

## ACT 65

S.B. NO. 2710

A Bill for an Act Relating to Search Warrants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature recognizes the tremendous importance and utility of anticipatory search warrants in drug investigations, particularly when “dealing with the furtive and transitory activities of persons who traffic in narcotics.” (2 W. La Fave, Search and Seizure, §3.7(c), at 365 (1996).) The legislature finds that the Hawaii supreme court has held that anticipatory search warrants are impermissible under section 803-31, Hawaii Revised Statutes. (State v. Scott, No. 18170, slip op. at 14 (January 8, 1998).) The legislature further finds that the court stated that it was “incumbent upon the legislature to amend HRS §803-31 to provide a legal basis” for anticipatory search warrants.

Accordingly, the purpose of this Act is statutorily to authorize the issuance of anticipatory search warrants.

SECTION 2. Section 803-31, Hawaii Revised Statutes, is amended to read as follows:

**“§803-31 Search warrant; defined.** A search warrant is an order in writing made by a judge or other magistrate, directed to an officer of justice, commanding the officer to search for certain articles supposed to be in the possession of or which are anticipated to be in the possession of one who is charged with having obtained them illegally, or who keeps them illegally, or with the intent of using them as the means of committing a certain offense.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 1998.)