

JAN 16 2014

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# A BILL FOR AN ACT

RELATING TO CRIME.

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

1           SECTION 1. Section 708-872, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§708-872 Falsifying business records.** (1) A person  
4 commits the offense of falsifying business records if, with  
5 intent to defraud, the person:

6           (a) Makes or causes a false entry in the business records  
7 of an enterprise; or

8           (b) Alters, erases, obliterates, deletes, removes, or  
9 destroys a true entry in the business records of an  
10 enterprise; or

11           (c) Omits to make a true entry in the business records of  
12 an enterprise in violation of a duty to do so which  
13 the person knows to be imposed upon the person by law,  
14 other than for the information of the government, or  
15 by the nature of the person's position; or

16           (d) Prevents the making of a true entry or causes the  
17 omission thereof in the business records of an  
18 enterprise.



1           (2) [~~"Enterprise" means any entity of one or more persons,~~  
2 ~~corporate or otherwise, engaged in business, commercial,~~  
3 ~~professional, industrial, eleemosynary, or social activity.] For  
4 the purposes of this section:~~

5           [~~(3)~~] "Business record" means any [~~writing or article~~]  
6 record kept or maintained by an enterprise for the purpose of  
7 evidencing or reflecting its condition or activity.

8           "Electronic" means relating to technology having  
9 electrical, digital, magnetic, wireless, optical,  
10 electromagnetic, or similar capabilities.

11           "Enterprise" means any entity of one or more persons,  
12 corporate or otherwise, engaged in business, commercial,  
13 professional, industrial, eleemosynary, or social activity.

14           "Information" means data, text, images, sounds, codes,  
15 computer programs, software, databases, or the like.

16           "Record" means information that is written or printed, or  
17 that is stored in an electronic or other medium and is  
18 retrievable in a perceivable form.

19           [~~(4)~~] (3) Falsifying business records is a misdemeanor."

20           SECTION 2. Section 710-1000, Hawaii Revised Statutes, is  
21 amended by adding six new definitions to be appropriately  
22 inserted and to read as follows:



1       "Electronic" means relating to technology having  
2 electrical, digital, magnetic, wireless, optical,  
3 electromagnetic, or similar capabilities.

4       "Falsely alter" means to change, without the authority of  
5 the ostensible maker or authorized custodian of the record, a  
6 statement, document, or record, whether complete or incomplete,  
7 by means of erasure, obliteration, deletion, insertion of new  
8 matter, transposition of matter, or in any other manner, so that  
9 the statement, document, or record so altered falsely appears or  
10 purports to be in all respects an authentic creation of its  
11 ostensible maker, or authorized by the maker or custodian of the  
12 record.

13       "Falsely complete" means to transform, by adding,  
14 inserting, or changing matter, an incomplete statement,  
15 document, or record into a complete one, without the authority  
16 of the ostensible maker or authorized custodian of the record,  
17 so that the complete statement, document, or record falsely  
18 appears or purports to be in all respects an authentic creation  
19 of its ostensible maker, or authorized by the maker or custodian  
20 of the record.

21       "Falsely make" means to create a statement, document, or  
22 record, which purports to be an authentic creation of its



1 ostensible maker, but which is not because the ostensible maker  
2 is fictitious or because, if real, the ostensible maker did not  
3 authorize the creation thereof.

4 "Information" means data, text, images, sounds, codes,  
5 computer programs, software, databases, or the like.

6 "Record" means information that is written or printed, or  
7 that is stored in an electronic or other medium and is  
8 retrievable in a perceivable form."

9 SECTION 3. Section 710-1016.3, Hawaii Revised Statutes, is  
10 amended by amending subsection (1) to read as follows:

11 "(1) A person commits the offense of obtaining a  
12 government-issued identification document under false pretenses  
13 in the first degree if that person, with intent to mislead a  
14 public servant and intent to facilitate a felony, obtains an  
15 identification document issued by the State or any political  
16 subdivision thereof by:

17 (a) Making any statement, oral or [~~written,~~] in written,  
18 printed, or electronic form, that the person does not  
19 believe to be true, in an application for any  
20 identification document issued by the State or any  
21 political subdivision thereof; or



1 (b) Submitting or inviting reliance on any [~~writing~~]  
 2 statement, document, or record, in written, printed,  
 3 or electronic form, that the person knows to be  
 4 falsely made, completed, or altered."

