

JAN 18 2009

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# A BILL FOR AN ACT

RELATING TO THE OFFICE OF INFORMATION PRACTICES.

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

1           SECTION 1. Section 92-1.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~{}~~ §92-1.5 ~~{}~~ Administration of this part. The director  
4 of the office of information practices shall administer this  
5 part. The director shall establish procedures for filing and  
6 responding to complaints filed by any person concerning the  
7 failure of any board to comply with this part. The director of  
8 the office of information practices shall submit an annual  
9 report of these complaints along with final resolution of  
10 complaints, and other statistical data to the legislature, no  
11 later than twenty days prior to the convening of each regular  
12 session. When a board or board member makes a written request  
13 for a written advisory opinion regarding the interpretation or  
14 application of the provisions of this part, the director shall  
15 provide a written opinion within sixty days from the date of the  
16 request."



1 SECTION 2. Section 92F-42, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§92F-42 Powers and duties of the office of information  
4 practices. The director of the office of information practices:

- 5 (1) Shall, upon request, review and rule on an agency  
6 denial of access to information or records, or an  
7 agency's granting of access; provided that any review  
8 by the office of information practices shall not be a  
9 contested case under chapter 91 and shall be optional  
10 and without prejudice to rights of judicial  
11 enforcement available under this chapter;
- 12 (2) Upon request by an agency, shall provide and make  
13 public advisory guidelines, opinions, or other  
14 information concerning that agency's functions and  
15 responsibilities; provided that the director shall  
16 provide a written opinion within sixty days from the  
17 date of any written request for an advisory opinion;
- 18 (3) Upon request by any person, may provide advisory  
19 opinions or other information regarding that person's  
20 rights and the functions and responsibilities of  
21 agencies under this chapter;



- 1           (4) May conduct inquiries regarding compliance by an  
2                   agency and investigate possible violations by any  
3                   agency;
- 4           (5) May examine the records of any agency for the purpose  
5                   of paragraph (4) and seek to enforce that power in the  
6                   courts of this State;
- 7           (6) May recommend disciplinary action to appropriate  
8                   officers of an agency;
- 9           (7) Shall report annually to the governor and the state  
10                   legislature on the activities and findings of the  
11                   office of information practices, including  
12                   recommendations for legislative changes;
- 13           (8) Shall receive complaints from and actively solicit the  
14                   comments of the public regarding the implementation of  
15                   this chapter;
- 16           (9) Shall review the official acts, records, policies, and  
17                   procedures of each agency;
- 18           (10) Shall assist agencies in complying with the provisions  
19                   of this chapter;
- 20           (11) Shall inform the public of the following rights of an  
21                   individual and the procedures for exercising them:



- 1           (A) The right of access to records pertaining to the
- 2                   individual;
- 3           (B) The right to obtain a copy of records pertaining
- 4                   to the individual;
- 5           (C) The right to know the purposes for which records
- 6                   pertaining to the individual are kept;
- 7           (D) The right to be informed of the uses and
- 8                   disclosures of records pertaining to the
- 9                   individual;
- 10          (E) The right to correct or amend records pertaining
- 11                   to the individual; and
- 12          (F) The individual's right to place a statement in a
- 13                   record pertaining to that individual;
- 14          (12) Shall adopt rules that set forth an administrative
- 15                   appeals structure which provides for:
- 16           (A) Agency procedures for processing records
- 17                   requests;
- 18           (B) A direct appeal from the division maintaining the
- 19                   record; and
- 20           (C) Time limits for action by agencies;
- 21          (13) Shall adopt rules that set forth the fees and other
- 22                   charges that may be imposed for searching, reviewing,



1 or segregating disclosable records, as well as to  
2 provide for a waiver of fees when the public interest  
3 would be served;

4 (14) Shall adopt rules which set forth uniform standards  
5 for the records collection practices of agencies;

6 (15) Shall adopt rules that set forth uniform standards for  
7 disclosure of records for research purposes;

8 (16) Shall have standing to appear in cases where the  
9 provisions of this chapter are called into question;

10 (17) Shall adopt, amend, or repeal rules pursuant to  
11 chapter 91 necessary for the purposes of this chapter;  
12 and

13 (18) Shall take action to oversee compliance with part I of  
14 chapter 92 by all state and county boards including:

15 (A) Receiving and resolving complaints;

16 (B) Advising all government boards and the public  
17 about compliance with chapter 92; and

18 (C) Reporting each year to the legislature on all  
19 complaints received pursuant to section 92-1.5."

20 SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

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**Report Title:**

Office of Information Practices; Written Opinion; Deadline

**Description:**

Requires the office of information practices to provide a written opinion within 60 days of a written request for an advisory opinion.

