
A BILL FOR AN ACT

RELATING TO GOVERNMENT RECORDS.

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

1 SECTION 1. In *Molfino v. Yuen*, 134 Haw. 181, 339 P.3d 679
2 (2014), the supreme court of the State of Hawaii upheld a
3 circuit court ruling that, absent a statutory requirement, a
4 government agency does not have a duty of reasonable care with
5 respect to maintaining government records for the purpose of
6 public inspection.

7 The purpose of this Act is to amend chapter 94, Hawaii
8 Revised Statutes, to create a statutory requirement that
9 government agencies exercise reasonable care in maintaining
10 those government records that are open to public inspection.

11 SECTION 2. Chapter 94, Hawaii Revised Statutes, is amended
12 by adding a new section to be appropriately designated and to
13 read as follows:

14 "§94- Duty to exercise reasonable care in maintaining
15 records. (a) Each unit of government in the State and its
16 political subdivisions shall:



1 (1) Exercise reasonable care in the maintenance of all
2 government records that are under its control and
3 required by chapter 92F to be available for public
4 inspection;
5 (2) Issue instructions and guidelines necessary to
6 effectuate this section; and
7 (3) Take steps to ensure that all its employees and
8 officers responsible for the collection, maintenance,
9 use, and dissemination of government records are
10 informed of the requirements of this section.
11 Adherence to a duly adopted records retention and destruction
12 plan shall create a rebuttable presumption that the unit of the
13 State or its political subdivision exercised reasonable care in
14 its maintenance of government records for purposes of this
15 section and in defending a cause of action raised pursuant to
16 this section."

17 SECTION 3. New statutory material is underscored.

18 SECTION 4. This Act shall take effect on July 1, 2016.



Report Title:

Government Records; Maintenance; Duty to Exercise Reasonable Care; Public Inspection

Description:

Requires agencies to exercise reasonable care in the maintenance of all government records that are under its control and required to be made available for public inspection. (HB2158 HD1)

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