

Honolulu, Hawaii

MAR 23 2017

RE: H.B. No. 1518
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred H.B. No. 1518, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC RECORDS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize that upon request from a state agency, the Office of Information Practices may under certain conditions declare a person a vexatious records requester;
- (2) Restrict a vexatious requester's rights under the Uniform Information Practice Act for no longer than two years; and
- (3) Establish an appeals process for a person declared a vexatious records requester.

Your Committee received testimony in support of this measure from the Department of Business, Economic Development, and Tourism; Department of Health; Hawaii Public Housing Authority; University of Hawaii System; and Hawaii Health Systems Corporation. Your Committee received testimony in opposition to this measure from the Civil Beat Law Center for Public Interest.



Your Committee received comments on this measure from the Office of Information Practices and Grassroot Institute of Hawaii.

Your Committee finds that the public interest is best served by the public right to scrutinize the records of government agencies, and that most record requests made under the Uniform Information Practices Act are valid and made in good faith. Unfortunately, it is not unheard of for a requester to abuse the process and make repeated and excessive requests in attempts to harass an agency and drain resources. The protection and judicious use of government time and resources necessitates a process by which a requester acting in bad faith may be declared a vexatious records requester.

Your Committee has amended this measure by:

- (1) Deleting section 2 and inserting language that:
 - (A) Allows an agency to seek a declaratory judgment in the appropriate circuit court for a determination that a requester is a vexatious records requester;
 - (B) Establishes that the agency shall have the burden of proof to establish that the requester has a clear pattern of making requests that are manifestly excessive or in bad faith and interfere with an agency's responsibilities; and
 - (C) Establishes that the court may grant further relief, subject to certain conditions; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1518, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1518, H.D. 1, S.D. 1, and be referred to your Committee on Judiciary and Labor.



Respectfully submitted on
behalf of the members of the
Committee on Government
Operations,



DONNA MERCADO KIM, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Government Operations
GVO

Bill / Resolution No.:* HB 1518 HD1	Committee Referral: GVO, JDL	Date: 3/16/17		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KIM, Donna Mercado (C)	X			
RUDERMAN, Russell E. (VC)	X			
GALUTERIA, Brickwood				X
RHOADS, Karl	X	X		
TOKUDA, Jill N.				X
TOTAL	2	1	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="display: flex; justify-content: space-around; margin-top: 10px;"> </div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes