
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. The purpose of this Act is to amend chapter
7 92, Hawaii Revised Statutes, to create a statutory requirement
8 that government agencies exercise reasonable care in maintaining
9 those government records open to public inspection.

10 SECTION 2. Chapter 92, Hawaii Revised Statutes, is amended
11 by adding a new section to part V to be appropriately designated
12 and to read as follows:

13 "§92- Duty to exercise reasonable care in maintaining
14 records. (a) Each unit of government in the State and its
15 political subdivisions shall:



- 1 (1) Exercise reasonable care in the maintenance of all
2 government records under its control that are required
3 by chapter 92F to be available for public inspection;
4 (2) Issue instructions and guidelines necessary to
5 effectuate this section; and
6 (3) Take steps to ensure that all its employees and
7 officers who are responsible for the collection,
8 maintenance, use, and dissemination of government
9 records are informed of the requirements of this
10 section.
- 11 (b) Adherence to a duly adopted records retention and
12 destruction policy shall create a rebuttable presumption that
13 the unit of government of the State or its political
14 subdivisions exercised reasonable care in its maintenance of
15 government records for purposes of this section and in defending
16 a cause of action raised pursuant to this section.
- 17 (c) In a cause of action raised pursuant to this section,
18 a person who rebuts the presumption of reasonable care
19 established in subsection (b) and proves that a unit of
20 government negligently breached its duty of reasonable care may



1 recover only general compensatory damages that results from the
2 breach."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect on July 1, 2018.



Report Title:

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

Description:

Requires each unit of government of the State and its political
subdivisions to exercise reasonable care in the maintenance of
all government records under its control that are required to be
made available for public inspection. (SB2294 HD1)

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not legislation or evidence of legislative intent.*

