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# A BILL FOR AN ACT

RELATING TO INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC  
COMMUNICATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 803-46, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) Each application for an order authorizing or  
4 approving the interception of a wire, oral, or electronic  
5 communication shall be made in writing upon oath or affirmation  
6 to a designated judge [~~and shall be accompanied by a written~~  
7 ~~memorandum recommending approval or disapproval by the~~  
8 ~~department of the attorney general~~]. The application shall  
9 state the applicant's authority to make the application. The  
10 term "designated judge" as used in this section shall not only  
11 mean a circuit court judge specifically designated by the chief  
12 justice of the Hawaii supreme court, but shall also mean any  
13 circuit court judge or district court judge, if no circuit court  
14 judge has been designated by the chief justice or is otherwise  
15 unavailable. Each application shall include the following  
16 information:



- 1           (1) The identity of the investigative or law enforcement  
2           officer or officers requesting the application, the  
3           official or officials applying for an order;
- 4           (2) A full and complete statement of the facts and  
5           circumstances relied upon by the applicant, to justify  
6           the applicant's belief that an order should be issued,  
7           including:
- 8           (A) Details as to the particular offense that has  
9           been, is being, or is about to be committed;
- 10          (B) Except as provided in subsection (j), a  
11          particular description of the nature and location  
12          of the facilities from which or the place where  
13          the communication is to be intercepted;
- 14          (C) A particular description of the type of  
15          communications sought to be intercepted;
- 16          (D) The identity or descriptions of all persons, if  
17          known, committing the offense and whose  
18          communications are to be intercepted; and
- 19          (E) Where appropriate, the involvement of organized  
20          crime;



- 1           (3) A full and complete, but not unduly technical or  
2           complex, statement of the facts concerning how the  
3           interception is to be accomplished, and if physical  
4           entry upon private premises is necessary, facts  
5           supporting the necessity;
- 6           (4) A full and complete statement of facts as to whether  
7           or not other investigative procedures have been tried  
8           and failed or why they reasonably appear to be  
9           unlikely to succeed if tried or to be too dangerous;
- 10          (5) A statement of facts indicating the period of time for  
11          which the interception is required to be maintained.  
12          If the nature of the investigation is such that the  
13          authorization for interception should not  
14          automatically terminate when the described type of  
15          communication has been obtained, a particular  
16          description of facts establishing probable cause to  
17          believe that additional communications of the same  
18          type will occur thereafter;
- 19          (6) A full and complete statement of the facts concerning  
20          all previous applications known to the individual  
21          authorizing and making the application, made to any



1 designated judge for authorization to intercept, or  
2 for approval of interceptions of, wire, oral, or  
3 electronic communications involving any of the same  
4 persons, facilities, or places specified in the  
5 application, and the action taken by the designated  
6 judge on each application; and

7 (7) When the application is for the extension of an order,  
8 a statement setting forth the results thus far  
9 obtained from the interception, or a reasonable  
10 explanation of the failure to obtain any results."

11 SECTION 2. Statutory material to be repealed is bracketed  
12 and stricken.

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

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INTRODUCED BY:   
By Request



# S.B. NO. 284

**Report Title:**

Honolulu Prosecuting Attorney Package; Criminal Offenses;  
Wiretapping Authorization

**Description:**

Removes 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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

