

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO EMERGENCY POWERS.

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

1           SECTION 1. The legislature finds that former Governor  
2 Ige's supplementary proclamation, issued on March 16, 2020,  
3 relating to the coronavirus disease 2019 (COVID-19) emergency,  
4 included a suspension of the Uniform Information Practices Act  
5 to the extent that it contains any deadlines for agencies or the  
6 office of information practices, relating to requests for  
7 government records or complaints to the office of information  
8 practices. This suspension allowed government agencies to  
9 freely deny access to public information for an indefinite time  
10 period even as COVID-19 vaccination rates increased and the  
11 economy reopened.

12           The legislature further finds that during the two and a  
13 half months that the Uniform Information Practices Act was fully  
14 suspended, the office of information practices could not accept  
15 appeals, even on record requests made and denied prior to March  
16 16, 2020. Instead, the office informed would-be appellants to  
17 wait until after the suspension was lifted. Even with the



1 partial restoration of the office's powers and duties in May  
2 2020, the continued partial suspension of the Uniform  
3 Information Practices Act prevented the office of information  
4 practices from compelling agencies to provide the substantive  
5 response required by the office's rules of appeal, which are  
6 necessary to resolve a case.

7 Coupled with the loss of three of its eight and a half  
8 personnel for fiscal year 2021, the backlog at the office of  
9 information practices grew by forty per cent in just the first  
10 six months of 2021. The legislature further finds that it took  
11 over a decade since the 2008 recession for the office to reduce  
12 its formal case backlog to an acceptable level, underscoring the  
13 importance of empowering the office to continue its crucial  
14 work, even through periods of declared emergency.

15 Accordingly, the purpose of this Act is to prevent future  
16 suspensions of the right of residents of Hawai'i to access  
17 critical public records.

18 SECTION 2. Chapter 127A, Hawaii Revised Statutes, is  
19 amended by adding a new section to be appropriately designated  
20 and to read as follows:



1            "§127A-        Suspension of certain record requests;  
2 prohibited. (a) The governor or a mayor shall not, through any  
3 proclamation or declaration of emergency or any rule or order  
4 adopted pursuant to this chapter, suspend agency response  
5 deadlines for requests to:  
6            (1) Public records pursuant to part II of chapter 92F; or  
7            (2) Vital records or statistics pursuant to  
8                sections 338-18.

9            (b) Due to extenuating circumstances, there may be a  
10 reasonable delay in an agency's response to a request; provided  
11 that an agency shall not reject a request at any time,  
12 regardless of whether an emergency has been declared."

13            SECTION 3. Section 127A-13, Hawaii Revised Statutes, is  
14 amended to read as follows:

15            "§127A-13 Additional powers in an emergency period. (a)  
16 In the event of a state of emergency declared by the governor  
17 pursuant to section 127A-14, the governor may exercise the  
18 following additional powers pertaining to emergency management  
19 during the emergency period:

20            (1) Provide for and require the quarantine or segregation  
21                of persons who are affected with or believed to have



1           been exposed to any infectious, communicable, or other  
2           disease that is, in the governor's opinion, dangerous  
3           to the public health and safety, or persons who are  
4           the source of other contamination, in any case where,  
5           in the governor's opinion, the existing laws are not  
6           adequate to assure the public health and safety;  
7           provide for the care and treatment of the persons;  
8           supplement the provisions of sections 325-32 to 325-38  
9           concerning compulsory immunization programs; provide  
10          for the isolation or closing of property [~~which~~] that  
11          is a source of contamination or is in a dangerous  
12          condition in any case where, in the governor's  
13          opinion, the existing laws are not adequate to assure  
14          the public health and safety, and designate as public  
15          nuisances acts, practices, conduct, or conditions that  
16          are dangerous to the public health or safety or to  
17          property; authorize that public nuisances be summarily  
18          abated and, if need be, that the property be  
19          destroyed, by any police officer or authorized person,  
20          or provide for the cleansing or repair of property,  
21          and if the cleansing or repair is to be at the expense



1 of the owner, the procedure therefor shall follow as  
2 nearly as may be the provisions of section 322-2,  
3 which shall be applicable; and further, authorize  
4 without the permission of the owners or occupants,  
5 entry on private premises for any such purposes;

6 (2) Relieve hardships and inequities, or obstructions to  
7 the public health, safety, or welfare, found by the  
8 governor to exist in the laws and to result from the  
9 operation of federal programs or measures taken under  
10 this chapter, by suspending the laws, in whole or in  
11 part, or by alleviating the provisions of laws on such  
12 terms and conditions as the governor may impose,  
13 including licensing laws, quarantine laws, and laws  
14 relating to labels, grades, and standards;

15 (3) [~~Suspend~~] Except as provided in section 127A- ,  
16 suspend any law that impedes or tends to impede or be  
17 detrimental to the expeditious and efficient execution  
18 of, or to conflict with, emergency functions,  
19 including laws, which by this chapter specifically are  
20 made applicable to emergency personnel;



