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

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 or
16 family court [~~which~~] that would have jurisdiction of
17 the case upon indictment by the grand jury[-] or upon
18 a 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:



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



1 order is deemed to be that of the circuit or
2 family court."

3 SECTION 2. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 3. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on January 7, 2059.

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S.B. NO. 490
S.D. 1

Report Title:

Honolulu Prosecuting Attorney Package; Material Witness Orders;
Courts

Description:

Allows the circuit court or family court to issue a material
witness order in cases initiated through felony complaint,
indictment, or information. Takes effect on 1/7/2059. (SD1)

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

