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AB-256 Falsifying evidence. (2015-2016)

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Assembly Bill No. 256

CHAPTER 463

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

[Approved by Governor October 03, 2015. Filed with Secretary of State October 03, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 256, 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 a video recording that is owned by another, and to prohibit erasure of those books, papers, records, instruments in writing, digital images, video 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.

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. 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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

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

141. (a) Except as provided in subdivision (b), a person who knowingly, willfully, intentionally, and wrongfully alters, modifies, plants, places, manufactures, conceals, or moves any physical matter, digital image, or video recording, with specific intent that the action will result in a person being charged with a crime or with the specific intent that the physical matter will be wrongfully produced as genuine or true upon a trial, proceeding, or inquiry, is guilty of a misdemeanor.

(b) A peace officer who knowingly, willfully, intentionally, and wrongfully alters, modifies, plants, places, manufactures, conceals, or moves any physical matter, digital image, or video recording, with specific intent that the action will result in a person being charged with a crime or with the specific intent that the physical matter, digital image, or video recording will be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry, is guilty of a felony punishable by two, three, or five years in the state prison.

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

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