- 1           (4)   Suspend the provisions of any regulatory law  
2                   prescribing the procedures for out-of-state utilities  
3                   to conduct business in the State, including any  
4                   licensing laws applicable to out-of-state utilities or  
5                   their respective employees, as well as any order,  
6                   rule, or regulation of any state agency, if strict  
7                   compliance with the provisions of any such law, order,  
8                   rule, or regulation would in any way prevent, hinder,  
9                   or delay necessary action of a state utility in coping  
10                  with the emergency or disaster with assistance that  
11                  may be provided under a mutual assistance agreement;
- 12           (5)   In the event of disaster or emergency beyond local  
13                   control, or an event which, in the opinion of the  
14                   governor, is such as to make state operational control  
15                   necessary, or upon request of the local entity, assume  
16                   direct operational control over all or any part of the  
17                   emergency management functions within the affected  
18                   area;
- 19           (6)   Shut off water mains, gas mains, electric power  
20                   connections, or suspend other services, and, to the



1 extent permitted by or under federal law, suspend  
2 electronic media transmission;

3 (7) Direct and control the mandatory evacuation of the  
4 civilian population;

5 (8) Exercise additional emergency functions to the extent  
6 necessary to prevent hoarding, waste, or destruction  
7 of materials, supplies, commodities, accommodations,  
8 facilities, and services, to effectuate equitable  
9 distribution thereof, or to establish priorities  
10 therein as the public welfare may require; to  
11 investigate; and notwithstanding any other law to the  
12 contrary, to regulate or prohibit, by means of  
13 licensing, rationing, or otherwise, the storage,  
14 transportation, use, possession, maintenance,  
15 furnishing, sale, or distribution thereof, and any  
16 business or any transaction related thereto;

17 (9) Suspend section 8-1, relating to state holidays,  
18 except the last paragraph relating to holidays  
19 declared by the president, which shall remain  
20 unaffected, and in the event of the suspension, the  
21 governor may establish state holidays by proclamation;



- 1           (10) Adjust the hours for voting to take into consideration  
2           the working hours of the voters during the emergency  
3           period, and suspend those provisions of section 11-131  
4           that fix the hours for voting, and fix other hours by  
5           stating the same in the election proclamation or  
6           notice, as the case may be;
- 7           (11) Assure the continuity of service by critical  
8           infrastructure facilities, both publicly and privately  
9           owned, by regulating or, if necessary to the  
10          continuation of the service thereof, by taking over  
11          and operating the same; and
- 12          (12) Except as provided in section 134-7.2, whenever in the  
13          governor's opinion, the laws of the State do not  
14          adequately provide for the common defense, public  
15          health, safety, and welfare, investigate, regulate, or  
16          prohibit the storage, transportation, use, possession,  
17          maintenance, furnishing, sale, or distribution of, as  
18          well as any transaction related to, explosives,  
19          firearms, and ammunition, inflammable materials and  
20          other objects, implements, substances, businesses, or  
21          services of a hazardous or dangerous character, or



1 particularly capable of misuse, or obstructive of or  
2 tending to obstruct law enforcement, emergency  
3 management, or military operations, including  
4 intoxicating liquor and the liquor business; and  
5 authorize the seizure and forfeiture of any such  
6 objects, implements, or substances unlawfully  
7 possessed, as provided in this chapter.

8 (b) In the event of a local state of emergency declared by  
9 ~~[the]~~ a mayor pursuant to ~~[+]section[+]~~ 127A-14, the mayor may  
10 exercise the following additional powers pertaining to emergency  
11 management during the emergency period:

12 (1) Relieve hardships and inequities, or obstructions to  
13 the public health, safety, or welfare, found by the  
14 mayor to exist in the laws of the county and to result  
15 from the operation of federal programs or measures  
16 taken under this chapter, by suspending the county  
17 laws, in whole or in part, or by alleviating the  
18 provisions of county laws on such terms and conditions  
19 as the mayor may impose, including county licensing  
20 laws, and county laws relating to labels, grades, and  
21 standards;



- 1           (2)   ~~Suspend~~ Except as provided in section 127A- ,  
2                    suspend any county law that impedes or tends to impede  
3                    or be detrimental to the expeditious and efficient  
4                    execution of, or to conflict with, emergency  
5                    functions, including laws which by this chapter  
6                    specifically are made applicable to emergency  
7                    personnel;
- 8           (3)   Shut off water mains, gas mains, electric power  
9                    connections, or suspend other services; and, to the  
10                  extent permitted by or under federal law, suspend  
11                  electronic media transmission;
- 12          (4)   Direct and control the mandatory evacuation of the  
13                  civilian population; and
- 14          (5)   Exercise additional emergency functions, to the extent  
15                  necessary to prevent hoarding, waste, or destruction  
16                  of materials, supplies, commodities, accommodations,  
17                  facilities, and services, to effectuate equitable  
18                  distribution thereof, or to establish priorities  
19                  therein as the public welfare may require; to  
20                  investigate; and any other county law to the contrary  
21                  notwithstanding, to regulate or prohibit, by means of





# S.B. NO. 767

**Report Title:**

Public Records; Vital Statistics; Requests; Suspension  
Prohibited

**Description:**

Prohibits the Governor or a Mayor from suspending requests for public records or vital statistics during a declared state of emergency. Allows for a reasonable delay in an agency's response to a request as a result of extenuating circumstances.

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

