THE SENATE THIRTY-SECOND LEGISLATURE, 2023 STATE OF HAWAII S.B. NO. <sup>141</sup> <sup>S.D. 1</sup> <sup>H.D. 1</sup>

CD1

# A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

SECTION 1. The legislature finds that ensuring the faithfulness of presidential electors is crucial to the State's democratic system of government. The legislature notes that presidential and vice presidential candidates are elected not by the popular vote but rather by electors, who are themselves elected during general elections, who select the president and vice president by a simple majority.

8 The legislature further finds that electors who cast votes 9 contrary to the candidates whom they were elected to vote for, 10 thereby acting faithlessly, are acting contrary to democratic 11 values by subverting the will of the people. Additionally, the 12 potential exists for faithless electors to have a decisive 13 effect upon a presidential election's outcome, especially when 14 the election is close.

15 The purpose of this measure is to align Hawaii law with the 16 Uniform Faithful Presidential Electors Act by:

17 (1) Updating rules for certification of electors and their
18 votes to be in full compliance with federal law;

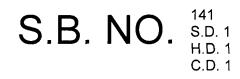


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1	(2)	Providing procedures for the replacement of electors;
2	(3)	Requiring presidential electors to take a pledge that
3		they will vote for their party's nominee;
4	(4)	Invalidating the vote of any faithless elector; and
5	(5)	Removing any faithless elector from the position of
6		elector.
7	SECT	ION 2. Chapter 14, Hawaii Revised Statutes, is amended
8	by adding	a new section to be appropriately designated and to
9	read as f	ollows:
10	" <u>§14</u>	- Elector replacement; associated certificates.
11	(a) Afte	r the vote of the State's electors is completed, if the
12	final lis	t of electors differs from any list that the governor
13	previousl	y included on a certificate of ascertainment prepared
14	and trans	mitted under title 3 United States Code section 6, the
15	chief ele	ction officer shall immediately prepare an amended
16	certifica	te of ascertainment and transmit it to the governor for
17	the gover	nor's signature.
18	(b)	The governor shall immediately deliver the signed
19	amended c	ertificate of ascertainment to the chief election
20	officer a	nd a signed duplicate original of the amended
21	<u>certifica</u>	te of ascertainment to all individuals entitled to

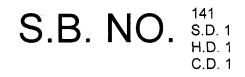
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1	receive the State's certificate of ascertainment, indicating
2	that the amended certificate of ascertainment is to be
3	substituted for the certificate of ascertainment previously
4	submitted.
5	(c) The chief election officer shall prepare a certificate
6	of vote. The electors on the final list shall sign the
7	certificate of vote. The chief election officer shall process
8	and transmit the signed certificate of vote with the amended
9	certificate of ascertainment under title 3 United States Code
10	sections 9, 10, and 11."
11	SECTION 3. Section 14-21, Hawaii Revised Statutes, is
12	amended to read as follows:
13	"§14-21 Nomination of presidential electors and
14	alternates; certification[+] by parties; notification of
15	<b>nominees[+]</b> ; <b>pledge.</b> (a) In each year when electors of
16	president and vice president of the United States are to be
17	chosen, each of the political parties or parties or groups
18	qualified under section 11-113 shall hold a state party or group
19	convention pursuant to the constitution, bylaws, and rules of
20	the party or group; and nominate as candidates for its party or
21	group as many electors, and a first and second alternate for

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1 each elector, of president and vice president of the United 2 States as the State is then entitled. The electors and alternates shall be registered voters of the State. The names 3 4 and addresses of the nominees shall be certified by the chairperson and secretary of the convention of the respective 5 6 parties or groups and submitted to the chief election officer 7 [not] no later than 4:30 p.m. on the sixtieth day [prior to] 8 before the general election of the same year. The chief 9 election officer upon receipt thereof, shall immediately notify 10 each of the nominees for elector and alternate elector of the 11 nomination.

12 (b) Each elector nominee and alternate elector nominee of 13 a political party or group shall execute the following pledge: 14 "If selected for the position of elector, I agree to serve and 15 to mark my ballots for president and vice president for the 16 nominees for those offices of the party or group that nominated 17 me". The executed pledges shall accompany the submission of the corresponding names to the chief election officer. Electors 18 19 shall be released from their pledge if the presidential 20 candidate whom they are pledged to vote for dies. Electors 21 shall not be released from their pledge under any circumstance

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1	other than the death of the presidential candidate for whom they
2	are pledged to vote."
3	SECTION 4. Section 14-25, Hawaii Revised Statutes, is
4	amended to read as follows:
5	"§14-25 Duties of the governor[-]; certification of
6	electors by the governor. (a) In submitting the State's
7	certificate of ascertainment as required by title 3 United
8	States Code section 6, the governor shall certify the State's
9	electors and state in the certificate that:
10	(1) The electors shall serve as electors unless a vacancy
11	occurs in the office of elector before the end of the
12	meeting at which elector votes are cast, in which case
13	a substitute elector shall fill the vacancy; and
14	(2) If a substitute elector is appointed to fill a
15	vacancy, the governor shall submit an amended
16	certificate of ascertainment stating the names on the
17	final list of the State's electors.
18	(b) On or before the day of the meeting of the electors;
19	the governor shall deliver to the electors a list of the names
20	of $electors[-]$ and $[the governor shall]$ perform any other duties

