

STAND. COM. REP. NO.

2206

Honolulu, Hawaii

FEB 12 2018

RE: S.B. No. 2454  
S.D. 1

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

Sir:

Your Committees on Government Operations and Economic Development, Tourism, and Technology, to which was referred S.B. No. 2454 entitled:

"A BILL FOR AN ACT RELATING TO ELECTRONIC EAVESDROPPING,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit the State and its political subdivisions from collecting or using a person's electronic data or metadata by means of a cell site simulator device, except under certain conditions;
- (2) Prohibit the installation and use of a cell site simulator device without a court order;
- (3) Specify conditions when a cell site simulator device may be used;
- (4) Specify procedures for application and issuance of an order for a cell site simulator device; and
- (5) Specify reporting requirements related to cell site simulator device applications.



Your Committees received testimony in support of this measure from one individual. Your Committees received testimony in opposition to this measure from the Department of the Prosecuting Attorney for the City and County of Honolulu.

Your Committees find that the unauthorized collection and use of individuals' electronic data or metadata is a major concern that threatens personal security and the trust relationship between the government and public. One way that government is able to capture personal electronic data or metadata is through the use of cell site stimulator devices. These devices, which masquerade as legitimate cellular service hardware, allow government agencies to "trick" cellular devices into connecting to the device rather than an actual cellular service tower. The use of these devices by government agencies without consent or legal authorization has become more widespread and threatens the privacy rights of individuals. Therefore, your Committees find that the unauthorized use of cell site stimulator devices by the State or any of its political subdivisions needs clearly defined limits and proper oversight to ensure the protection of fundamental individual rights.

However, your Committees recognize the concerns raised in testimony by the Department of the Prosecuting Attorney for the City and County of Honolulu regarding law enforcement's potential need for cell site simulator devices in certain emergency situations. Accordingly, your Committees find that there should be an exception for the use of cell site simulators based on a good faith belief that an emergency involving a danger of death or serious bodily injury to a person requires the use of such a device. In addition, your Committees agree with testimony presented that the definition of cell site simulator devices should not be able to be interpreted to include devices employed by the 911 emergency system when rendering emergency aid or assistance.

Accordingly, your Committees have amended this measure by:

- (1) Adding an exception for the use of cell site simulators based on a good faith belief that an emergency involving a danger of death or serious bodily injury to a person requires the use of such a device;



- (2) Amending the definition of "cell site simulator device" such that it does not include any device used as part of the State's 911 emergency system for the purpose of rendering emergency aid or assistance; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Government Operations and Economic Development, Tourism, and Technology that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2454, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2454, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committees on Government  
Operations and Economic  
Development, Tourism, and  
Technology,



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GLENN WAKAI, Chair



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DONNA MERCADO KIM, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Government Operations**  
**GVO**

Bill / Resolution No.:* <i>SB 2454</i>	Committee Referral: <i>GVO/ETT, JDC</i>	Date: <i>2/6/18</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KIM, Donna Mercado (C)	<i>X</i>			
RUDERMAN, Russell E. (VC)	<i>X</i>			
GALUTERIA, Brickwood				<i>X</i>
KEITH-AGARAN, Gilbert S.C.				<i>X</i>
RHOADS, Karl	<i>X</i>			
<b>TOTAL</b>	<i>3</i>	<i>0</i>	<i>0</i>	<i>2</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes

The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Economic Development, Tourism, and Technology**  
**ETT**

Bill / Resolution No.:* <b>SB 2454</b>	Committee Referral: <b>GVU/ETT, JDC</b>	Date: <b>2/2/18</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
WAKAI, Glenn (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
BAKER, Rosalyn H.	✓			
GALUTERIA, Brickwood				✓
THIELEN, Laura H.	✓			
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report    Clerk's Office            Drafting Agency        Committee File Copy				

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