
A BILL FOR AN ACT

RELATING TO GOVERNMENT RECORDS.

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

1 SECTION 1. In *Molfino v. Yuen*, Civ. No. 07-1-0378, 2014
2 (Haw. Sup. Ct. Nov. 13, 2014), the supreme court of the state of
3 Hawaii upheld a circuit court ruling that, absent a statutory
4 requirement, a government agency does not have a duty of
5 reasonable care with respect to maintaining government records
6 for the purpose of public inspection. The purpose of this Act
7 is to amend chapter 94, Hawaii Revised Statutes, to create a
8 statutory requirement that government agencies exercise
9 reasonable care in maintaining government records that are open
10 to public inspection.

11 SECTION 2. Chapter 94, Hawaii Revised Statutes, is amended
12 by adding a new section to be appropriately designated and to
13 read as follows:

14 "§94- Duty to exercise reasonable care in maintaining
15 records. (a) Each unit of government in the State and its
16 political subdivisions shall:



1 (1) Exercise reasonable care in the maintenance of all
2 government records under its control that are required
3 by chapter 92F to be available for public inspection;
4 (2) Issue instructions and guidelines necessary to
5 effectuate this section; and
6 (3) Take steps to assure that all its employees and
7 officers responsible for the collection, maintenance,
8 use, and dissemination of government records are
9 informed of the requirements of this section.
10 Adherence to a duly adopted records retention and destruction
11 plan shall create a rebuttable presumption that the unit of the
12 State or its political subdivision exercised reasonable care in
13 its maintenance of government records for purposes of this
14 section and in defending a cause of action raised pursuant to
15 this section."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 2016.



Report Title:

Government Records; Maintenance; Duty to Exercise Reasonable Care; Public Inspection

Description:

Requires agencies to exercise reasonable care in the maintenance of all government records under its control that are required to be made available for public inspection. (SB140 HD1)

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