

STAND. COM. REP. NO. **625**

Honolulu, Hawaii

**MAR 02 2017**

RE: S.B. No. 245  
S.D. 2

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

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 245, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to create a statutory requirement that government agencies exercise reasonable care in maintaining government records that are open to public inspection.

Your Committee received written comments in support of this measure from the Office of Information Practices.

Your Committee received written comments in opposition to this measure from the Department of the Corporation Counsel, City and County of Honolulu; and the Office of the County Attorney, County of Kauai.

Your Committee received written comments on this measure from the Department of Business, Economic Development, and Tourism and the Department of Accounting and General Services.

Your Committee finds that in *Molfino v. Yuen*, 134 Hawaii 181 (2014), the Supreme Court of the State of Hawaii held that neither common law nor chapter 92F, Hawaii Revised Statutes, impose a duty to act with reasonable care with respect to maintaining government



records for the purpose of public inspection. Your Committee believes that establishing a statutory requirement of reasonable care is the appropriate response to this holding.

Your Committee has amended this measure by:

- (1) Inserting a savings clause to ensure that the new duty imposed by this measure applies only prospectively;
- (2) Changing the effective date to January 1, 2019; and
- (3) Making a technical nonsubstantive change for the purpose of style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 245, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 245, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,



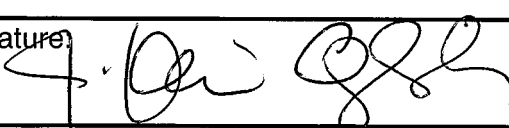
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JILL N. TOKUDA, Chair



The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 245, SD1	SDC, WAM	27 Feb 2017		
<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
TOKUDA, Jill N. (C)	/			
DELA CRUZ, Donovan M. (VC)				/
ENGLISH, J. Kalani	/			
GALUTERIA, Brickwood	/			
HARIMOTO, Breene	/			
INOUYE, Lorraine R.				/
KAHELE, Kaiali'i	/			
RIVIERE, Gil	/			
SHIMABUKURO, Maile S.L.				/
TANIGUCHI, Brian T.	/			
WAKAI, Glenn				/
<b>TOTAL</b>	7			4
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
<b>Distribution:</b>				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes