

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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**THE HONORABLE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Thirtieth State Legislature
Regular Session of 2020
State of Hawai'i**

March 11, 2020

RE: S.B. 2183, S.D. 1; RELATING TO THE DEFINITION OF PROPERTY.

Chair Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in strong support of S.B. 2183, S.D. 1. This bill is part of the Department's 2020 legislative package.

The purpose of S.B. 2183, S.D. 1, is to update the definition of the term "property" to include various forms of intangible property, such as property that is stored in an electronic format.

The Hawaii Penal Code's definition of the term "property" has not been amended since the Hawaii Penal Code was first enacted in 1972. Thus, as currently written, the definition of "property" does not include intangible property that is stored in electronic format, such as property that is stored on a computer hard drive or other storage media.

S.B. 2183, S.D. 1, will update the definition of "property" to include intangible property that may be stored in an electronic format. As amended, the term "property" will mean:

“any money, personal property, real property, thing in action, evidence of debt or contract, or article of value of any kind, and includes intellectual property and property that is stored in an electronic medium and is retrievable in a perceivable form. Commodities of a public utility nature such as gas, electricity, steam, and water constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment shall be deemed a

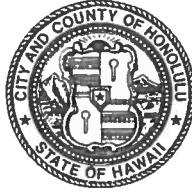
rendition of a service rather than a sale or delivery of property”. (New language underscored.)

The definition of the term “property” needs to be updated to address the problem of theft of intellectual property and property that is stored in electronic format. Currently, criminal cases that involve theft of intangible property stored in electronic format are being declined. The reason: Data stored in electronic format does not qualify as “property”. The Honolulu Prosecutor’s Office recently declined prosecution of a theft case involving a client list that was valued at over \$300,000, because the client list was stored in electronic format, and therefore, outside the scope of the current definition of “property”. S.B. 2183, S.D. 1, will provide needed protection for those who maintain property in electronic format. Property maintained in electronic format can have significant value, and that property should be protected to the same extent as property maintained in other formats.

For these reasons, the Department of the Prosecuting Attorney strongly supports the passage of S.B. 2183, S.D. 1. Thank you for this opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE AF-SAI

March 11, 2020

The Honorable Chris Lee, Chair
and Members
Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Lee and Members:

SUBJECT: Senate Bill No. 2183, SD 1, Relating to the Definition of Property

I am Acting Major Aaron Farias of District 3 (Aiea/Pearl City/Waipahu) of the Honolulu Police Department (HPD), City and County of Honolulu.


The HPD supports Senate Bill No. 2183, SD 1, Relating to the Definition of Property.

Expanding the definition of property to include "intellectual property and property that is stored in an electronic medium and is retrievable in a perceivable form" would serve the public interest to aid enforcement authorities in protection of an individual or entity's lawful ownership.

The HPD respectfully supports Senate Bill No. 2183, SD 1, Relating to the Definition of Property.

Thank you for the opportunity to testify.

Sincerely,


for Aaron Farias, Acting Major
District 3

APPROVED:



Susan Ballard
Chief of Police