

JAN 19 2018

A BILL FOR AN ACT

RELATING TO THE OFFICE OF INFORMATION PRACTICES.

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

1 SECTION 1. The office of information practices was created
2 to provide the public a forum for speedy resolution of disputes
3 about access to public records. The legislative history shows
4 that the legislature exempted the office of information
5 practices from contested case requirements to ensure that the
6 review would be "expeditious, informal, and at no cost to the
7 public". The average time for the office of information
8 practices to resolve public complaints, however, has been well
9 over a year with numerous complaints pending for two years or
10 more. The delays have discouraged members of the public from
11 bringing disputes to the office of information practices.

12 The legislature finds that many states with an agency
13 similar to the office of information practices impose a deadline
14 on that agency to resolve public disputes within a reasonable
15 period of time. All of those states with an informal dispute
16 resolution process require the complaints to be resolved within
17 six months, and most are measured in days. Many other states



1 without deadlines have a history of resolving public complaints
2 in less than six months.

3 Timely access to public records is critical. Unnecessary
4 delays in accessing government information increase public
5 mistrust of, and disillusionment with, its representative
6 government. Access delayed effectively is access denied. The
7 legislature further finds that under the Uniform Information
8 Practices Act (Modified) and the Sunshine Law, a delay of more
9 than six months is unreasonable to resolve complaints about
10 public access to government information. Setting a six month
11 deadline will ensure that the office of information practices
12 responds to public complaints in a timely manner that serves the
13 public and provides transparency in government operations.

14 The purpose of this Act is to require the office of
15 information practices to resolve all public complaints within
16 six months of the date the complaint was received.

17 SECTION 2. Section 92F-42, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§92F-42 Powers and duties of the office of information
20 practices. The director of the office of information practices:



- 1 (1) Shall, upon request, review and rule on an agency
2 denial of access to information or records, or an
3 agency's granting of access; provided that any review
4 by the office of information practices shall not be a
5 contested case under chapter 91 and shall be optional
6 and without prejudice to rights of judicial
7 enforcement available under this chapter;
- 8 (2) Upon request by an agency, shall provide and make
9 public advisory guidelines, opinions, or other
10 information concerning that agency's functions and
11 responsibilities;
- 12 (3) Upon request by any person, may provide advisory
13 opinions or other information regarding that person's
14 rights and the functions and responsibilities of
15 agencies under this chapter;
- 16 (4) May conduct inquiries regarding compliance by an
17 agency and investigate possible violations by any
18 agency;
- 19 (5) May examine the records of any agency for the purpose
20 of paragraphs (4) and (18) and seek to enforce that
21 power in the courts of this State;



- 1 (6) May recommend disciplinary action to appropriate
- 2 officers of an agency;
- 3 (7) Shall report annually to the governor and the state
- 4 legislature on the activities and findings of the
- 5 office of information practices, including
- 6 recommendations for legislative changes;
- 7 (8) Shall receive complaints from and actively solicit the
- 8 comments of the public regarding the implementation of
- 9 this chapter;
- 10 (9) Shall review the official acts, records, policies, and
- 11 procedures of each agency;
- 12 (10) Shall assist agencies in complying with the provisions
- 13 of this chapter;
- 14 (11) Shall inform the public of the following rights of an
- 15 individual and the procedures for exercising them:
- 16 (A) The right of access to records pertaining to the
- 17 individual;
- 18 (B) The right to obtain a copy of records pertaining
- 19 to the individual;
- 20 (C) The right to know the purposes for which records
- 21 pertaining to the individual are kept;



1 (D) The right to be informed of the uses and
2 disclosures of records pertaining to the
3 individual;

4 (E) The right to correct or amend records pertaining
5 to the individual; and

6 (F) The individual's right to place a statement in a
7 record pertaining to that individual;

8 (12) Shall adopt rules that set forth an administrative
9 appeals structure which provides for:

10 (A) Agency procedures for processing records
11 requests;

12 (B) A direct appeal from the division maintaining the
13 record; and

14 (C) Time limits for action by agencies;

15 (13) Shall adopt rules that set forth the fees and other
16 charges that may be imposed for searching, reviewing,
17 or segregating disclosable records, as well as to
18 provide for a waiver of fees when the public interest
19 would be served;

20 (14) Shall adopt rules which set forth uniform standards
21 for the records collection practices of agencies;



- 1 (15) Shall adopt rules that set forth uniform standards for
- 2 disclosure of records for research purposes;
- 3 (16) Shall have standing to appear in cases where the
- 4 provisions of this chapter or part I of chapter 92 are
- 5 called into question;
- 6 (17) Shall adopt, amend, or repeal rules pursuant to
- 7 chapter 91 necessary for the purposes of this chapter;
- 8 [and]
- 9 (18) Shall take action to oversee compliance with part I of
- 10 chapter 92 by all state and county boards including:
- 11 (A) Receiving and resolving complaints;
- 12 (B) Advising all government boards and the public
- 13 about compliance with chapter 92; and
- 14 (C) Reporting each year to the legislature on all
- 15 complaints received pursuant to section 92-
- 16 1.5 [-]; and
- 17 (19) Shall resolve all public complaints asserting
- 18 noncompliance with this chapter or with part I of
- 19 chapter 92 within six months of the date the office of
- 20 information practices receives the complaint."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2018.
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S.B. NO. 2578

Report Title:

Office of Information Practices; Public Complaints;
Noncompliance; Resolution

Description:

Requires the office of information practices to resolve all public complaints about noncompliance with chapter 92F and part I of chapter 92 within six months from the date the office of information practices receives the complaint.

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

