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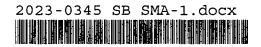
A BILL FOR AN ACT

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, 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.

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

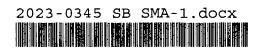
18 SECTION 2. Chapter 127A, Hawaii Revised Statutes, is 19 amended by adding a new section to be appropriately designated 20 and to read as follows:

Page 2

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| 1 | " <u>§127A-</u> Suspension of certain record requests; |
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| 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 the source of other contamination, in any case where, 4 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 [Suspend] Except as provided in section 127A- , (3) 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;



Page 6

1 Suspend the provisions of any regulatory law (4)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

connections, or suspend other services, and, to the

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Page 7

| 1 | | extent permitted by or under federal law, suspend |
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| 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 |
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| 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 |



Page 8

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. In the event of a local state of emergency declared by 8 (b) 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:



Page 9

| 1 | (2) | [Suspend] Except as provided in section 127A- , |
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| 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 |



| 1 | licensing, rationing, or otherwise, the storage, |
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| 2 | transportation, use, possession, maintenance, |
| 3 | furnishing, sale, or distribution thereof, and any |
| 4 | business or any transaction related thereto." |
| 5 | SECTION 4. Statutory material to be repealed is bracketed |
| 6 | and stricken. New statutory material is underscored. |
| 7 | SECTION 5. This Act shall take effect upon its approval. |
| 8 | INTRODUCED BY: |



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.