5 SECTION 4. Section 710-1016.4, Hawaii Revised Statutes, is  
 6 amended by amending subsection (1) to read as follows:

7 "(1) A person commits the offense of obtaining a  
 8 government-issued identification document under false pretenses  
 9 in the second degree if that person, with intent to mislead a  
 10 public servant, obtains an identification document issued by the  
 11 State or any political subdivision thereof by:

12 (a) Making any statement, oral or [~~written,~~] in written,  
 13 printed, or electronic form, that the person does not  
 14 believe to be true, in an application for any  
 15 identification document issued by the State or any  
 16 political subdivision thereof; or

17 (b) Submitting or inviting reliance on any [~~writing~~]  
 18 statement, document, or record, in written, printed,  
 19 or electronic form, that the person knows to be  
 20 falsely made, completed, or altered."

21 SECTION 5. Section 710-1017, Hawaii Revised Statutes, is  
 22 amended by amending subsections (1) and (2) to read as follows:

1           "(1) A person commits the offense of tampering with a  
2 government record if:

3           (a) The person, acting knowingly [~~and~~], falsely makes [~~7~~] a  
4 purported government record, or falsely completes [~~7~~]  
5 or alters, or [~~knowingly~~] makes a false entry in, a  
6 [~~written instrument which is or purports to be a~~]  
7 government record or a true copy thereof; or

8           (b) The person knowingly presents or uses a [~~written~~  
9 ~~instrument which is or purports to be a~~] government  
10 record or a purported government record, or a true  
11 copy thereof, knowing that it has been falsely made,  
12 completed, or altered, or that a false entry has been  
13 made therein, with intent that it be taken as genuine;  
14 or

15           (c) The person knowingly records, registers, or files, or  
16 offers for recordation, registration, or filing, in a  
17 governmental office or agency, a [~~written~~] statement,  
18 document, or record, in written, printed, or  
19 electronic form, which has been falsely made,  
20 completed, or altered, or in which a false entry has  
21 been made, or which contains a false statement or  
22 false information; or



- 1 (d) Knowing the person lacks the authority to do so:
- 2 (i) The person intentionally destroys, mutilates,
- 3 conceals, removes, or otherwise impairs the
- 4 availability of any government records; or
- 5 (ii) The person refuses to deliver up a government
- 6 record in the person's possession upon proper
- 7 request of a public servant entitled to receive
- 8 such record for examination or other purposes.

9 (2) For the purpose of this section, "government record"  
10 ~~[includes all official books, papers, written instruments, or]~~  
11 means all records created, issued, received, or kept by any  
12 governmental office or agency or required by law to be kept by  
13 others for the information of the government."

14 SECTION 6. Section 710-1063, Hawaii Revised Statutes, is  
15 amended by amending subsection (1) to read as follows:

16 "(1) A person commits the offense of unsworn falsification  
17 to authorities if, with an intent to mislead a public servant in  
18 the performance of the public servant's duty, the person:

- 19 (a) Makes any ~~[written]~~ statement, in written, printed, or  
20 electronic form, which the person does not believe to  
21 be true, in an application for any pecuniary or other



1 benefit or in a record or report required by law to be  
2 submitted to any governmental agency;

3 (b) Submits or invites reliance on any [~~writing~~]  
4 statement, document, or record, in written, printed,  
5 or electronic form, which the person knows to be  
6 falsely made, completed, or altered; or

7 (c) Submits or invites reliance on any sample, specimen,  
8 map, boundary-mark, or other object the person knows  
9 to be false."

10 SECTION 7. This Act does not affect rights and duties that  
11 matured, penalties that were incurred, and proceedings that were  
12 begun before its effective date.

13 SECTION 8. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY:                     Cynthia Ike



# S.B. NO. 2252

**Report Title:**

Crime; Electronic Records; Falsifying Records; Government Records

**Description:**

Updates the offenses of falsifying business records, obtaining a government-issued identification document under false pretenses in the first degree, obtaining a government-issued identification document under false pretenses in the second degree, tampering with a government record, and unsworn falsification to authorities, to address the use of new technology and make the offenses applicable to electronic or digital statements, documents, or records.

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

