

STAND. COM. REP. NO.

1544

Honolulu, Hawaii

APR 07 2017

RE: H.B. No. 1518  
H.D. 1  
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 Judiciary and Labor, to which was referred  
H.B. No. 1518, H.D. 1, S.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) Allow an agency to seek a declaratory judgment in the appropriate circuit court for a determination that a requester is a vexatious records requester;
- (2) Establish that the agency has 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
- (3) Allow the court to grant further relief, subject to certain conditions.

Your Committee received testimony in support of this measure from the Department of Health, University of Hawai'i System, Office of Information Practices, and Hawaii Health Systems Corporation. Your Committee received testimony in opposition to this measure



from two individuals. Your Committee received comments on this measure from one individual.

Your Committee finds that the public interest in government affairs is often well served when the public is allowed to scrutinize the records of government agencies, as most record requests that are made under the Uniform Information Practices Act are valid and made in good faith. However, there are requesters who abuse the process, to the detriment of the public, by making repeated and excessive requests in attempts to harass an agency and drain resources. This measure establishes a process by which a requester acting in bad faith may be declared a vexatious records requester to protect and ensure the judicious use of government time and resources.

Your Committee has amended this measure by:

- (1) Clarifying that an agency has the burden of proof to establish by a preponderance of the evidence that the requester has a clear pattern of making records requests that are manifestly excessive or in bad faith and interfere with an agency's responsibilities; and
- (2) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1518, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1518, H.D. 1, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,

  
GILBERT S.C. KEITH-AGARAN, Chair



