

AMENDED IN SENATE JUNE 16, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 256

Introduced by Assembly Member Jones-Sawyer

February 9, 2015

An act to amend Sections 135 and 141 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 256, as amended, Jones-Sawyer. Falsifying evidence.

Existing law makes it a misdemeanor for a person to willfully destroy or conceal any book, paper record, instrument in writing, or other matter or thing knowing that it is about to be produced in evidence in a trial, inquiry, or investigation.

This bill would expand that prohibition to include a digital ~~image or image, or a~~ video recording *that is owned by another*, and to prohibit erasure of those books, papers, records, instruments in writing, digital images, video ~~recordings, recordings that are owned by others~~, or their content.

Existing law makes it a misdemeanor for a person to, or a felony for a peace officer to, knowingly, willfully, and intentionally alter, modify, plant, place, manufacture, conceal, or move any physical matter, with the specific intent that the action will result in a person being charged with a ~~crime or with specific intent that the physical matter will be wrongfully produced as genuine or true at trial or any other specified proceedings.~~ *crime*.

This bill would clarify that the conduct constituting the offense is done wrongfully in order to have a person charged with a crime.

Existing law also makes it a misdemeanor for a person to, or a felony for a peace officer to, knowingly, willfully, and intentionally alter, modify, plant, place, manufacture, conceal, or move any physical matter, with the specific intent that the physical matter will be wrongfully produced as genuine or true at trial or any other specified proceedings.

This bill would expand that prohibition to include any digital image or video recording, and would expand the requisite specific intent to include the intent that the physical matter, digital image, or video recording will not be available for production at those proceedings. recording. The bill would recast the requisite specific intent for the offense committed by a peace officer by requiring that the physical matter, digital image, or video recording be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry.

By expanding the definition of crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 135 of the Penal Code is amended to
2 read:

3 135. A person who, knowing that any book, paper, record,
4 instrument in writing, digital image, video ~~recording~~, *recording*
5 *owned by another*, or other matter or thing, is about to be produced
6 in evidence upon a trial, inquiry, or ~~investigation whatever~~,
7 *investigation*, authorized by law, willfully destroys, erases, or
8 conceals the same, with *the* intent ~~thereby~~ to prevent it or its
9 content from being produced, is guilty of a misdemeanor.

10 SEC. 2. Section 141 of the Penal Code is amended to read:

11 141. (a) Except as provided in subdivision (b), a person who
12 knowingly, willfully, ~~and~~ *intentionally*, *intentionally*, *and*

1 *wrongfully* alters, modifies, plants, places, manufactures, conceals,
2 or moves any physical matter, digital image, or video recording,
3 with specific intent that the action will result in a person being
4 charged with a crime or with the specific intent that the physical
5 matter will be wrongfully produced as genuine or true upon a trial,
6 proceeding, or ~~inquiry whatever~~, *inquiry*, is guilty of a
7 misdemeanor.

8 (b) A peace officer who knowingly, willfully, ~~and intentionally~~
9 *intentionally, and wrongfully* alters, modifies, plants, places,
10 manufactures, conceals, or moves any physical matter, digital
11 image, or video recording, with specific intent that the action will
12 result in a person being charged with a crime or with the specific
13 intent that the physical matter, digital image, or video recording
14 ~~will not be available for production, or will be wrongfully produced~~
15 ~~as genuine or true, upon a trial, proceeding, or inquiry whatever,~~
16 *be concealed or destroyed, or fraudulently represented as the*
17 *original evidence upon a trial, proceeding, or inquiry*, is guilty of
18 a felony punishable by two, three, or five years in the state prison.

19 (c) This section does not preclude prosecution under both this
20 section and any other law.

21 SEC. 3. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.