

STAND. COM. REP. NO. **2111**

Honolulu, Hawaii

FEB 08 2018

RE: S.B. No. 2174  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2174 entitled:

"A BILL FOR AN ACT RELATING TO MATERIAL WITNESS ORDERS,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize the circuit court or family court to issue a material witness order in cases initiated through felony complaint, indictment, or information.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds that a felony criminal case can be initiated through felony complaint, indictment, or information. In some cases, it is advantageous to the prosecution to initiate the case through felony information because a preliminary hearing will follow the complaint. A preliminary hearing allows the State to have sworn testimony from witnesses that may, in certain circumstances, be used at trial if a witness suddenly becomes unavailable prior to trial. Preliminary hearings also give defendants the opportunity to confront witnesses against them and defendants' attorneys the opportunity to cross-examine witnesses. Although courts are authorized to issue material witness orders in cases initiated through indictment or information, courts cannot



issue material witness orders in cases initiated through felony complaint. Authorizing courts to issue material witness orders in cases initiated through felony complaint would allow the prosecution and defense in such cases to more effectively assist the court in reaching just and well-supported decisions.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2174, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2174, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,

  
BRIAN T. TANIGUCHI, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:* <b>SB2174</b>	Committee Referral: <b>JDC</b>	Date: <b>2/1/18</b>
--	-----------------------------------	------------------------

The Committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
  Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
<b>TOTAL</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>

Recommendation:    
 Adopted    
 Not Adopted

Chair's or Designee's Signature: *Karl Rhoads*

**Distribution:**    
 Original     Yellow     Pink     Goldenrod  
 File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy

\*Only one measure per Record of Votes