
A BILL FOR AN ACT

RELATING TO INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC
COMMUNICATION.

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

1 SECTION 1. Section 803-46, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Each application for an order authorizing or
4 approving the interception of a wire, oral, or electronic
5 communication shall be made in writing upon oath or affirmation
6 to a designated judge [~~and shall be accompanied by a written~~
7 ~~memorandum recommending approval or disapproval by the~~
8 ~~department of the attorney general~~]. The application shall
9 state the applicant's authority to make the application. The
10 term "designated judge" as used in this section shall not only
11 mean a circuit court judge specifically designated by the chief
12 justice of the Hawaii supreme court, but shall also mean any
13 circuit court judge or district court judge, if no circuit court
14 judge has been designated by the chief justice or is otherwise
15 unavailable. Each application shall include the following
16 information:



- 1 (1) The identity of the investigative or law enforcement
2 officer or officers requesting the application, the
3 official or officials applying for an order;
- 4 (2) A full and complete statement of the facts and
5 circumstances relied upon by the applicant, to justify
6 the applicant's belief that an order should be issued,
7 including:
- 8 (A) Details as to the particular offense that has
9 been, is being, or is about to be committed;
- 10 (B) Except as provided in subsection (j), a
11 particular description of the nature and location
12 of the facilities from which or the place where
13 the communication is to be intercepted;
- 14 (C) A particular description of the type of
15 communications sought to be intercepted;
- 16 (D) The identity or descriptions of all persons, if
17 known, committing the offense and whose
18 communications are to be intercepted; and
- 19 (E) Where appropriate, the involvement of organized
20 crime;



- 1 (3) A full and complete, but not unduly technical or
2 complex, statement of the facts concerning how the
3 interception is to be accomplished, and if physical
4 entry upon private premises is necessary, facts
5 supporting the necessity;
- 6 (4) A full and complete statement of facts as to whether
7 or not other investigative procedures have been tried
8 and failed or why they reasonably appear to be
9 unlikely to succeed if tried or to be too dangerous;
- 10 (5) A statement of facts indicating the period of time for
11 which the interception is required to be maintained.
12 If the nature of the investigation is such that the
13 authorization for interception should not
14 automatically terminate when the described type of
15 communication has been obtained, a particular
16 description of facts establishing probable cause to
17 believe that additional communications of the same
18 type will occur thereafter;
- 19 (6) A full and complete statement of the facts concerning
20 all previous applications known to the individual
21 authorizing and making the application, made to any



1 designated judge for authorization to intercept, or
2 for approval of interceptions of, wire, oral, or
3 electronic communications involving any of the same
4 persons, facilities, or places specified in the
5 application, and the action taken by the designated
6 judge on each application; and

7 (7) When the application is for the extension of an order,
8 a statement setting forth the results thus far
9 obtained from the interception, or a reasonable
10 explanation of the failure to obtain any results."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken.

13 SECTION 3. This Act shall take effect upon its approval.
14

INTRODUCED BY:

Nadine K. Peltier

By Request

JAN 16 2025



H.B. NO. 391

Report Title:

Honolulu Prosecuting Attorney Package; Criminal Offenses;
Wiretapping Authorization

Description:

Removes requirement that all wiretapping applications made to a designated judge be accompanied by a written memorandum from the Department of the Attorney General recommending approval or disapproval.

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

