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# A BILL FOR AN ACT

RELATING TO FRAUD.

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

1           SECTION 1. The legislature finds that the house of  
2 representatives adopted House Resolution No. 9 (2022) to  
3 establish the commission to improve standards of conduct. The  
4 resolution requested the commission to ensure that state laws  
5 and rules relating to standards of conduct for public officers  
6 and employees contain clear provisions for standards,  
7 enforcement, and penalties. The resolution also asked the  
8 commission to provide recommendations to increase awareness of,  
9 compliance with, and the deterrent effects of the code of  
10 ethics, lobbying laws, campaign finance laws, and other relevant  
11 laws and rules.

12           The legislature further finds that an essential goal of the  
13 commission was to provide recommendations that would help  
14 restore public trust in state government and increase the levels  
15 of government transparency and individual accountability. The  
16 strength and stability of our democratic government rely upon  
17 the public's trust in government institutions, including the



1 expectation that officers act ethically and with prudence,  
2 integrity, and sound judgment.

3       The legislature notes that, pursuant to House Resolution  
4 No. 9, the commission to improve standards of conduct convened  
5 regularly throughout 2022 to diligently review, discuss, and  
6 consider the issues presented. The commission submitted an  
7 interim report to the house of representatives outlining areas  
8 of immediate and long-term focus and then continued its work  
9 with input from the public and invited individuals and agencies.  
10 The commission issued a final report with various  
11 recommendations and proposed legislation.

12       Accordingly, the purpose of this Act is to implement the  
13 commission's recommendations to improve standards of conduct  
14 relating to combatting fraud, waste, and corruption by:

- 15       (1) Establishing the offense of making a false,  
16             fictitious, or fraudulent claim against the State or  
17             any county;
- 18       (2) Prohibiting the use of false statements or entries in  
19             matters within the jurisdiction of the executive,  
20             legislative, or judicial branches of the State; and



1 (3) Establishing a general fraud statute that is intended  
2 to cover schemes to obtain financial or other gains by  
3 means of false statements, misrepresentations,  
4 concealment of important information, or deception.

5 The legislature also notes that this Act is modeled after  
6 the following federal fraud statutes:

7 (1) Title 18 United States Code section 287 (false  
8 claims);

9 (2) Title 18 United States Code section 1001 (false  
10 statements);

11 (3) Title 18 United States Code section 1341 (mail fraud);

12 (4) Title 18 United States Code section 1343 (wire fraud);

13 (5) Title 18 United States Code section 1344 (bank fraud);

14 and

15 (6) Title 18 United States Code section 1346 (definition  
16 of "scheme or artifice to defraud").

17 Therefore, in applying this Act, state courts and counsel should  
18 look to federal caselaw and precedent for direction. It should  
19 be noted that references in the federal statutes to "mail" and  
20 "wire" merely provide the nexus for federal jurisdiction.



1 SECTION 2. Chapter 708, Hawaii Revised Statutes, is  
2 amended by adding a new section to part IV to be appropriately  
3 designated and to read as follows:

4 "§708- Fraud. (1) A person commits the offense of  
5 fraud if, with the intent to defraud, the person executes or  
6 attempts to execute any scheme or artifice to defraud or for the  
7 purpose of obtaining money or property by means of false or  
8 fraudulent pretenses, representations, or promises.

9 (2) For purposes of this section, "scheme or artifice to  
10 defraud" includes a scheme or artifice to deprive another of the  
11 intangible right of honest services.

12 (3) Fraud is a class B felony."

13 SECTION 3. Chapter 710, Hawaii Revised Statutes, is  
14 amended by adding two new sections to be appropriately  
15 designated and to read as follows:

16 "§710- Making a false, fictitious, or fraudulent claim.

17 (1) A person commits the offense of making a false, fictitious,  
18 or fraudulent claim against the State or a county if the person  
19 makes or presents to any agent of the State, counties, or any  
20 department or agency thereof, any claim upon or against the



1 State, county, department, or agency, that the person knows to  
2 be false, fictitious, or fraudulent.

3 (2) Making a false, fictitious, or fraudulent claim  
4 against the State or a county is a class C felony.

5 §710- Use of false statements or entries; generally.

6 (1) Except as otherwise provided in this section, a person  
7 commits the offense of use of false statements or entries if, in  
8 any matter within the jurisdiction of the executive,  
9 legislative, or judicial branch of the State, the person  
10 intentionally or knowingly:

11 (a) Falsifies, conceals, or covers up a material fact by  
12 any trick, scheme, or device;

13 (b) Makes any materially false, fictitious, or fraudulent  
14 statement or representation;

15 (c) Makes any false writing or document knowing the  
16 writing or document contains any materially false,  
17 fictitious, or fraudulent statement or entry; or

18 (d) Uses any false writing or document knowing the writing  
19 or document contains any materially false, fictitious,  
20 or fraudulent statement or entry for the purpose of  
21 presenting any statement or entry as true or for the



1 purpose of substantiating any conclusion that is made  
2 more likely by any statement or entry.

3 (2) Subsection (1) shall not apply to a party to a  
4 judicial proceeding, or that party's counsel, for statements,  
5 representations, writings, or documents submitted by the party  
6 or counsel to a judge or magistrate in the proceeding.

7 (3) With respect to any matter within the jurisdiction of  
8 the legislature, subsection (1) shall apply only to:

9 (a) Administrative matters, including:

10 (i) A claim for payment;

11 (ii) A matter related to the procurement of property  
12 or services;

13 (iii) Personnel or employment practices;

14 (iv) Support services; or

15 (v) A document required by law, rule, or regulation  
16 to be submitted to the legislature or any office  
17 or officer within the legislature; or

18 (b) Any investigation or review conducted pursuant to the  
19 authority of any committee, subcommittee, commission,  
20 or office of the legislature, consistent with



1           applicable rules of the senate or house of  
2           representatives.

3           (4) Use of false statements or entries is a class C  
4 felony."

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

8           SECTION 5. If any provision of this Act, or the  
9 application thereof to any person or circumstance, is held  
10 invalid, the invalidity does not affect other provisions or  
11 applications of the Act that can be given effect without the  
12 invalid provision or application, and to this end the provisions  
13 of this Act are severable.

14           SECTION 6. New statutory material is underscored.

15           SECTION 7. This Act shall take effect upon its approval.



**Report Title:**

Honolulu Prosecuting Attorney Package; Public Corruption; Fraud;  
Criminal Offenses; Penalties

**Description:**

Establishes the offense of fraud as a class B felony.  
Establishes the offense of making a false, fictitious, or  
fraudulent claim against the State or a county as a class C  
felony. Establishes the offense of the use of false statements  
or entries in matters within the jurisdiction of the executive,  
legislative, or judicial branches of the State as a class C  
felony. (SD1)

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