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# A BILL FOR AN ACT

RELATING TO PUBLIC RECORDS.

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

1           SECTION 1. The legislature believes that most requests for  
2 public records pursuant to the Uniform Information Practices  
3 Act, chapter 92F, Hawaii Revised Statutes, are made in good  
4 faith, even if a request is repeated in an attempt to obtain a  
5 more expeditious response from an agency. However, very  
6 occasionally, extreme situations arise when a small number of  
7 requesters make records requests with the intent to harass an  
8 agency, or make the same request over and over again, even if a  
9 legitimate response has already been provided.

10           Accordingly, the purpose of this Act is to establish a  
11 process by which a state agency may bring an action in the  
12 circuit court requesting that the court declare that a person is  
13 abusing the right to scrutinize public records if the agency  
14 demonstrates that the person has established a clear pattern of  
15 conduct that amounts to an abuse of a process established by the  
16 Uniform Information Practices Act, chapter 92F, Hawaii Revised  
17 Statutes.



1 SECTION 2. Section 92F-15, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§92F-15 Judicial enforcement. (a) A person aggrieved by  
4 a denial of access to a government record may bring an action  
5 against the agency at any time within two years after the agency  
6 denial to compel disclosure.

7 (b) In an action to compel disclosure, the circuit court  
8 shall hear the matter de novo; provided that if the action to  
9 compel disclosure is brought because an agency has not made a  
10 record available as required by section 92F-15.5(b) after the  
11 office of information practices has made a decision to disclose  
12 the record and the agency has not appealed that decision within  
13 the time period provided by 92F-43, the decision of the office  
14 of information practices shall not be subject to challenge by  
15 the agency in the action to compel disclosure. Opinions and  
16 rulings of the office of information practices shall be  
17 admissible and shall be considered as precedent unless found to  
18 be palpably erroneous, except that in an action to compel  
19 disclosure brought by an aggrieved person after the office of  
20 information practices upheld the agency's denial of access to  
21 the person as provided in section 92F-15.5(b), the opinion or



1 ruling upholding the agency's denial of access shall be reviewed  
2 de novo. The circuit court may examine the government record at  
3 issue, in camera, to assist in determining whether it, or any  
4 part of it, may be withheld.

5 (c) The agency has the burden of proof to establish  
6 justification for nondisclosure.

7 (d) If the complainant prevails in an action brought under  
8 this section, the court shall assess against the agency  
9 reasonable attorney's fees and all other expenses reasonably  
10 incurred in the litigation.

11 (e) The circuit court in the judicial circuit in which the  
12 request for the record is made, where the requested record is  
13 maintained, or where the agency's headquarters are located shall  
14 have jurisdiction over an action brought under this section.

15 (f) Except as to cases the circuit court considers of  
16 greater importance, proceedings before the court, as authorized  
17 by this section, and appeals therefrom, take precedence on the  
18 docket over all cases and shall be assigned for hearing and  
19 trial or for argument at the earliest practicable date and  
20 expedited in every way.



1       (g) An agency may seek a declaratory judgement in the  
2 circuit court of the circuit in which the records requester  
3 resides for a determination that a requester is a vexatious  
4 records requester; provided that:

5       (1) The agency shall have the burden of proof to establish  
6 that the requester has a clear pattern of making  
7 records requests that are manifestly excessive or in  
8 bad faith and interfere with an agency's  
9 responsibilities; and

10       (2) Upon finding that a person is a vexatious records  
11 requester, the court may grant further relief whenever  
12 necessary or proper, after reasonable notice and  
13 hearing, against the requester whose rights have been  
14 adjudicated by the judgment."

15       SECTION 3. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18       SECTION 4. New statutory material is underscored.

19       SECTION 5. This Act shall take effect on July 1, 2050;  
20 provided this Act shall be repealed on June 30, 2020.

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**Report Title:**

Public Records; Uniform Information Practices Act; Circuit Courts; Vexatious Records Requesters

**Description:**

Provides that an agency may seek a declaratory judgment in circuit court that a requester is a vexatious records requester if the agency demonstrates that the person has established a clear pattern of conduct that amounts to an abuse of a process established by the Uniform Information Practices Act. Effective 7/1/2050. Repeals on 6/30/2020. (SD1)

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

