

SB 2911

Measure Title:
RELATING TO THE POWER OF ARREST.

Report Title:
Power of Arrest; Federal Officers



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

S.B. NO. 2911, RELATING TO THE POWER OF ARREST.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

DATE: Tuesday, February 9, 2010 **TIME:** 1:25 p.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Mark J. Bennett, Attorney General, or
Lance M. Goto, Deputy Attorney General

Chair Espero and Members of the Committee:

The Department of the Attorney General supports this bill.

The purpose of this bill is to amend section 803-16, Hawaii Revised Statutes, regarding the arrest powers granted to federal customs and immigration officers, to update references to agencies within the U.S. Department of Homeland Security to include Immigration and Customs Enforcement, to include officers of the Federal Bureau of Investigation, and to update and accurately reflect the titles of the heads of district offices for those agencies.

Section 803-16 currently includes the U.S. Customs and Border Protection and the U.S. Citizenship and Immigration Services, but not the U.S. Immigration and Customs Enforcement (ICE), nor the U.S. Federal Bureau of Investigation (FBI).

ICE is the largest investigative branch of the Department of Homeland Security. The agency was created in March 2003 by combining the law enforcement arms of the former Immigration and Naturalization Service and the former Customs Service. ICE special agents and officers are law enforcement officers authorized to carry weapons and make arrests. ICE will be able

to provide much needed support to state and county law enforcement efforts.

The FBI website describes its mission as follows:

As a national security organization, the mission of the FBI is to protect and defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners.

FBI agents clearly have law enforcement authority and have the ability to provide support to the state and county under section 803-16.

It should be noted that, according to ICE legal counsel, Citizenship and Immigration Services officers do not have authority under federal law to arrest aliens. Only ICE and Customs and Border Protection agents have law enforcement authority. Accordingly, it may be preferable to remove the references to CIS in section 803-16.

The Department respectfully requests passage of this measure.