

Your Committee received testimony in favor of this bill from a representative of the Commission. This testimony indicated that at the present time, statements dating back over twenty years are maintained by the Commission. This testimony also indicated that old statements are of little value.

State ethics laws pertaining to former state officials and employees are currently applicable for only up to two years after the termination of service. Accordingly, this bill provides that statements be maintained during the filer's term of office and for three years thereafter. This bill also provides that statements will cease to be public records after the three-year period has expired and that the Commission shall afford filers a reasonable opportunity to request the return of statements after the three-year period has expired. The three year limit would not apply to statements which are part of a charge case, advisory opinion request, or ongoing investigation.

Your Committee has made technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 311, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 311, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1288                      Judiciary on S.B. No. 1799**

The purpose of this bill is to modify the Uniform Information Practices Act (Modified), to ensure its smooth implementation when it takes effect on July 1, 1989.

Your Committee finds that the measure as received, is too restrictive and limited in its scope. Therefore, the bill has been amended in furtherance of the intent and purpose of this measure.

As amended, this bill would provide for substantive and procedural changes to the new Uniform Information Practices Act (Modified), Chapter 92F, Hawaii Revised Statutes, to better reflect the legislative intent and to ensure the smooth implementation of the Act, which took effect on June 9, 1988.

The amended bill would describe that a person aggrieved by a denial of access to a government record or an individual aggrieved by denial of access to the individual's personal record, may appeal to the Office of Information Practices or directly and immediately to court. This clarification reflects the legislative intent in Conference Committee Report No. 235 on H.B. No. 2002, Fourteenth Legislature. The amended bill makes more consistent with each other the appeal procedures for access denied to individuals as to their own personal records, under part III of Chapter 92F and for access denied as to government records about others, under part II of Chapter 92F. The bill emphasizes that an exhaustion of administrative remedies is not required before appealing to Circuit Court a denial of access to government records.

The amended bill also provides that administrative review by the Office of Information Practices on an agency denial of access to information or records, or an agency's granting of access, is not a contested case under Chapter 91, Hawaii Revised Statutes. This provision is necessary to comply with the legislative intent behind Chapter 92F, that review by the Office of Information Practices be expeditious, informal, and at no cost to the public. The review is optional in nature and anyone aggrieved by a denial of access to a government record, under either part II or III of Chapter 92F, may appeal immediately to court for a full evidentiary hearing. An explicit statutory exemption from the contested case will serve to avoid future challenges to the administrative procedures of the Office of Information Practices for failure to have contested case hearings.

The amended bill also sets a time limitation of ninety days within which a person can bring a civil action to compel disclosure of a government record after denial of a request for disclosure. For consistency, the bill also sets a ninety-day limitation for civil actions by individuals denied access to their own personal records, in place of the two-year limitation previously designated. A ninety-day time limitation also applies to the filing of an appeal to the Office of Information Practices concerning denial of access to a government record.

Furthermore, the amended bill clarifies the rule making authority of the Office of Information Practices and also instructs the Office of Information Practices to adopt rules pertaining to the disclosure of records for research purposes. The bill also clarifies that the placement of the Office of Information Practices within the Department of the Attorney General is strictly for administrative purposes. This is to emphasize the legislature's intent that the Office shall operate independently. The bill also authorizes the Office of Information Practices to recommend criminal prosecution.

Your Committee has amended the bill to codify a schedule for the progressive completion by all agencies of their respective public records reports required under Chapter 92F. The bill had provided that the agencies file their public record reports on or before July 1, 1991, in accordance with a schedule developed by the Office of Information Practices. However, your Committee believes that a statutory schedule may more strongly encourage agencies to complete their records report in a timely manner in order to meet the July 1, 1991 deadline.

In passing, your Committee wishes to state explicitly that the intent of this bill is to expedite and make uniform the process relating to disclosure of government records. As such, we emphasize that while a person has a right to appeal to the courts from a denial of access to records, a government agency dissatisfied with a ruling by the Office of Information Practice does not have the right to appeal to the courts. The legislative intent for expediency and uniformity would be frustrated by agencies suing each other. Secondly, your Committee wishes to stress that this measure, as amended, would empower the OIP to adopt rules, which the various agencies shall adhere to, in order to ensure uniformity among all the agencies. Your Committee intends by this amendment to have uniform standards promulgated by the OIP and which would obviate the need for all agencies to hold separate administrative hearings on rule adoption. Lastly, the measure as

received had required each agency to supplement its public reports biennially. The amended bill would require an annual report.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1799, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1799, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews, Cachola and Cavasso.

**SCRep. 1289                      Judiciary on S.B. No. 751**

The purpose of this bill is to amend Section 84-17, Hawaii Revised Statutes, to (1) add the State Librarian, Deputy State Librarian, the Administrator and Assistant Administrator of the Office of Hawaiian Affairs, and the Assistant Vice President of the University of Hawaii to the list of persons who must file public financial disclosure statements; (2) require that the disclosure statements filed by the foregoing persons as well as the disclosure statements filed by the Administrative Director and the Deputy Director of the courts be public records; and (3) require that those disclosure statements which are public records under Section 84-17(d) be made available for duplication in addition to inspection.

Your Committee received testimony in support of this bill from Common Cause Hawaii, the University of Hawaii, the State Ethics Commission, and the Administrative Director of the Courts.

Upon further consideration, your Committee has amended the bill to add the provosts of the University of Hawaii to the list of persons whose financial statements shall be public records under Section 84-17(d).

The bill has also been amended to correct drafting and other non-substantive errors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 751, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 751, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews, Cachola, Anderson and Cavasso.

**SCRep. 1290                      Judiciary on S.B. No. 1788**

The purpose of this bill is to allow the Director of Health, through administrative rules, to establish fees to be collected by marriage license agents.

Your Committee received testimony in favor of this measure from numerous Marriage License Agents and finds from the testimony that there is a need to increase the fee charged for issuance of marriage licenses. It appears that at a minimum, a Marriage License Agent must do the following before issuing a marriage license: (1) check the premarital health certificate; (2) verify the applicant's age, and if a minor, require proper identification together with parental consent; and (3) ask additional questions of the minor applicant, such as whether his or her parents are divorced, or whether the minor is a ward of the court. The aforementioned requirements coupled with the fact that marriage license agents are called at odd hours to answer inquiries about how to obtain a license has caused your Committee to conclude that a fee increase should be allowed.

Your Committee has amended this measure in order to accomplish the stated purpose. Instead of requiring the Director of Health to resort to administrative rules to set a fee schedule, your Committee has simply doubled the statutory amount from \$8 to \$16, and provided in the bill that of the \$16 the agents shall retain not \$4, but \$8 per marriage license and remit the remainder to the Director of Finance.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1788, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1788, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews, Cachola and Cavasso.

**SCRep. 1291                      Judiciary on S.B. No. 914**

The purpose of this bill is to add quality assurance committees to the protection against discovery provided by Section 624-25.5, Hawaii Revised Statutes.

Your Committee received testimony in support of the bill from physicians, clinics, hospitals, and members of quality assurance committees. On the other hand, your Committee was advised by persons representing the plaintiffs' bar that this section has been abused to keep injured persons from discovering the extent to which a hospital or clinic was aware of the problem which caused the injury.

The reason for granting some protection from discovery for hospital and clinic quality assurance committees is to allow these committees to conduct meaningful evaluation of health care provided by the institutions. But it is equally important not to grant a blanket prohibition against discovery.

In many instances, studies concerning quality assurance provide critical and valuable factual information concerning known or identified problem areas in hospitals or health care providing organizations. Such information goes to the