



The Judiciary, State of Hawai‘i

Testimony to the Senate Committee on Judiciary and Labor

Senator Gilbert S. C. Keith-Agaran, Chair
Senator Maile S. L. Shimabukuro, Vice Chair

And

The Senate Committee on Economic Development, Environment, and Technology

Senator Glenn Wakai, Chair
Senator Sam Slom, Vice Chair

Tuesday, February 9, 2016, 9:00 AM
State Capitol, Conference Room 016

WRITTEN TESTIMONY ONLY

By

Judge Barbara P. Richardson
Deputy Chief Judge
District Court, First Circuit

Bill No. and Title: Senate Bill No. 2103 Relating to Search Warrants.

Purpose: Allows courts to authorize a person or entity, other than an officer of justice, to carry out a search warrant. Allows courts to authorize an officer to obtain technical assistance if the search warrant granted pertains to an electronic device or storage media.

Judiciary's Position:

The Judiciary takes no position on Senate Bill 2103 and respectfully offers the following comments.

It is understandable that law enforcement may need technical expertise and assistance in executing a search warrant, particularly where the search relates to “electronic devices or storage media.” The proposed amendment in Senate Bill 2103 can be read to mean that “a person or entity authorized by the court to assist the officer” could be directed to execute a search warrant without the presence of a law enforcement officer. This may not be what is intended.



Senate Bill No. 2103, Relating to Search Warrants
Senate Committee on Judiciary and Labor
Senate Committee on Economic Development, Environment, and Technology
Tuesday, February 9, 2016 9:00 AM
Page 2

The bill would require a judge to decide if the selected “person or entity” is capable of performing the search or assisting a law enforcement officer in the execution of a search warrant. The courts do not have the regulatory power or the knowledge, staff and resources to determine what persons or entities are capable of executing a search warrant or assisting, and therefore “authorized” to assist, a law enforcement officer in executing a search warrant.

Thank you for the opportunity to comment on Senate Bill No. 2103.