

ACT 196

S.B. NO. 488

A Bill for an Act Relating to Search Warrants.

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

SECTION 1. Section 803-31, Hawaii Revised Statutes, is amended to read as follows:

“§803-31 Search warrant; defined. A search warrant is an order in writing made by a judge or other magistrate, directed to an officer of justice, commanding the officer to search for certain articles supposed to be in the possession of, or ~~[which are]~~ anticipated to be in the possession of, one who is charged with having obtained them illegally, or who keeps them illegally, or with the intent of using them as the means of committing a certain offense. A search warrant may identify an individual or entity authorized pursuant to section 803-37 to provide technical assistance to the officer.”

SECTION 2. Section 803-34, Hawaii Revised Statutes, is amended to read as follows:

“§803-34 Contents. The warrant shall be in writing, signed by the judge or magistrate, with the judge’s or magistrate’s official designation, directed to ~~[some]~~ a sheriff or other officer of justice, and commanding the sheriff or other officer to search for and bring before the judge or magistrate[,] the property or articles specified in the affidavit, to be disposed of according to justice, and also to bring before the judge or magistrate for examination the person in whose possession the property or articles may be found. The warrant shall identify any individual or entity authorized pursuant to section 803-37 to provide technical assistance to the sheriff or officer.”

SECTION 3. Section 803-35, Hawaii Revised Statutes, is amended to read as follows:

“§803-35 Deputies or police officers may serve. If the search warrant is directed to a sheriff or chief of police, it may be executed by the sheriff or chief

of police or any of the sheriff's deputies or ~~[chief's deputies]~~ the chief's police officers. An individual or entity authorized pursuant to section 803-37 to provide technical assistance may assist a deputy or police officer."

SECTION 4. Section 803-37, Hawaii Revised Statutes, is amended to read as follows:

"§803-37 Power of officer serving. The officer charged with the warrant, if a house, store, or other building is designated as the place to be searched, may enter it without demanding permission if the officer finds it open. If the doors are shut, the officer ~~[must]~~ shall declare the officer's office and the officer's business[;] and demand entrance. If the doors, gates, or other bars to the entrance are not immediately opened, the officer may break them. When entered, the officer may demand that any other part of the house, or any closet[;] or other closed place in which the officer has reason to believe the property is concealed, may be opened for the officer's inspection, and if refused the officer may break them. If an electronic device or storage media is designated as the item to be searched, the court may authorize the officer to obtain technical assistance from individuals or entities, located within or outside the State, in the examination of the item; provided that the officer shall submit a sworn statement to the judge or magistrate, certifying the reliability and qualifications of the individuals or entities and the reason their assistance is necessary; provided further that no individual or entity shall be compelled to provide technical assistance without their consent."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved July 11, 2017.)