

JAN 18 2019

A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. Section 11-410, Hawaii Revised Statutes, is
2 amended by amending subsection (h) to read as follows:

3 "(h) ~~[This]~~ Except for subsection (g), this section shall
4 not apply to any person who, prior to the commencement of
5 proceedings under this section, has paid or agreed to pay the
6 fines prescribed by sections 11-340 and 11-391(b)."

7 SECTION 2. Section 11-411, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~[+]§11-411[+]~~ Criminal referral. ~~[In lieu of an]~~ In
10 addition to any administrative determination that a violation of
11 this part has been committed, the commission may refer the
12 complaint to the attorney general or county prosecutor ~~[at any~~
13 ~~time it believes the respondent may have recklessly, knowingly,~~
14 ~~or intentionally committed a violation]."~~

15 SECTION 3. Section 11-412, Hawaii Revised Statutes, is
16 amended to read as follows:



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1 " ~~[+]~~ §11-412 ~~[+]~~ Criminal prosecution. (a) Any person who
2 recklessly, knowingly, or intentionally violates any provision
3 of this part shall be guilty of a misdemeanor.

4 (b) Any person who knowingly or intentionally falsifies
5 any report required by this part with the intent to circumvent
6 the law or deceive the commission or who violates section 11-352
7 or 11-353 shall be guilty of a class C felony. A person charged
8 with a class C felony shall not be eligible for a deferred
9 acceptance of guilty plea or nolo contendere plea under chapter
10 853.

11 (c) A person who is convicted under this section shall be
12 disqualified from holding elective public office for a period of
13 ~~[four]~~ ten years from the date of conviction.

14 (d) For purposes of prosecution for violation of this
15 part, the offices of the attorney general and the prosecuting
16 attorney of the respective counties shall be deemed to have
17 concurrent jurisdiction to be exercised as follows:

18 (1) Prosecution shall commence with a written request from
19 the commission or upon the issuance of an order of the
20 court; provided that prosecution may commence prior to



1 any proceeding initiated by the commission or final
2 determination;

3 (2) In the case of statewide offices, parties, or issues,
4 the attorney general or the prosecuting attorney for
5 the city and county of Honolulu shall prosecute any
6 violation; and

7 (3) In the case of all other offices, parties, or issues,
8 the attorney general or the prosecuting attorney for
9 the respective county shall prosecute any violation.

10 In the commission's choice of prosecuting agency, it shall
11 be guided by whether any conflicting interest exists between the
12 agency and its appointive authority.

13 (e) The court shall give priority to the expeditious
14 processing of prosecutions under this section.

15 (f) Prosecution for violations of this part shall not
16 commence after five years have elapsed from the date of the
17 violation or date of filing of the report covering the period in
18 which the violation occurred, whichever is later.

19 ~~[(g) This section shall not apply to any person who, prior~~
20 ~~to the commencement of proceedings under this section, has paid~~



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1 ~~or agreed to pay the fines prescribed by sections 11 340 and 11~~
2 ~~391(b)-.] "~~

3 SECTION 4. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.
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INTRODUCED BY: ~~AC~~ *AC Kishore*

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[Signature]



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Report Title:

Elections; Administrative Fines; Criminal Prosecution

Description:

Allows the elections commission to refer a complaint to the attorney general or county prosecutor in addition to any administrative determination and without the requirement that the commission believes the respondent has recklessly, knowingly, or intentionally committed a violation. Disqualifies a person convicted of violating elections criminal prosecution laws from holding elective public office for ten years, rather than four. Repeals language stipulating that elections criminal prosecution law does not apply to any person who has paid or agreed to pay fines related to report filing violations and advertisement violations prior to the commencement of the proceedings.

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