

JAN 23 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) For purposes of this section:

2           "Enterprise" means any entity of one or more persons,  
3 corporate or otherwise, engaged in business, commercial,  
4 professional, industrial, eleemosynary, or social activity.

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

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

13           "Electronic" means relating to technology having  
14 electrical, digital, magnetic, wireless, optical,  
15 electromagnetic, or similar capabilities.

16           ~~[-4-]~~ (3) Falsifying business records is a misdemeanor."

17           SECTION 2. Section 710-1000, Hawaii Revised Statutes, is  
18 amended by adding the new definitions of "electronic", "falsely  
19 make", "falsely complete", "falsely alter", "information", and  
20 "record" to be appropriately inserted and to read as follows:

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

4       "Falsely make" means to create a statement, document, or  
5 record, which purports to be an authentic creation of its  
6 ostensible maker, but which is not because the ostensible maker  
7 is fictitious or because, if real, the same did not authorize  
8 the creation thereof.

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

17       "Falsely alter" means to change, without the authority of  
18 the ostensible maker or authorized custodian of the record, a  
19 statement, document, or record, whether complete or incomplete,  
20 by means of erasure, obliteration, deletion, insertion of new  
21 matter, transposition of matter, or in any other manner, so that  
22 the statement, document, or record so altered falsely appears or

1 purports to be in all respects an authentic creation of its  
2 ostensible maker, or authorized by the maker or custodian of the  
3 record.

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 to read as follows:

11 "[+]§710-1016.3[+] **Obtaining a government-issued**  
12 **identification document under false pretenses in the first**  
13 **degree.** (1) A person commits the offense of obtaining a  
14 government-issued identification document under false pretenses  
15 in the first degree if that person, with intent to mislead a  
16 public servant and intent to facilitate a felony, obtains an  
17 identification document issued by the State or any political  
18 subdivision thereof by:

19 (a) Making any statement, oral or [~~written,~~] in written,  
20 printed, or electronic form, that the person does not  
21 believe to be true, in an application for any

1 identification document issued by the State or any  
2 political subdivision thereof; or

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

7 (2) Obtaining a government-issued identification document  
8 under false pretenses in the first degree is a class C felony."

9 SECTION 4. Section 710-1016.4, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "[~~+~~] §710-1016.4 [~~+~~] **Obtaining a government-issued**  
12 **identification document under false pretenses in the second**  
13 **degree.** (1) A person commits the offense of obtaining a  
14 government-issued identification document under false pretenses  
15 in the second degree if that person, with intent to mislead a  
16 public servant, obtains an identification document issued by the  
17 State or any political subdivision thereof by:

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

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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 (2) Obtaining a government-issued identification document  
6 under false pretenses in the second degree is a misdemeanor."

7 SECTION 5. Section 710-1017, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§710-1017 **Tampering with a government record.** (1) A  
10 person commits the offense of tampering with a government record  
11 if:

12 (a) The person, acting knowingly [and], falsely  
13 makes[~~7~~] a purported government record, or falsely  
14 completes[~~7~~] or alters, or [knowingly] makes a  
15 false entry in, a [~~written instrument which is or~~  
16 purports to be a] government record or a true copy  
17 thereof; or

18 (b) The person knowingly presents or uses a [~~written~~  
19 ~~instrument which is or purports to be a]~~ government  
20 record or a purported government record, or a true  
21 copy thereof, knowing that it has been falsely made,  
22 completed, or altered, or that a false entry has been

1 made therein, with intent that it be taken as genuine;

2 or

3 (c) The person knowingly records, registers, or files, or

4 offers for recordation, registration, or filing, in a

5 governmental office or agency, a [~~written~~] statement,

6 document, or record, in written, printed, or

7 electronic form, which has been falsely made,

8 completed, or altered, or in which a false entry has

9 been made, or which contains a false statement or

10 false information; or

11 (d) Knowing the person lacks the authority to do so:

12 (i) The person intentionally destroys, mutilates,

13 conceals, removes, or otherwise impairs the

14 availability of any government records; or

15 (ii) The person refuses to deliver up a government

16 record in the person's possession upon proper

17 request of a public servant entitled to receive

18 such record for examination or other purposes.

19 (2) For the purpose of this section, "government record"

20 [~~includes all official books, papers, written instruments, or~~]

21 means all records created, issued, received, or kept by any

1 governmental office or agency or required by law to be kept by  
2 others for the information of the government.

3 (3) Tampering with government records is a misdemeanor."

4 SECTION 6. Section 710-1063, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§710-1063 Unsworn falsification to authorities. (1) A  
7 person commits the offense of unsworn falsification to  
8 authorities if, with an intent to mislead a public servant in  
9 the performance of the public servant's duty, the person:

10 (a) Makes any [~~written~~] statement, in written, printed, or  
11 electronic form, which the person does not believe to  
12 be true, in an application for any pecuniary or other  
13 benefit or in a record or report required by law to be  
14 submitted to any governmental agency;

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

19 (c) Submits or invites reliance on any sample, specimen,  
20 map, boundary-mark, or other object the person knows  
21 to be false.



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1           (2) Unsworn falsification to authorities is a  
2 misdemeanor."

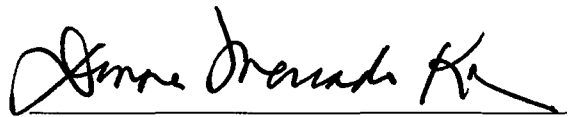
3           SECTION 7. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun, before the effective date of this Act.

6           SECTION 8. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: 

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BY REQUEST

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**Report Title:**

Crime

**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.*

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO CRIME.

PURPOSE: To update the criminal 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.

MEANS: Amend sections 708-872, 710-1000, 710-1016.3, 710-1016.4, 710-1017, and 710-1063, Hawaii Revised Statutes.

JUSTIFICATION: The criminal offenses being updated by this bill involve falsification or tampering with writings, written statements, written instruments, or official books or papers. In this age of computers and the Internet, however, many transactions are handled electronically, and records are often being kept in electronic or digital form. In 2000, Hawaii adopted the Uniform Electronic Transactions Act, enacted under chapter 489E, Hawaii Revised Statutes, in recognition of the need to establish the legal validity of electronic records, signatures, and contracts. But criminal offenses have not been updated to take into account the use of new technology.

This bill is intended to make those criminal offenses relevant and applicable to electronic transactions and the electronic submissions of false statements, or the

tampering with records that are kept, not in writing or paper files, but in digital or electronic form.

If a person improperly alters a government record being kept on a computer system in digital form, that person should be held criminally liable for tampering with a government record. Under current law, however, a person is only prohibited from altering a government record that is kept as a written instrument.

Impact on the public: This bill will make the criminal offenses applicable to electronic or digital statements, documents, or records.

Impact on the department and other agencies: The department, and other state and county law enforcement agencies, can investigate and prosecute offenders who submit false statements or documents in electronic form, or who falsify or tamper with business or government records kept in electronic form.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	Prosecutors, police, public defender, Judiciary.
EFFECTIVE DATE:	Upon approval.