

JAN 24 2018

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# A BILL FOR AN ACT

RELATING TO OPEN GOVERNMENT.

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

1           SECTION 1. The office of information practices was created  
2 to provide the public a forum for speedy resolution of disputes  
3 about access to public records. The legislative history shows  
4 that the legislature exempted the office of information  
5 practices from contested case requirements to ensure that the  
6 review would be "expeditious, informal, and at no cost to the  
7 public". The average time for the office of information  
8 practices to resolve public complaints, however, has been well  
9 over a year with numerous complaints pending for two years or  
10 more. The delays have discouraged members of the public from  
11 bringing disputes to the office of information practices.

12           The legislature finds that many states with an agency  
13 similar to the office of information practices impose a deadline  
14 on that agency to resolve public disputes within a reasonable  
15 period of time. All of those states with an informal dispute  
16 resolution process require the complaints to be resolved within  
17 six months, and most are measured in days. Many other states



1 without deadlines have a history of resolving public complaints  
2 in less than six months.

3 Timely access to public records is critical. Unnecessary  
4 delays in accessing government information increase public  
5 mistrust of, and disillusionment with, its representative  
6 government. Access delayed effectively is access denied. The  
7 legislature further finds that under the Uniform Information  
8 Practices Act (Modified) and the Sunshine Law, a delay of more  
9 than six months is unreasonable to resolve complaints about  
10 public access to government information. Setting a six month  
11 deadline will ensure that the office of information practices  
12 responds to public complaints in a timely manner that serves the  
13 public and provides transparency in government operations.

14 The purpose of this Act is to require the office of  
15 information practices to resolve all public complaints within  
16 six months of the date the complaint was received.

17 SECTION 2. Section 92F-42, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§92F-42 Powers and duties of the office of information  
20 practices. The director of the office of information practices:



- 1           (1) Shall, upon request, review and rule on an agency  
2           denial of access to information or records, or an  
3           agency's granting of access; provided that any review  
4           by the office of information practices shall not be a  
5           contested case under chapter 91 and shall be optional  
6           and without prejudice to rights of judicial  
7           enforcement available under this chapter;
- 8           (2) Upon request by an agency, shall provide and make  
9           public advisory guidelines, opinions, or other  
10          information concerning that agency's functions and  
11          responsibilities;
- 12          (3) Upon request by any person, may provide advisory  
13          opinions or other information regarding that person's  
14          rights and the functions and responsibilities of  
15          agencies under this chapter;
- 16          (4) May conduct inquiries regarding compliance by an  
17          agency and investigate possible violations by any  
18          agency;
- 19          (5) May examine the records of any agency for the purpose  
20          of paragraphs (4) and (18) and seek to enforce that  
21          power in the courts of this State;



- 1           (6) May recommend disciplinary action to appropriate  
2           officers of an agency;
- 3           (7) Shall report annually to the governor and the state  
4           legislature on the activities and findings of the  
5           office of information practices, including  
6           recommendations for legislative changes;
- 7           (8) Shall receive complaints from and actively solicit the  
8           comments of the public regarding the implementation of  
9           this chapter;
- 10          (9) Shall review the official acts, records, policies, and  
11          procedures of each agency;
- 12          (10) Shall assist agencies in complying with the provisions  
13          of this chapter;
- 14          (11) Shall inform the public of the following rights of an  
15          individual and the procedures for exercising them:
  - 16                (A) The right of access to records pertaining to the  
17                individual;
  - 18                (B) The right to obtain a copy of records pertaining  
19                to the individual;
  - 20                (C) The right to know the purposes for which records  
21                pertaining to the individual are kept;



- 1 (D) The right to be informed of the uses and
- 2 disclosures of records pertaining to the
- 3 individual;
- 4 (E) The right to correct or amend records pertaining
- 5 to the individual; and
- 6 (F) The individual's right to place a statement in a
- 7 record pertaining to that individual;
- 8 (12) Shall adopt rules that set forth an administrative
- 9 appeals structure which provides for:
  - 10 (A) Agency procedures for processing records
  - 11 requests;
  - 12 (B) A direct appeal from the division maintaining the
  - 13 record; and
  - 14 (C) Time limits for action by agencies;
- 15 (13) Shall adopt rules that set forth the fees and other
- 16 charges that may be imposed for searching, reviewing,
- 17 or segregating disclosable records, as well as to
- 18 provide for a waiver of fees when the public interest
- 19 would be served;
- 20 (14) Shall adopt rules which set forth uniform standards
- 21 for the records collection practices of agencies;



- 1 (15) Shall adopt rules that set forth uniform standards for  
2 disclosure of records for research purposes;
- 3 (16) Shall have standing to appear in cases where the  
4 provisions of this chapter or part I of chapter 92 are  
5 called into question;
- 6 (17) Shall adopt, amend, or repeal rules pursuant to  
7 chapter 91 necessary for the purposes of this chapter;  
8 [and]
- 9 (18) Shall take action to oversee compliance with part I of  
10 chapter 92 by all state and county boards including:  
11 (A) Receiving and resolving complaints;  
12 (B) Advising all government boards and the public  
13 about compliance with chapter 92; and  
14 (C) Reporting each year to the legislature on all  
15 complaints received pursuant to section 92-  
16 1.5[-]; and
- 17 (19) Shall resolve all public complaints asserting  
18 noncompliance with this chapter or with part I of  
19 chapter 92 within six months of the date the office of  
20 information practices receives the complaint."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2018.  
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INTRODUCED BY:

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Rosely & Baker

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# S.B. NO. 3092

**Report Title:**

Office of Information Practices; Public Complaints;  
Noncompliance; Resolution

**Description:**

Requires the office of information practices to resolve all public complaints about noncompliance with chapter 92F and part I of chapter 92 within six months from the date the office of information practices receives the complaint.

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