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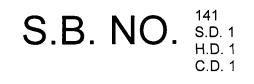
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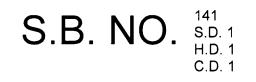
1	relating to the presidential electors [ <del>which</del> ] <u>that</u> are required
2	of the governor by laws of the United States."
3	SECTION 5. Section 14-27, Hawaii Revised Statutes, is
4	amended to read as follows:
5	"§14-27 Filling vacancies of presidential electors $[-]_{:}$
6	presiding officer. [In case of the death or absence of any
7	elector chosen, or if the number of electors is deficient for
8	any other reason, the vacancy or vacancies shall be filled by
9	the-alternates in the order of their numerical designation for
10	their respective electors causing the vacancy or vacancies, and
11	in the event that vacancy or vacancies still exist, then the
12	electors present shall select from the members of the same
13	political party or group-as-many persons as will-supply the
14	deficiencyCertificates for the alternates or substitutes as
15	presidential electors shall be issued by the governor.] (a) The
16	chief election officer shall preside at the meeting of electors
17	described in section 14-28.
18	(b) The position of an elector not present to vote shall
19	be vacant. The chief election officer shall appoint an
20	individual as a substitute elector to fill a vacancy as follows:

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1	(1)	If the alternate elector is present to vote, by
2		appointing the alternate elector for the vacant
3		position;
4	(2)	If the alternate elector for the vacant position is
5		not present to vote, by appointing an elector chosen
6		by lot from among the alternate electors present to
7		vote who were nominated by the same political party or
8		group;
9	(3)	If the number of alternate electors present to vote is
10		insufficient to fill any vacant position pursuant to
11		paragraphs (1) and (2), by appointing any immediately
12		available individual who is qualified to serve as an
13		elector and chosen through nomination by and plurality
14		vote of the remaining electors, including nomination
15		and vote by a single elector if only one remains;
16	(4)	If there is a tie between at least two nominees for
17		substitute elector in a vote conducted under paragraph
18		(3), by appointing an elector chosen by lot from among
19		those nominees; or
20	(5)	If all elector positions are vacant and cannot be
21		filled pursuant to paragraphs (1) through (4), by

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1	appointing a single presidential elector, with
2	remaining vacant positions to be filled under
3	paragraph (3) and, if necessary, paragraph (4).
4	(c) To qualify as a substitute elector under subsection
5	(b), an individual who has not executed the pledge required
6	under section 14-21(b) shall execute the following pledge: "I
7	agree to serve and to mark my ballots for president and vice
8	president consistent with the pledge of the individual to whose
9	elector position I have succeeded"."
10	SECTION 6. Section 14-28, Hawaii Revised Statutes, is
11	amended to read as follows:
12	"§14-28 Convening and voting for president and vice
13	president; party vote[. The electors, when convened, if both
14	candidates are alive, shall vote by ballot for that-person for
15	president and that person for vice president of the United
16	States, who are, respectively, the candidates of the political
17	party or group which they represent, one of whom, at least, is
18	not an inhabitant of this State.]; invalid vote. (a) At the
19	time designated for elector voting and after all vacant
20	positions have been filled under section 14-27, the chief
21	election officer shall provide each elector with a presidential

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1	and a vice-presidential ballot. The elector shall mark the
2	elector's presidential and vice-presidential ballots with the
3	elector's votes for the offices of president and vice president,
4	respectively, along with the elector's signature and the
5	elector's legibly printed name.
6	(b) Except as otherwise provided by law, each elector
7	shall present both completed ballots to the chief election
8	officer, who shall examine the ballots and accept as cast all
9	ballots of electors whose votes are consistent with their
10	pledges executed under section 14-21(b) or 14-27(c). Except as
11	otherwise provided by law, the chief election officer shall not
12	accept and shall not count either an elector's presidential or
13	vice-presidential ballot if the elector has failed to mark both
14	ballots or has marked a ballot in violation of the elector's
15	pledge.
16	(c) An elector who refuses to present a ballot, presents
17	an unmarked ballot, or presents a ballot marked in violation of
18	the elector's pledge executed under section 14-21(b) or 14-27(c)
19	shall vacate the office of elector, creating a vacant position
20	to be filled pursuant to section 14-27.

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1	(d) The chief election officer shall distribute ballots to
2	and collect ballots from a substitute elector and repeat the
3	process under this section of examining ballots, declaring and
4	filling vacant positions as required, and recording
5	appropriately completed ballots from the substituted electors,
6	until all of the State's electoral votes have been cast and
7	recorded."
8	SECTION 7. Statutory material to be repealed is bracketed
9	and stricken. New statutory material is underscored.
10	SECTION 8. This Act shall take effect upon its approval.





#### Report Title:

Uniform Faithful Presidential Electors Act; Pledge; Certification; Voting; Replacement; Faithless Electors

### Description:

Updates rules for certification of electors and their votes to be in full compliance with federal law. Provides procedures for the replacement of electors. Requires presidential electors to take a pledge that they will vote for their party's nominee. Invalidates the vote of any faithless elector. Removes any faithless elector from the position of elector. (CD1)

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