four digits of the offender's social security number;

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

Although section 803-6, HRS, authorizes police officers to issue a citation instead of arresting an individual, obtaining certain information, such as a social security number may be impossible or impracticable. Police officers frequently encounter defendants who are unwilling or unable to provide the required information and do not have a driver's license or prior criminal record in Hawaii to obtain the necessary information. The absence of such information should not jeopardize the entire case if it does not prejudice the defendant.

We respectfully ask your committee to pass this bill. Thank you for the opportunity to provide support for this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
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THE HONORABLE DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Thirty-Third State Legislature
Regular Session of 2025
State of Hawai'i

February 18, 2025

RE: H.B. 998; RELATING TO CONTENTS OF CITATIONS.

Chair Tarnas, Vice Chair Poepoe, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney for the City and County of Honolulu submits the following testimony in support of H.B. 998.

H.B. 998 amends HRS § 803-6 to permit issuance of a citation where the offender lacks a residence or Social Security Number. It also permits officers to issue a valid citation even if the offender refuses to sign, or cannot sign, the citation.

This bill should not be necessary. Yet here in Honolulu, at least one district judge has dismissed citations that lack digits from a Social Security number.¹ This reading is uncommonly silly. Not everyone has a Social Security number—or an address, for that matter. And in default of a valid option to cite offenders, officers will simply arrest them.² So while the word “shall” usually does carry a mandatory connotation,³ the general rule against absurd constructions⁴ would have construed “if available” as an implicit condition.

¹ See, e.g., *State v. Tamine Nikipi*, Case No. 1DTC-24-004180, Dkt. 23 (Nov. 27, 2024), Dkt. 28 (Dec. 31, 2024); *State v. Chivas Villanueva*, Case No. 1DTC-24-01972, Dkt. 25 (Nov. 12, 2024).

² See HRS § 803-6(b) (noting that citations may be issued in circumstances where an officer already has probable cause to arrest without a warrant).

³ *State v. Shannon*, 118 Hawai'i 15, 25, 185 P.3d 200, 210 (2008).

⁴ HRS § 1-15 (“Where the words of a law are ambiguous [e]very construction which leads to an absurdity shall be rejected.”). See also *State v. Mahoe*, 89 Hawai'i 284, 288, 972 P.2d 287, 291 (1998).

Regrettably, this pragmatic approach has not characterized recent decisions from our appellate courts either.⁵ Thus, H.B. 998 proposes to expressly state in plain words what should already have been plainly obvious: an officer need not to arrest everyone who lacks an address or Social Security number. Even in these circumstances, a citation may be a perfectly valid option.

Each session, the Legislature has important public business to discharge within a compressed time frame. Restatements of the obvious should not have to occupy this Committee. Nevertheless, we appreciate the hearing given to H.B. 988 and urge its passage.

Thank you for the opportunity to testify.

⁵ See, e.g., *State v. Obrero*, 151 Hawai‘i 472, 517 P.3d 755 (2022); *State v. Thompson*, 150 Hawai‘i 262, 500 P.3d 447 (2021).



S T A T E O F H A W A I I O R G A N I Z A T I O N O F P O L I C E O F F I C E R S

Robert Cavaco
State Board President

" A Police Organization for Police Officers Only "
Founded 1971

Term of Office
1-2022 to 12-2025

February 18, 2025

The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
House Committee on Judiciary & Hawaiian Affairs
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: **HB 998 – Relating to Contents of Citations**

Dear Chair Tarnas, Vice-Chair Poepoe, and Honorable Committee members:

I serve as the President of the State of Hawaii Organization of Police Officers ("SHOPO") and write to you on behalf of our Union in support of HB 998, which seeks to amend Hawaii Revised Statutes § 803-6. This bill is a crucial step forward in enhancing the efficiency and effectiveness of law enforcement operations, improving public safety, and strengthening community relations across the State of Hawaii.

Enhancement of Law Enforcement Operations:

HB 998 provides much-needed clarity regarding the issuance of citations by law enforcement officers. By amending subsections (b) and (c) of HRS § 803-6, the bill ensures that minor omissions or errors in citations do not automatically lead to the dismissal of charges or reversal of convictions, provided that such omissions or errors do not prejudice the defendant. This amendment aligns with the practical realities faced by our officers in the field, where obtaining complete information may not always be feasible. This flexibility is particularly important in situations where the offender is unwilling or unable to provide certain information, thus preventing the unnecessary escalation of minor offenses into arrests.

Improvement of Public Safety:

The bill also addresses a critical gap in the current legal framework that has allowed defendants to evade accountability due to technicalities in citation documentation. By preventing the dismissal of citations for harmless errors, HB 998 ensures that individuals who commit misdemeanor, petty misdemeanor, or violation offenses are held accountable, thereby enhancing public safety.

Strengthening Community Relations:

By providing officers with the flexibility to issue citations without the fear of technical dismissals, HB 998 fosters a more trusting relationship between law enforcement and the community. It reassures the public that the legal system is fair and focused on substantive justice rather than procedural loopholes.

In conclusion, HB 998 represents a balanced approach to law enforcement that prioritizes both the effective administration of justice and the protection of individual rights. SHOPO strongly supports this bill and urges its swift passage to enhance the operational capabilities of our officers, improve public safety, and foster stronger community relations.

Thank you for considering this testimony. We are committed to working with the legislature to ensure the successful implementation of HB 998.

Respectfully Submitted,
ROBERT CAVACO
SHOPO President

RC: ja

HB-998

Submitted on: 2/16/2025 8:09:55 PM

Testimony for JHA on 2/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ruth Love	Individual	Support	Written Testimony Only

Comments:

Agree that minor typo/error on citation should not result in grounds for dismissal or reversal of a conviction.

Thank you

Mrs Ruth Love