

ACT 250

H.B. NO. 1594

A Bill for an Act Relating to the Uniform Information Practices Act (Modified).

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 92F-13, Hawaii Revised Statutes, is amended to read as follows:

“**[§92F-13]** Government records; exceptions to general rule. This [chapter] part shall not require disclosure of:

- (1) Government records,<sup>1</sup> which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy;
- (2) Government records pertaining to the prosecution or defense of any judicial or quasi-judicial action to which the State or any county is or may be a party, to the extent that such records would not be discoverable;
- (3) Government records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function;
- (4) Government records which, pursuant to state or federal law including an order of any state or federal court, are protected from disclosure; and

- (5) Inchoate and draft working papers of legislative committees including budget worksheets and unfiled committee reports; work product; records or transcripts of an investigating committee of the legislature which are closed by rules adopted pursuant to section 21-4 and the personal files of members of the legislature.”

SECTION 2. Section 92F-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No agency may disclose or authorize disclosure of government records to any other agency unless the disclosure is:

- (1) Compatible with the purpose for which the information was collected or obtained;
- (2) Consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided;
- (3) (1) [Reasonably appears to be proper] Necessary for the performance of the requesting agency’s duties and functions[;] and is also:
  - (A) Compatible with the purpose for which the information was collected or obtained; or
  - (B) Consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided;
- (4) (2) To the state archives for the<sup>2</sup> purposes of historical preservation, administrative maintenance, or destruction;
- (5) To an agency or instrumentality of any governmental jurisdiction within or under the control of the United States, or to a foreign government if specifically authorized by treaty or statute, for a civil or criminal law enforcement investigation;]
- (3) To another agency, another state, or the federal government, or foreign law enforcement agency or authority, if the disclosure is:
  - (A) For the purpose of a civil or criminal law enforcement activity authorized by law; and
  - (B) Pursuant to:
    - (i) A written agreement or written request, or
    - (ii) A verbal request, made under exigent circumstances, by an officer or employee of the requesting agency whose identity has been verified, provided that such request is promptly confirmed in writing;
- (4) To a criminal law enforcement agency of this State, another state, or the federal government, or a foreign criminal law enforcement agency or authority, if the information is limited to an individual’s name and other identifying particulars, including present and past places of employment;
- (5) To a foreign government pursuant to an executive agreement, compact, treaty, or statute;
- (6) To the legislature, or a county council, or any committee or subcommittee thereof;
- (7) Pursuant to an order of a court of competent jurisdiction;
- (8) To authorized officials of [a department or agency of] another agency, another state, or the federal government for the purpose of auditing or monitoring an agency program that [received] receives federal [mon- eys;], state, or county funding;
- (9) To the offices of the legislative auditor, the legislative reference bu- reau, or the ombudsman of this State for the performance of their respective functions; [or]

- (10) To the department of personnel services, county personnel agencies, or line agency personnel offices for the performance of their respective duties and functions, including employee recruitment and examination, classification and compensation reviews, the administration and auditing of personnel transactions, the administration of training and safety, workers' compensation, and employee benefits and assistance programs, and for labor relations purposes; or
- [(10)] (11) Otherwise subject to disclosure under this chapter."

SECTION 3. Section 92F-22, Hawaii Revised Statutes, is amended to read as follows:

**“[[§92F-22]] Exemptions and limitations on individual access.** An agency is not required by this [chapter] part to grant an individual access to personal records, or information in such records:

- (1) Maintained by an agency that performs as its or as a principal function any activity pertaining to the prevention, control, or reduction of crime, and which consist of:
  - [(A)] Information which fits or falls within the definition of “criminal history record information” in section 846-1;
  - (B)] (A) Information or reports prepared or compiled for the purpose of criminal intelligence or of a criminal investigation, including reports [or] of informers, witnesses, and investigators; or
  - [(C)] (B) Reports prepared or compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through confinement, correctional supervision, and release from supervision.
- (2) The disclosure of which would reveal the identity of a source who furnished information to the agency under an express or implied promise of confidentiality.
- (3) Consisting of testing or examination material or scoring keys used solely to determine individual qualifications for appointment or promotion in public employment, or used as or to administer a licensing examination or an academic examination, the disclosure of which would compromise the objectivity, fairness, or effectiveness of the testing or examination process.
- (4) Including investigative reports and materials, related to an upcoming, ongoing, or pending civil or criminal action or administrative proceeding against the individual.
- (5) Required to be withheld from the individual to whom it pertains by statute or judicial decision or authorized to be so withheld by constitutional or statutory privilege.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 18, 1993.)

#### Notes

1. Comma should be underscored.
2. “The” should be underscored.