

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE KARL RHOADS, CHAIR**  
**SENATE COMMITTEE ON JUDICIARY**  
**Thirtieth State Legislature**  
**Regular Session of 2020**  
**State of Hawai'i**

January 30, 2020

**RE: S.B. 2183; RELATING TO THE DEFINITION OF PROPERTY.**

Chair Rhoads, Vice Chair Keohokalole, and members of the Senate 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. This bill is part of the Department's 2020 legislative package.

The purpose of S.B. 2183 is to update the definition of the term “property” to include intellectual property and 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 property that is stored in electronic format, such as intellectual property that is stored on a computer hard drive or other storage media.

S.B. 2183 will update the definition of “property” to include intellectual property and property that is 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 intellectual 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 in a case of theft of a client list that was valued at over \$300,000 because the client list was stored in electronic format, and therefore, fell outside the scope of the current definition of “property”. S.B. 2183 will provided needed protection for those who maintain property in electronic format. Property maintained in electronic format can have 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. Thank you for this opportunity to testify.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE AF-SAI

January 31, 2020

The Honorable Karl Rhoads, Chair  
and Members  
Committee on Judiciary  
State Senate  
Hawaii State Capitol  
415 South Beretania Street, Room 016  
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

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

I am Captain 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, 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, Relating to the Definition of Property.

Thank you for the opportunity to testify.

Sincerely,

  
Aaron Farias, Captain  
District 3

APPROVED:



Susan Ballard  
Chief of Police

**STATE OF HAWAI‘I**  
**OFFICE OF THE PUBLIC DEFENDER**

**LATE**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the Senate Committee on Judiciary**

January 31, 2020

S.B. No. 2183: RELATING TO THE DEFINITION OF PROPERTY

Chair Rhoads, Vice Chair Keohaokalole, and Members of the Committee:

The Office of the Public Defender respectfully offers comments on S.B. No. 2183, which would amend HRS Sect. 708-800 to add the following language to the definition of “Property”:

..., and includes intellectual property and property that is stored in an electronic medium and is retrievable in a perceivable form.

(Page 1, lines 6 to 8).

We don’t see the need for this legislation as we believe that “intellectual property” is property under the current definition. Additionally, the language, “stored in an electronic medium” and “retrievable in a perceivable form” may be problematic. It is generally not a good idea to use language which can be limiting, depending on technological advances. If technology advances to a point where “electronic medium” would no longer suffice as a description of where property is “stored”, this proposed change would no longer be applicable.

As we are unaware what this proposed legislation seeks to address that is not currently covered in the Section 708-800 definition of property, we are unable to support this proposed change.

Thank you for the opportunity to comment on this measure.

**LATE**

**SB-2183**

Submitted on: 1/31/2020 9:02:46 AM

Testimony for JDC on 1/31/2020 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lisa Cates	Individual	Support	No

Comments:

Theft of intellectual property leads to financial hardship in many cases and should be treated like any other property of value. Please support this measure to amend the definition of property. It's a logical amendment in today's world of technology.

Mahalo for your consideration,

Lisa Cates