



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 3033, RELATING TO PHYSICAL EVIDENCE.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, February 15, 2024 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 016 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Mark S. Tom, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General strongly supports this bill and offers the following comments.

The bill amends section 710-1076, Hawaii Revised Statutes, to prohibit additional means of tampering with or fabricating physical evidence in an official proceeding or investigation by adopting the wording of Model Penal Code section 241.7.

The current statute omits several phrases from the corresponding offense in the Model Penal Code that are needed to comprehensively combat physical evidence offenses. Tampering with physical evidence can take many forms beyond what is provided in the existing statute. For example, tampering with physical evidence often takes place well before any official proceeding or during the investigation stage, while the prohibitions of the current statute are limited to expressly prohibiting only that tampering that occurs during a pending or prospective official proceeding. This bill increases the scope of when tampering with physical evidence is an offense. The bill also makes the fabrication of physical evidence an offense, thereby increasing the probability that evidence will be accurate and credible.

The Model Penal Code wording for the corresponding offense encompasses those additional specific acts, and the proposed amendments in the bill adopt the same wording, thereby expanding the reach of this offense.

This bill will increase the public's trust and confidence in the investigations conducted by our state and local law enforcement and will increase the credibility of available evidence. We respectfully request your committee pass this bill. Thank you for the opportunity to provide support for this bill.