
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 [~~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 that has been or will be
13 impaneled;

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



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

4 (1) An order issued by a circuit [~~court~~] or family court
5 under the circumstances prescribed in [+] subsection
6 (c) (1) [+] remains in effect during the pendency of the
7 criminal action in [+] the [+] circuit court [-] or
8 family court;

9 (2) An order issued by a district [~~court~~] or family court
10 under circumstances prescribed in [+] subsection
11 (c) (2) [+], remains in effect [+] : [+]

12 (A) Until the disposition of the felony complaint
13 pending in [+] the [+] court [+] ; [+]

14 (B) If the defendant is held for the action of the
15 grand jury, during the pendency of the grand jury
16 proceeding [+] ; [+]

17 (C) If an indictment results, for a period of ten
18 days following the filing of [+] the [+]
19 indictment [+] ; [+] and

20 (D) If within [+] the [+] ten-day period [+] , the [+]
21 order is endorsed by the circuit [~~court~~] or



1 family court in which the indictment [~~is~~] was
2 pending, during the pendency of the action in
3 [+]the[+] circuit [~~court.~~] or family court. Upon
4 [+]the[+] endorsement, the order is deemed to be
5 that of the circuit [~~court.~~] or family court."

6 SECTION 2. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

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

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

18



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. (SD1)

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