

STAND. COM. REP. NO.

882

Honolulu, Hawaii

**FEB 28 2025**

RE: S.B. No. 284  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Third State Legislature  
Regular Session of 2025  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.  
No. 284 entitled:

"A BILL FOR AN ACT RELATING TO INTERCEPTION OF WIRE, ORAL, OR  
ELECTRONIC COMMUNICATION,"

begs leave to report as follows:

The purpose and intent of this measure is to remove the  
requirement that all wiretapping applications made to a designated  
judge be accompanied by a written memorandum from the Department  
of the Attorney General recommending approval or disapproval.

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 received testimony in opposition to this  
measure from one individual.

Your Committee received comments on this measure from the  
Department of the Attorney General.

Your Committee finds that existing law requires direct  
approval for a wiretap authorization be accompanied by a written  
memorandum from the Department of the Attorney General. Your  
Committee believes that live interception of electronic  
communications is an extraordinary measure that should be used



sparingly and subject to a full and complete statement of known facts and only with judicial authorization. Your Committee further finds that in emergencies that are likely to result in death or injury, law enforcement will simply act without a court order. This measure will permit law enforcement to respond in a timely and lawful manner to emergencies requiring wiretapping, including by allowing investigators to obtain live location data from phones, subject to prosecutorial review and judicial authorization.

Your Committee notes that this measure, as written, would eliminate the review of applications and issuing of the Department of Attorney General recommendations for approval or disapproval in their entirety. Your Committee believes that eliminating the Department of the Attorney General from the application process would likely make review of these applications more difficult for judges, and may result in the granting of orders based on legally deficient applications.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have removed the requirement that all wiretapping applications made to a designated judge be accompanied by a written memorandum from the Department of the Attorney General recommending approval or disapproval;
- (2) Specifying that if the application is being prepared by the prosecuting attorney of a county, the Department of the Attorney General shall provide a written memorandum recommending approval or disapproval of an order authorizing or approving the interception of a wire, oral, or electronic communication to the prosecuting attorney within twenty-four hours of the attorney's request to the Department;
- (3) Inserting language that:
  - (A) Clarifies that wiretapping applications made to a designated judge be accompanied by a written memorandum from the Department of the Attorney General recommending approval or disapproval is not required in cases where the prosecutor swears or



affirms to the judge that immediate action is required to avoid death or injury and the judge agrees that immediate action is warranted;

- (B) Clarifies the requirements and procedures for an emergency application and emergency order authorizing or approving the interception of a wire, oral, or electronic communication; and
  - (C) Requires the Department of the Attorney General to provide a written memorandum recommending the approval or disapproval of a follow-up application for an emergency wiretapping application within twenty-four hours; and
- (4) 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. 284, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 284, S.D. 1, and be placed on the calendar for Third Reading.

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



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KARL RHOADS, Chair



**Record of Votes  
Committee on Judiciary  
JDC**

\*Only one measure per Record of Votes