



*The Judiciary, State of Hawai'i*

**Testimony to the Senate Committee on Judiciary and Labor**

Senator Gilbert S. C. Keith-Agaran, Chair  
Senator Maile S. L. Shimabukuro, Vice Chair

And

**The Senate Committee on Economic Development, Environment, and Technology**

Senator Glenn Wakai, Chair  
Senator Sam Slom, Vice Chair

Tuesday, February 9, 2016, 9:00 AM  
State Capitol, Conference Room 016

**WRITTEN TESTIMONY ONLY**

By

Judge Barbara P. Richardson  
Deputy Chief Judge  
District Court, First Circuit

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**Bill No. and Title:** Senate Bill No. 2103 Relating to Search Warrants.

**Purpose:** Allows courts to authorize a person or entity, other than an officer of justice, to carry out a search warrant. Allows courts to authorize an officer to obtain technical assistance if the search warrant granted pertains to an electronic device or storage media.

**Judiciary's Position:**

The Judiciary takes no position on Senate Bill 2103 and respectfully offers the following comments.

It is understandable that law enforcement may need technical expertise and assistance in executing a search warrant, particularly where the search relates to "electronic devices or storage media." The proposed amendment in Senate Bill 2103 can be read to mean that "a person or entity authorized by the court to assist the officer" could be directed to execute a search warrant without the presence of a law enforcement officer. This may not be what is intended.



Senate Bill No. 2103, Relating to Search Warrants  
Senate Committee on Judiciary and Labor  
Senate Committee on Economic Development, Environment, and Technology  
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The bill would require a judge to decide if the selected “person or entity” is capable of performing the search or assisting a law enforcement officer in the execution of a search warrant. The courts do not have the regulatory power or the knowledge, staff and resources to determine what persons or entities are capable of executing a search warrant or assisting, and therefore “authorized” to assist, a law enforcement officer in executing a search warrant.

Thank you for the opportunity to comment on Senate Bill No. 2103.



**LATE TESTIMONY**



**Office of the Public Defender  
State of Hawaii  
Timothy Ho, Chief Deputy Public Defender**

**Testimony of the Office of the Public Defender,  
State of Hawaii to the Joint Senate Committees on Judiciary and Labor  
And Economic Development, Environment and Technology**

February 9, 2016, 9:00 a.m.

S.B. No. 2103: RELATING TO SEARCH WARRANTS.

Chairs Keith-Agaran, Wakai and Members of the Committees:

This measure will allow a private citizen, other than a law enforcement official or agent, to serve and execute a search warrant. We oppose this measure.

A search warrant is a court order, issued by a judge, which permits law enforcement officers to conduct a search of a person, business, location, vehicle or other item, with or without the consent of the subject for evidence of a crime, and to seize any evidence they recover. This measure would transfer the authority to any person authorized by the court to assist a deputy or officer conducting a search. This measure does not specify the types of people who would be authorized to conduct a search. Technically, under this measure, the court could appoint any private citizen to conduct a search.

While it seems that the reason this measure is being proposed is to permit law enforcement agencies to "privatize" the recovery of electronic data from electronic devices, we believe it goes too far. It would allow anyone, with court approval, to serve, execute and search a subject in place of a law enforcement officer. There are certain constitutional safeguards which must be followed during the execution of search warrants. This measure does not ensure that those safeguards would be met.

The Office of the Public Defender opposes S.B. No. 2103. Thank you for the opportunity to be heard on this matter.

**LATE TESTIMONY**

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**Subject:** \*Submitted testimony for SB2103 on Feb 9, 2016 09:00AM\*  
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**SB2103**

Submitted on: 2/8/2016

Testimony for JDL/EET on Feb 9, 2016 09:00AM in Conference Room 016

| Submitted By            | Organization        | Testifier Position | Present at Hearing |
|-------------------------|---------------------|--------------------|--------------------|
| De MONT R. D.<br>CONNER | Ho'omana Pono, LLC. | Oppose             | Yes                |

**Comments:**

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