
A BILL FOR AN ACT

RELATING TO PUBLIC RECORDS.

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

1 SECTION 1. The legislature believes that most requests for
2 public records pursuant to the uniform information practices
3 act, chapter 92F, Hawaii Revised Statutes, are made in good
4 faith, even if a request is repeated in an attempt to obtain a
5 more expeditious response from an agency. However, very
6 occasionally, extreme situations arise when a small number of
7 requesters make records requests with the intent to harass an
8 agency, or make the same request over and over again, even if a
9 legitimate response has already been provided.

10 Accordingly, the purpose of this Act is to establish a
11 process by which a state agency may request the office of
12 information practices to declare a person a vexatious public
13 records requester if that person has established a clear pattern
14 of conduct that amounts to an abuse of a process established by
15 the uniform information practices act, chapter 92F, Hawaii
16 Revised Statutes.



1 SECTION 2. Chapter 92F, Hawaii Revised Statutes, is
2 amended by adding a new section to part IV to be appropriately
3 designated and to read as follows:

4 "§92F- Vexatious records requester. (a) An agency may
5 request that the office of information practices declare a
6 person a vexatious records requester.

7 (b) The office of information practices may declare a
8 person a vexatious records requester if the office determines
9 that a person has established a clear pattern of making records
10 requests that are manifestly excessive or in bad faith and
11 interfere with an agency's responsibilities under this chapter,
12 pursuant to criteria established in this subsection. The office
13 of information practices shall consider whether a person's
14 pattern of conduct includes any of the following factors;
15 provided that no single factor shall alone be sufficient to
16 declare a person a vexatious records requester:

17 (1) The requester is a natural person;

18 (2) The requester requests the same or substantially
19 similar records for which the requester has:

20 (A) Already received that are responsive to the
21 request; or



- 1 (B) Been informed that no records responsive to the
2 request exist;
- 3 (3) The office of information practices determines that
4 the requester has made requests in bad faith or with
5 the intent to be a nuisance;
- 6 (4) The agency receiving the records request demonstrates
7 that it responded to the request in compliance with
8 this chapter;
- 9 (5) The requester made requests that were duplicative,
10 repetitive, or substantially similar, after the agency
11 responded to the initial request in accordance with
12 this chapter; or
- 13 (6) The requester institutes proceedings under this
14 chapter, including the appeal of a response to a
15 records request, or submits a complaint or request for
16 an investigation without a reasonable ground, with the
17 intent to accomplish an objective unrelated to
18 obtaining the records requested.
- 19 (c) The burden to establish that a person is a vexatious
20 records requester shall be on the agency seeking to have the
21 person declared a vexatious records requester; provided that the



1 office of information practices shall not declare a person a
2 vexatious records requester without first providing that person
3 with notice and an opportunity to respond to the agency's
4 claims; provided further that this section shall not require a
5 contested case hearing.

6 (d) Upon finding that a person is a vexatious records
7 requester, the office of information practices may restrict that
8 person's exercise of rights set forth in this chapter; provided
9 that the declaration that a person is a vexatious records
10 requester shall remain in force for not longer than two years
11 from the date of the declaration.

12 (e) The office of information practices shall inform any
13 person who is declared a vexatious records requester that the
14 person may request that the ombudsman independently review the
15 declaration.

16 (f) A declaration of a person as a vexatious records
17 requester, and any restrictions imposed upon a vexatious records
18 requester's rights under this chapter, shall be reviewable by
19 the circuit court of the circuit in which the records requester
20 resides and shall be made pursuant to the Hawaii rules of civil
21 procedure.



1 (g) The office of information practices may permit a
2 vexatious records requester to submit a records request if a
3 review by that office determines that the request has merit and
4 is not being made in bad faith or with the intent to be a
5 nuisance.

6 (h) As used in this section, "agency" means a branch or
7 office of the state government or any of its political
8 subdivisions."

9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 4. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on July 1, 2050;
14 provided this Act shall be repealed on June 30, 2020.



Report Title:

Public Records; Uniform Information Practices Act; Office of Information Practices; Vexatious Records Requesters; Restrictions; Appeals

Description:

Provides that upon request from a public agency, OIP may under certain conditions declare a person a vexatious records requester and restrict the person's rights under the Uniform Information Practices Act. Establishes processes to appeal the declaration of a person as a vexatious records requester. Repeals on June 30, 2020. (HB1518 HD1)

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

