

JAN 25 2023

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 requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to combatting fraud by:

12 (1) Establishing a general fraud statute which is intended
13 to cover schemes to obtain financial or other gain by
14 means of false statements, misrepresentations,
15 concealment of important information, or deception;
16 and

17 (2) Disqualifying a person from holding elected public
18 office for a period of ten years upon conviction of
19 fraud.

20 The Act is modeled after the following federal general fraud
21 statutes:



- 1 (1) Title 18 United States Code section 1341 (mail fraud);
2 (2) Title 18 United States Code section 1343 (wire fraud);
3 (3) Title 18 United States Code section 1346 (definition
4 of "scheme or artifice to defraud"); and
5 (4) Title 18 United States Code section 1344 (bank fraud).

6 Therefore, in application of this Act, State courts and counsel
7 should look to federal caselaw and precedent for direction. It
8 should be noted that the references in the federal statutes to
9 "mail" and "wire" are merely the jurisdictional "hooks" for
10 federal jurisdiction.

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

14 "§708- Fraud. (1) A person commits the offense of
15 fraud if, with the intent to defraud, the person executes or
16 attempts to execute any scheme or artifice to defraud or to
17 obtain money or property by means of false or fraudulent
18 pretenses, representations, or promises.

19 (2) Application of this section shall be based on:

20 (A) Title 18 United States Code section 1341;

21 (B) Title 18 United States Code section 1343;



1 (C) Title 18 United States Code section 1346; and

2 (D) Title 18 United States Code section 1344;

3 and any relevant federal case law and precedent.

4 (3) For the purposes of this section "scheme or artifice
5 to defraud" includes a scheme or artifice to deprive another of
6 the intangible right of honest services.

7 (4) Fraud is a class B felony and a person convicted under
8 this section shall be sentenced with a mandatory minimum term of
9 imprisonment of one year, without the possibility of probation."

10 SECTION 3. Section 11-412, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) A person who is convicted under this section, or for
13 fraud under section 708- , shall be disqualified from holding
14 elective public office for a period of ten years from the date
15 of conviction."

16 SECTION 4. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 5. New statutory material is underscored.

20



S.B. NO. 1421

Report Title:

Commission to Improve Standards of Conduct; Fraud;
Disqualification; Elective Public Office; Conviction

Description:

Establishes the offense of fraud as a class B felony.
Disqualifies a person from holding elective public office for a
period of ten years upon conviction of fraud.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

