

STAND. COM. REP. NO.

1286

Honolulu, Hawaii

March 24, 2017

RE: S.B. No. 245
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 245, S.D. 2, entitled:

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

begs leave to report as follows:

The purpose of this measure is to:

- (1) Require government agencies to exercise reasonable care in the maintenance of all government records under their control that are required to be made available for public inspection;
- (2) Create a rebuttable presumption that a government agency exercised reasonable care in the maintenance of its government records by adhering to a duly adopted records retention and destruction policy; and
- (3) Establish a fine for damages for any breach of the duty to exercise reasonable care in the maintenance of government records.

An individual supported this measure. The Office of Information Practices supported the intent of this measure. The Office of the County Attorney of the County of Kauai opposed this

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measure. The Department of Business, Economic Development & Tourism, Department of Accounting and General Services, and Hawaii Association for Justice provided comments.

Your Committee has amended this measure by:

- (1) Deleting the provision establishing a fine for damages for any breach of duty to exercise reasonable care in the maintenance of government records;
- (2) Changing its effective date to July 1, 2050, to encourage further discussion; and
- (3) Making a technical, nonsubstantive amendment for clarity, consistency, and style.

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

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



SCOTT Y. NISHIMOTO, Chair



