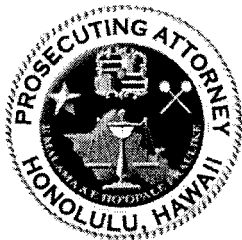


**SB 2097**

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
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KEITH M. KANESHIRO  
PROSECUTING ATTORNEY



ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE GLENN WAKAI, CHAIR**  
**SENATE COMMITTEE ON TECHNOLOGY AND THE ARTS**  
**Twenty-Seventh State Legislature**  
**Regular Session of 2014**  
**State of Hawai'i**

February 13, 2014

**RE: S.B. 2097; RELATING TO PEN REGISTERS.**

Chair Wakai, Vice-Chair Nishihara and members of the Senate Committee on Technology and the Arts, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in strong support of S.B. 2097.

The purpose of this bill is to update the definition of a “pen register” to include devices that don’t use a landline but still make phone calls, such as cellular telephones and electronic devices that make phone calls via the Internet, and software applications such as Skype, Google Voice, and iCall. In short, the proposed language makes the statute “technology neutral”.

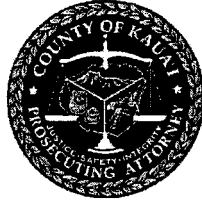
The current statutory definition of a “pen register” was adopted in the 1980’s, and still refers to numbers dialed on a landline. Specifically, HRS §803-41 defines a “pen register” as a “device that records or decodes electronic or other impulses that identify numbers dialed or otherwise transmitted on a telephone line to which such device is attached ...” (emphasis added).

The language of S.B. 2097 would make the definition of “pen register” technology neutral, and more applicable to current forms of communication. Significantly, however, this proposal would not change the “probable cause” standard, or burden of proof that law enforcement must meet, to obtain an order for a pen register or trap and trace device. Those standards, set forth in HRS § 803-44.5 and 803-44.6, would remain unaffected by this proposal.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports the passage of S.B. 2097. Thank you for the opportunity to testify on this matter.

**Justin F. Kollar**  
Prosecuting Attorney

**Kevin K. Takata**  
First Deputy



**Rebecca A. Vogt**  
Second Deputy

**Diana Gausepohl-White, LCSW**  
Victim/Witness Program Director

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Victim/Witness Program 808-241-1898 or 800-668-5734

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**TESTIMONY IN SUPPORT OF  
S.B. No. 2097  
A BILL FOR AN ACT RELATING TO PEN REGISTERS**

**Justin F. Kollar, Prosecuting Attorney  
County of Kauai**

**Senate Committee on Technology and the Arts**

**Thursday, February 13, 2014  
1:15 p.m., Room 414**


Honorable Chair Wakai, Vice-Chair Nishihara, and Members of the Senate Committee on Technology and the Arts:

The Office of the Prosecuting Attorney, County of Kauai submits the following testimony in support of S.B. 2097, Relating to Pen Registers.

The purpose of S.B. 2097 is to amend H.R.S. 803-41 to redefine the definition of "pen register" to include transmission by a cellular or electronic device in addition to a telephone line. This would include devices that do not necessarily use a landline for communication transmission such as iCall, Skype, etc. With the evolution of technology in today's day and age, S.B. 2097 simply updates the definition of "pen register" to subsequently reflect this growth in technological devices.

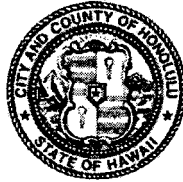
For this reason, we strongly support S.B. 2097. Thank you very much for the opportunity to provide testimony on this bill.

Respectfully,

  
Justin F. Kollar  
Prosecuting Attorney  
County of Kaua'i

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE JK-TA

February 13, 2014

The Honorable Glenn Wakai, Chair  
and Members  
Committee on Technology  
and the Arts  
State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Wakai and Members:

SUBJECT: Senate Bill No. 2097, Relating to Pen Registers

I am Jason Kawabata, Captain of the Narcotics/Vice Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports Senate Bill No. 2097, Relating to Pen Registers.

In 2001, the United States of America expanded the definition of the pen register in the USA PATRIOT Act.


The proposed bill mirrors the USA PATRIOT Act and amends the current definition of the pen register. The bill changes the specific telephone terminology to include devices or programs that provide an analogous function with internet communications.

The Honolulu Police Department urges you to support Senate Bill No. 2097, Relating to Pen Registers.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,

  
LOUIS M. KEALOHA  
Chief of Police

  
JASON KAWABATA, Captain  
Narcotics/Vice Division

*Serving and Protecting With Aloha*