

JAN 23 2026

A BILL FOR AN ACT

RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

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

1 SECTION 1. The legislature finds that the office of
2 Hawaiian affairs has significant fiduciary responsibilities to
3 Hawaiian and native Hawaiian beneficiaries and exercises
4 substantial authority over trust assets. To preserve public
5 trust and ensure impartiality, complaints alleging misconduct,
6 retaliation, discrimination, ethics violations, or unlawful
7 activity by office of Hawaiian affairs trustees, officers, or
8 employees should not be investigated internally by office of
9 Hawaiian affairs personnel.

10 The purpose of this Act is to establish an independent
11 complaint and investigation process by requiring that all
12 complaints brought by employees, officers, and trustees of the
13 office of Hawaiian affairs be referred directly to an
14 appropriate independent state agency, including the department
15 of the attorney general, the state ethics commission, or the
16 Hawaii civil rights commission, as the case may be.



SECTION 2. Chapter 10, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

"§10-A Independent complaint referral process. (a) All complaints, allegations, or credible information alleging misconduct, wrongdoing, violation of law, breach of fiduciary duty, misuse or misappropriation of funds, abuse of authority, unethical conduct, or violation of governing policies involving any employee or trustee of the office, without screening, delay, suppression, or internal determination, shall be promptly referred, as follows:

(1) To the state ethics commission when the complaint, allegation, or credible information alleges violations of chapter 84 or other ethics-related misconduct;

(2) To the Hawaii civil rights commission when the complaint, allegation, or credible information alleges discrimination, harassment, hostile work environment, or retaliation prohibited under chapter 368; and

(3) To the department of the attorney general when the complaint, allegation, or credible information alleges



1 misconduct not expressly within the jurisdiction of
2 the state ethics commission or the Hawaii civil rights
3 commission.

4 (b) No complaint, allegation, or credible information
5 filed by an employee or trustee against any other employee of
6 the office, or member of the board of trustees shall be
7 investigated internally by the office. The office shall
8 immediately transmit any complaint received to the appropriate
9 entity identified in subsection (a); refrain from screening,
10 evaluating, investigating, or responding to the complaint; and
11 notify the complainant of the referral and provide contact
12 information for the receiving agency. The office and its
13 trustees shall have no authority to:

14 (1) Determine the credibility, sufficiency, or merit of a
15 complaint or allegation subject to this section;

16 (2) Decline, dismiss, delay, recharacterize, or resolve
17 internally a complaint or allegation that is subject
18 to this section; or



1 (3) Interfere with, influence, obstruct, or retaliate in
2 connection with an independent review or investigation
3 being conducted subject to this section.

4 (c) Upon receipt or awareness of a complaint or allegation
5 subject to this section, the office shall:

6 (1) Immediately preserve all records, communications, and
7 electronic data potentially relevant to the matter;
8 and

9 (2) Fully cooperate with any review, audit, or
10 investigation conducted by the attorney general, the
11 state ethics commission, or any other authorized
12 oversight authority.

13 (d) Nothing in this section shall:

14 (1) Limit or impair the authority of the attorney general,
15 the state ethics commission, or any other authorized
16 entity to pursue corrective, remedial, civil,
17 administrative, or criminal actions as provided by
18 law; or

19 (2) Prevent a complainant from filing a complaint directly
20 with the state ethics commission, the Hawaii civil



1 rights commission, or the department of the attorney
2 general.

3 **§10-B Whistleblower protections; anti-retaliation.** (a)

4 Any person who, in good faith, reports, discloses, or provides
5 information regarding a complaint or allegation subject to
6 section 10-A shall be afforded all protections available under
7 part V of chapter 378 and any other applicable state or federal
8 whistleblower protection law.

9 (b) No trustee or employee of the office, nor the office
10 as an entity, shall retaliate or threaten retaliation against
11 any whistleblower or witness.

12 (c) For the purposes of this section "retaliation"
13 includes intimidation, harassment, discrimination, adverse
14 action, denial of benefits, interference with contracts or
15 opportunities, or any action intended to deter the reporting of
16 alleged wrongdoing.

17 (d) Any act of retaliation shall constitute a separate
18 violation of law and may be referred to the attorney general,
19 the state ethics commission, or other appropriate authority for
20 investigation and enforcement.



1 §10-C Failure to report; concealment; obstruction;
2 penalties. (a) Any employee or trustee of the office who
3 knowingly:
4 (1) Fails to report a complaint or allegation required to
5 be referred under section 10-A;
6 (2) Conceals, alters, destroys, or withholds information
7 or records related to complaint or allegation subject
8 to section 10-A;
9 (3) Intentionally delays referral; or
10 (4) Interferes with or obstructs an independent review or
11 investigation that is conducted pursuant to section
12 10-A;
13 shall be subject to a civil penalty not to exceed \$10,000 for
14 each violation. Individuals found in violation of this section
15 may also be subject to administrative sanctions, including
16 censure or removal from office where authorized by law, and
17 referral to the attorney general or state ethics commission for
18 further investigation or enforcement.



1 (b) Each failure to report, act of concealment, act of
2 obstruction, or retaliatory act shall constitute a separate and
3 distinct violation.

4 **§10-D Annual complaint referral report.** The office of
5 Hawaiian affairs shall submit a report to the legislature no
6 later than twenty days prior to the convening of the regular
7 session of 2027, and every year thereafter. The report shall
8 include:

9 (1) The number of complaints or allegations referred
10 pursuant to this section 10-A;

11 (2) The general categories of alleged misconduct,
12 excluding confidential or identifying information; and

13 (3) The status or disposition of matters, to the extent
14 disclosure is permitted by law."

15 SECTION 3. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



S.B. NO. 2823

Report Title:

Office of Hawaiian Affairs; Internal reporting referral process

Description:

Establishes an independent complaint and investigation process by requiring that all complaints brought by employees, officers, and trustees of the office of Hawaiian affairs be referred directly to an appropriate independent state agency, including the department of the attorney general, the state ethics commission, or the Hawaii civil rights commission. Establishes penalties.

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

