

A Bill for an Act Relating to Witness Immunity.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 621C, Hawaii Revised Statutes, is hereby repealed.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be designated as Chapter 621C and to read:

**“CHAPTER 621C
WITNESS IMMUNITY**

Sec. 621C-1 Self incrimination claim precluded. If a person refuses, on the basis of his privilege against self-incrimination, to testify or produce a record, document, or other object in an official proceeding conducted under the authority of:

- (1) A court or grand jury;
- (2) An agency of the State; or
- (3) Either house of the legislature, a joint committee of the two houses, or a committee or a subcommittee of either house;

and the presiding officer informs the person of an order issued under this chapter, the person may not refuse to comply with the order on the basis of his privilege against self-incrimination.

Sec. 621C-2 Procedures. If a person has been or may be subpoenaed to testify or to produce a record, document, or other object in an official proceeding as described in section 621C-1, a judge of a circuit court may, upon application by the attorney general or county prosecutor, issue an order requiring the person to testify or to produce a record, document, or other object, notwithstanding his refusal to do so on the basis of his privilege against self-incrimination. The order may be issued prior to the assertion of the privilege against self-incrimination but shall not be effective until the witness asserts his privilege against self-incrimination and the presiding officer communicates the order to him. The application and order shall specify whether the immunity granted under this

chapter is use immunity as set forth in section 621C-3 or transactional immunity as set forth in section 621C-4.

Sec. 621C-3 Use immunity. The testimony or production that is compelled under the order, and any information directly or indirectly derived from the testimony or production, may not be used against the person in any manner in a criminal case, except in a prosecution for perjury, for giving a false statement, or for an offense involving a failure to comply with the order; provided that such person may be prosecuted or punished for any crime so long as testimony or production that is compelled under the order, and any information directly or indirectly derived from such testimony or production, is not used against such person in such prosecution.

Sec. 621C-4 Transactional immunity. If a person is ordered to testify or produce a record, document, or other object under this chapter and the order specifies that the person is granted transactional immunity pursuant to this section, such person shall not be prosecuted or punished in any criminal action or proceeding for or on account of any act, transaction, matter, or thing concerning which he is so ordered to testify or produce a record, document, or other object, except that he may be prosecuted for perjury, for giving a false statement, or for an offense involving a failure to comply with the order.

Sec. 621C-5 Penalty. Any witness granted immunity hereunder who fails or refuses to testify or produce other information may be punished by the court for contempt, provided that the witness may be charged with and convicted of the other offense notwithstanding the fact that he has been punished by the court for contempt."

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

(Approved June 5, 1978.)