

JAN 19 2018

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# A BILL FOR AN ACT

RELATING TO MATERIAL WITNESS ORDERS.

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

1           SECTION 1. Section 835-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~§~~835-2 Material witness order; when authorized; by what  
4 courts issuable; duration thereof. (a) A material witness  
5 order may be issued upon the ground that there is a reasonable  
6 cause to believe that a person whom the people or the defendant  
7 desire to call as a witness in a pending criminal action:

8           (1) Possesses information material to the determination of  
9           [+]the[+] action; and

10          (2) Will not be amenable or responsive to a subpoena at a  
11          time when the person's attendance will be sought.

12          (b) A material witness order may be issued only when:

13          (1) An indictment [~~e~~], information, or felony complaint  
14          has been filed in a circuit [~~court~~] or family court  
15          and is currently pending therein;

16          (2) A grand jury proceeding has been commenced and is  
17          currently pending; or



1           (3) A felony complaint has been filed with a district  
2           court and is currently pending therein.

3           (c) The following courts may issue material witness orders  
4 under the indicated circumstances:

5           (1) When an indictment [~~has been filed~~], an information,  
6           or a felony complaint has been filed, or a grand jury  
7           proceeding has been commenced, or a defendant has been  
8           held by a district [~~court~~] or family court for the  
9           action of a grand jury, a material witness order may  
10          be issued only by the circuit [~~court~~] or family court  
11          in which [+]the indictment is pending or by which  
12          [+]the grand jury has been or will be impaneled;

13          (2) When a felony complaint is currently pending in a  
14          district court, a material witness order may be issued  
15          either by [~~said~~] that court or by the circuit [~~court~~]  
16          or family court which would have jurisdiction of the  
17          case upon indictment by the grand jury[~~-~~] or upon a  
18          finding of probable cause by a district court.

19          (d) Unless vacated pursuant to section 835-6, a material  
20 witness order remains in effect during the following periods of  
21 time under the indicated circumstances:



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- 1           (1) An order issued by a circuit [~~court~~] or family court  
2           under the circumstances prescribed in [+]subsection  
3           (c) (1) [+] remains in effect during the pendency of the  
4           criminal action in [+]the[+] circuit court[+] or  
5           family court;
- 6           (2) An order issued by a district [~~court~~] or family court  
7           under circumstances prescribed in [+]subsection  
8           (c) (2) [+], remains in effect[+] : [+]
- 9           (A) Until the disposition of the felony complaint  
10           pending in [+]the[+] court[+] ; [+]
- 11           (B) If the defendant is held for the action of the  
12           grand jury, during the pendency of the grand jury  
13           proceeding[+] ; [+]
- 14           (C) If an indictment results, for a period of ten  
15           days following the filing of [+]the[+]  
16           indictment[+] ; [+] and
- 17           (D) If within [+]the[+] ten-day period[+] , the[+]  
18           order is endorsed by the circuit [~~court~~] or  
19           family court in which the indictment [~~is~~] was  
20           pending, during the pendency of the action in  
21           [+]the[+] circuit [~~court~~.] or family court. Upon





# S.B. NO. 2174

**Report Title:**

Honolulu Prosecuting Attorney Package; Material Witness Orders;  
Courts

**Description:**

Authorizes the circuit court or family court to issue a material witness order in cases initiated through felony complaint, indictment, or information.

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

