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## A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF  
HAWAII RELATING TO TESTIMONY OF DEFENDANTS IN CRIMINAL  
CASES.

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

1           SECTION 1. The purpose of this Act is to propose an  
2 amendment to article XVI of the Hawaii Constitution to provide  
3 that, in a criminal case, evidence that a testifying defendant  
4 has been convicted of a crime involving dishonesty shall be  
5 admissible to assist the jury or judge in evaluating the  
6 credibility of the defendant to the same extent as with any  
7 other testifying witness. The amendment to article XVI is  
8 intended to overrule the 1971 decision of the Hawaii supreme  
9 court in the case of State v. Santiago, 53 Haw. 254 (1971),  
10 which held that the due process clause of the state constitution  
11 barred the introduction of a defendant's prior convictions to  
12 assist the trier of fact in evaluating that defendant's  
13 credibility in a criminal case.

14           The impeachment of defendants with prior convictions has  
15 been found constitutional in federal court and in the courts of  
16 almost all of the other states. However, Hawaii's strict policy  
17 prohibiting all use of prior convictions to impeach a defendant,



1 unless the defendant puts the defendant's credibility at issue,  
2 while at the same time allowing victims and all other witness to  
3 be so impeached, is virtually unique.

4 In Hawaii, victims of crime and other witnesses can be  
5 impeached with evidence of prior convictions. This should also  
6 apply to those accused of crimes when the accused decide to  
7 become witnesses in their own trials. Because evidence of prior  
8 convictions can be used to impeach victims and other witnesses,  
9 the legislature finds that impeachment of defendants with  
10 evidence of prior convictions of crimes involving dishonesty  
11 should also be allowed when those defendants choose to testify  
12 in their own trial. This would further the truth-finding  
13 function.

14 SECTION 2. Article XVI of the Hawaii Constitution is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17 "TESTIMONY OF DEFENDANTS IN CRIMINAL CASES

18 Section . In a criminal case, evidence that a testifying  
19 defendant has been convicted of a crime involving dishonesty  
20 shall be admissible to assist the jury or judge in evaluating  
21 the credibility of the defendant to the same extent as with any  
22 other testifying witness."



1 SECTION 3. The question to be printed on the ballot shall  
2 be as follows:

3 "Shall evidence that a testifying defendant in a criminal  
4 case has been convicted of a crime involving dishonesty be  
5 admissible to assist the jury or judge in evaluating the  
6 credibility of the defendant to the same extent as with any  
7 other testifying witness?"

8 SECTION 4. New constitutional material is underscored.



**Report Title:**

Constitutional Amendment; Testimony

**Description:**

Amends Hawaii's Constitution so that in criminal cases, juries and fact finders can learn of prior convictions involving dishonesty of testifying defendants, to the same extent as with any other testifying witness in a criminal case. (HB3044 HD1)

