ACT 279   H.B. NO. 1693

A Bill for an Act Relating to the Investigative Powers of the Attorney General and the County Prosecuting Attorneys.

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

SECTION 1. Section 28-2.5, Hawaii Revised Statutes, is amended to read as follows:

"**§28-2.5 Investigations.** (1) The attorney general shall investigate alleged violations of the law when directed to do so by the governor, or when the attorney general determines that an investigation would be in the public interest.

[(1) (A) When the department of the attorney general conducts a general investigation, the attorney general or a designated subordinate may subpoena witnesses, examine them under oath, and require the production of any books, papers, documents, or objects that are relevant to the inquiry.

(B) When the department of the attorney general, serves a subpoena under subparagraph (A), it shall attach to the subpoena a short and plain statement of the recipient's rights and the procedures for enforcing and contesting the subpoena.

(2) (C)[1] However, when the matter under investigation is the subject of a civil or criminal adjudication, or when the attorney general or a designated subordinate, determines that an adjudication is more probable than not, the office of the attorney general shall be subject to the relevant rules of court and shall exercise subpoena powers no different than those available to the probable opposing party.

(B) Upon application by the attorney general, obedience to subpoenas issued by the department of the attorney general may be enforced by the circuit court in the county where the person subpoenaed resides or is found.]

(2) The attorney general, when conducting a civil, administrative, or criminal investigation, or the county prosecuting attorneys, when conducting a criminal investigation in their respective jurisdictions, may, subject to the privileges enjoyed by all witnesses in this State, subpoena witnesses, examine them under oath, and require the production of any books, papers, documents, or other objects designated therein or any other record however maintained, including those electronically stored, which are relevant or material to the investigation.

(3) A subpoena issued under subsection (2):

(A) Shall state the name of the issuing authority and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein, and may also command the person to whom it is directed to produce books,

papers, documents, or other objects specifically designated therein;

(B) May be served by any police officer of the issuing authority who is not less than eighteen years of age at any place within the jurisdiction of the issuing authority;

(C) Shall require attendance of the witness only in the county wherein he is served with the subpoena or at such other place as is agreed upon by the witness and the issuing authority; provided that if the subpoena is served in a county other than that in which the witness resides or is employed or transacts his business in person, the issuing authority shall bear the expense of travel by the witness to and attendance at the place named in the subpoena to the same extent as provided by the rules of court; and

(D) Shall contain a short, plain statement of the recipient's rights and the procedure for enforcing and contesting the subpoena.

(4) Upon application by the attorney general or the county prosecuting attorney who issued the subpoena, a circuit court of the county wherein the witness resides or is found may compel obedience to the subpoena; provided that the court, on motion promptly made, may quash or modify the subpoena if compliance would be unreasonable or oppressive or violate any privilege the witness may be entitled to exercise in a court proceeding."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 25, 1990.)

Note

1. So in original.