
A BILL FOR AN ACT

RELATING TO GOVERNMENT RECORDS.

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

1 SECTION 1. Section 92F-3, Hawaii Revised Statutes, is
2 amended by amending the definition of "government record" to
3 read as follows:

4 ""Government record" means information maintained by an
5 agency in written, auditory, visual, electronic, or other
6 physical form. "Government record" shall not include truly
7 preliminary records, including personal notes and rough drafts
8 of memorandum, that have not been circulated."

9 SECTION 2. Section 92F-13, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§92F-13 Government records; exceptions to general rule.**

12 This part shall not require disclosure of:

13 (1) Government records which, if disclosed, would
14 constitute a clearly unwarranted invasion of personal
15 privacy;

16 (2) Government records pertaining to the prosecution or
17 defense of any judicial or quasi-judicial action to



1 which the State or any county is or may be a party, to
2 the extent that such records would not be
3 discoverable;

4 (3) Government records that, by their nature, must be
5 confidential in order for the government to avoid the
6 frustration of a legitimate government function;

7 (4) Government records which, pursuant to state or federal
8 law including an order of any state or federal court,
9 are protected from disclosure; ~~and~~

10 (5) Inchoate and draft working papers of legislative
11 committees including budget worksheets and unfiled
12 committee reports; work product; records or
13 transcripts of an investigating committee of the
14 legislature which are closed by rules adopted pursuant
15 to section 21-4 and the personal files of members of
16 the legislature[-]; and

17 (6) Inter-agency or intra-agency deliberative and
18 pre-decisional government records, other than readily
19 segregable purely factual information, concerning an
20 agency decision about a government action up until the
21 final decision the deliberative government records



1 relate to has been made or until deliberation of the
2 matter has been abandoned; provided that there shall
3 be a rebuttable presumption that a matter has been
4 abandoned if three years have elapsed after a request
5 for records; provided further that once disclosure is
6 required, the name, title, and other information that
7 would directly identify a public official or employee
8 may be withheld if that person lacks discretionary
9 authority, did not make the decision, and is not under
10 investigation for or engaged in wrongdoing or criminal
11 conduct related to the decision; provided further that
12 this paragraph shall not apply to board packets as
13 defined in section 92-7.5."

14 SECTION 3. Section 92F-18, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) Each agency shall supplement or amend its public
17 report, or file a new report, on or before July 1 of each
18 subsequent year, to ensure that the information remains accurate
19 and complete. Each agency shall report its use of the
20 provisions of section 92F-13(6), including the text of the
21 request and the agency's notice to the requester. Each agency



1 shall file the supplemental, amended, or new report with the
2 office of information practices, which shall make the reports
3 available for public inspection."

4 SECTION 4. (a) No later than January 1, 2028, the office
5 of information practices shall convene a working group to
6 examine agency use of the statutory exception established
7 pursuant to section 92F-13(6), Hawaii Revised Statutes. The
8 working group shall prepare recommendations for whether to keep
9 or repeal the exception and, if kept, amendments, if any, that
10 are warranted after reviewing use of the exception.

11 (b) The working group shall include seven members
12 consisting of:

13 (1) The director of the office of information practices or
14 the director's designee, who shall appoint the working
15 group members and serve as the working group convener;

16 (2) Three individuals representing public interest groups;
17 and

18 (3) Three individuals representing government agencies
19 subject to the Uniformed Information Practices Act
20 established pursuant to chapter 92F, Hawaii Revised
21 Statutes.



1 (c) The working group shall be exempt from part I of
2 chapter 92, Hawaii Revised Statutes.

3 (d) The director of the office of information practices
4 shall report the findings and recommendations of the working
5 group to the legislature no later than twenty days prior to the
6 convening of the regular session of 2029.

7 (e) The working group shall cease to exist on June 30,
8 2029.

9 SECTION 5. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2023;
15 provided that section 3 of this Act shall be repealed on June
16 30, 2027 and section 92F-18(c), Hawaii Revised Statutes, shall
17 be reenacted in the form in which it read prior to the effective
18 date of this Act.



H.B. NO. 1158

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INTRODUCED BY: *Steve Sam O/R*

JAN 24 2023



H.B. NO. 1158

Report Title:

Uniform Information Practices Act; Exceptions to Disclosure;
Government Records; Working Group

Description:

Specifies that certain deliberative and pre-decisional government inter-agency or intra-agency records concerning an agency decision about a government action are not subject to disclosure until a decision on the action has been made or abandoned. Creates a rebuttable presumption that a matter has been abandoned three years after a prior request for such records. Allows an agency post-decision to continue to withhold directly identifying information for officials or employees lacking discretionary authority in specified circumstances. From 7/1/2023 through 6/30/2027, requires agencies to report their use of the exception to the office of information practices. Requires the office of information practices to convene a working group to examine agency use of the exception and report to the legislature by the 2029 regular session.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

