

JAN 20 2023

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" does not include truly
7 preliminary records, such as personal notes and rough drafts of
8 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 pre-
18 decisional government records, other than readily
19 segregable and purely factual information, concerning
20 an agency decision about a government action up until
21 the final decision to which the government records



1 relate 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 specifically identify a public official or
8 employee may be withheld if that person lacks
9 discretionary authority, did not make the decision,
10 and is not under investigation for or engaged in
11 wrongdoing or criminal conduct related to the
12 decision. This paragraph does not apply to board
13 packets as defined by 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. From July 1, 2023, through June 30, 2027, an
20 agency shall report its use of section 92F-13(6), including the
21 text of the request and the agency's notice to requester. Each



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

4 SECTION 4. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

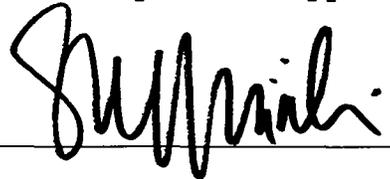
7 SECTION 5. No later than January 1, 2028, the office of
8 information practices shall convene a working group to examine
9 agency use of the new uniform information practices act
10 statutory exception and, if kept, for amendments, if any,
11 warranted after reviewing use of the exception. The working
12 group shall include seven members consisting of three
13 individuals representing government agencies subject to the
14 uniform information practices act, and the director of the
15 office of information practices or the director's designee, who
16 shall appoint the members and serve as the working group
17 convener. The director of the office of information practices
18 shall report the findings and recommendations of the working
19 group to the legislature no later than twenty days prior to the
20 convening of the regular session of 2029.



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: 



S.B. NO. 720

Report Title:

Government Records; Disclosure; Exemption; Reports; Working Group

Description:

Adds an exception to mandatory disclosure of government records for deliberative and pre-decisional government inter-agency or intra-agency records concerning an agency decision about a government action. From July 1, 2023, through June 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 prior to the Regular Session of 2029.

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

