

JAN 24 2024

A BILL FOR AN ACT

RELATING TO GOVERNMENT RECORDS.

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

1 SECTION 1. The legislature finds that the strength and
2 stability of our democracy rely on the public's trust in
3 government institutions, which is shaped in large part by the
4 reports of the news media. The legislature further finds that
5 reports and programs by the news media in the United States have
6 become increasingly opinionated and nonobjective and has
7 contributed greatly to the increasing political polarization in
8 our nation. The legislature finds disturbing misinformation
9 being spread by media companies, such as the admissions in
10 depositions conducted under oath in the Dominion Voting Systems'
11 defamation lawsuit against the Fox News Network, that was
12 settled out of court for \$787,500,000 after board members,
13 executives, and program hosts admitted to having knowingly
14 allowed falsehoods and misinformation regarding the 2020
15 presidential election to be spread on its news programs. The
16 legislature finds that after it agreed to the settlement, the



1 Fox News Network stated in a brief press release on April 18,
2 2023 acknowledging the Court's decision in the case.

3 In two other cases, a conspiracy theorist and Infowars
4 website host Alex Jones was ordered to pay \$49,300,000 by a
5 Texas jury and \$965,000,000 by a Connecticut court in lawsuits
6 brought by families of victims of the shootings at the Sandy
7 Hook Elementary School in 2012, that Jones had falsely claimed
8 was a hoax until he finally admitted in court that the event had
9 occurred. During the trials, the families testified about the
10 trauma and abuse that they suffered, such as gun shots fired at
11 their homes, social media and phone threats, and harassment by
12 strangers, that were fueled by Jones as his conspiracy theory
13 was adopted by his followers who believed the lies told on
14 Infowars.

15 The legislature further finds that besides lies spread on
16 news networks and social media, persons and entities have
17 engaged in a practice known as "catch and kill" to bury the
18 truth. The legislature finds that Donald Trump's former
19 attorney Michael Cohen and the National Enquirer's chief
20 executive David Pecker have admitted to being involved with a
21 "catch and kill" scheme to buy the exclusive rights to a Playboy



1 model's account of a sexual affair with Trump in order to not
2 publish it, which thus prevented the public from learning the
3 truth about allegations that would have not been favorable to
4 Trump prior to the 2016 presidential election.

5 The legislature further finds that the advent of artificial
6 intelligence technology has increased the danger of
7 misinformation due to its ability to fabricate images, voices,
8 videos, and reports. The legislature also finds that deliberate
9 misinformation campaigns that are distributed via news networks
10 and social media have sought to undermine trust in government,
11 promoted lies, and encouraged violence.

12 The legislature finds that public should not have to engage
13 in expensive, complex, and lengthy lawsuits as in the Dominion
14 Voting, Sandy Hook, or National Enquirer cases to see if media
15 or special interest groups are disseminating factual
16 information, especially if that information is purportedly based
17 upon records of government agencies. The legislature further
18 finds that just as public officers are subject to laws and
19 regulations requiring them to act ethically with integrity and
20 impartiality, users of government records should be held to the
21 same standards. Like government, the media and users of



1 government records should be held to the same standards of
2 transparency and accountability so that the public can assess
3 the basis for and the truth of factual information, assertions,
4 and statements that are purportedly based on records received
5 from the government.

6 The legislature further finds that the news media plays an
7 important role in disseminating truthful information and it
8 respects the news media's First Amendment rights. These rights,
9 however, are not limitless and are not implicated when a
10 legislature exercises its own sovereign rights to enact this
11 state's open records laws. As the United States Supreme Court
12 has long recognized, states can set their own requirements as to
13 who can benefit from their open records laws.

14 Accordingly, the purpose of this Act is to require any
15 person responsible for news and social media reports based on
16 government records received under Hawaii's Uniform Information
17 Practices Act, chapter 92F, Hawaii Revised Statutes, to respond
18 to record requests in the same manner as an agency under that
19 chapter.



1 SECTION 2. Chapter 92F, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§92F- Accountability for Use of Government Records.**

5 (a) A person who has publicly reported to more than fifty
6 thousand people, a statement that is purportedly based under a
7 government record received under this chapter, shall be subject
8 to all applicable disclosure requirements of an agency under
9 this chapter with respect to the government and nongovernment
10 records upon which the report was based, including the same
11 procedures, fees, and costs applicable to an agency, as provided
12 in this chapter.

13 (b) This section shall not apply to:

14 (1) Statements clearly identified in the public report as
15 opinions of a person or entity, and not as objective
16 facts; and

17 (2) Judicial, legislative, or administrative proceedings
18 or investigations.

19 (c) A member of a legitimate news media entity shall not
20 be required to disclose the identity of a person providing
21 information upon which the news media report was made.



1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *Sen. Mendoza K. BR*



S.B. NO. 322

Report Title:

Government Records; UIPA; Media; Misinformation

Description:

Requires any person responsible for news and social media reports based on government records received under Hawaii's Uniform Information Practices Act to respond to record requests in the same manner as an agency under chapter 92F, HRS, with exceptions.

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

