

An Act

ENROLLED HOUSE
BILL NO. 3643

By: Boatman of the House

and

Jech of the Senate

An Act relating to records; amending 67 O.S. 2021, Sections 203, 206, 211, 301, 306, and 317, which relate to record-keeping activities; modifying exempt groups; changing procedures for destruction of nonrecord materials; modifying storage procedures for original media; updating citations; clarifying record disposition methods; modifying definitions; repealing 67 O.S. 2021, Section 312, which relates to microfilm maintenance and supplies; and providing an effective date.

SUBJECT: Records

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 67 O.S. 2021, Section 203, is amended to read as follows:

Section 203. As used in the Records Management Act, Section 201 et seq. of this title:

(a) "Record" means document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business, the expenditure of public funds, or the administration of public property. Library and museum material made or acquired and preserved solely for reference or exhibition purposes and stocks of

publications are not included within the definition of records as used in this act.

(b) "State record" means:

(1) A record of a department, office, commission, board, authority or other agency, however designated, of the state government.

(2) A record of the State Legislature.

(3) A record of the Supreme Court, the Court of Criminal Appeals or any other court of record, whether of statewide or local jurisdiction.

(4) Any other record designated or treated as a state record under state law.

(c) "Local record" means a record of a county, city, town, village, township, district, authority or any public corporation or political entity whether organized and existing under charter or under general law unless the record is designated or treated as a state record under state law.

(d) "Agency" means any department, office, commission, board, authority or other unit, however designated, of the state government.

(e) "Essential record" means a state or local record necessary to the operation of government during an emergency created by a disaster, or necessary to protect the rights and interests of persons or to establish and affirm powers and duties of governments in the resumption of operations after a disaster.

(f) "Disaster" means any occurrence of fire, flood, storm, earthquake, tornado, explosion, epidemic, riot, sabotage, or other condition of extreme peril resulting in substantial damage or injury to persons or property within this state, whether such occurrence is caused by an act of nature or by persons, including an enemy of the United States.

(g) "Preservation duplicate" means a copy of an essential record used for preservation purposes pursuant to the Records Management Act.

SECTION 2. AMENDATORY 67 O.S. 2021, Section 206, is amended to read as follows:

Section 206. A. The head of each agency shall:

1. Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency;

2. Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities;

3. Submit to the State Records Administrator, in accordance with the standards established by the Administrator, schedules proposing the length of time each state record series warrants retention for administrative, legal or fiscal purposes after it has been created or received by the agency. The head of each agency also shall submit lists of state records in the custody of the head of the agency that are not needed in the transaction of current business and that do not have sufficient administrative, legal or fiscal value to warrant their further keeping for disposal in conformity with the requirements of Section 210 of this title;

4. Cooperate with the Administrator in the conduct of surveys made by the Administrator pursuant to the provisions of this act; and

5. Comply with the rules, regulations, standards and procedures issued by the Administrator.

B. Confidential health, life, disability and dental claims or related files of the ~~State and Education~~ Employees Group Insurance ~~Program~~ Division of the Office of Management and Enterprise Services shall be exempt from this act.

SECTION 3. AMENDATORY 67 O.S. 2021, Section 211, is amended to read as follows:

Section 211. Nonrecord materials or materials not included within the definition of records as contained in this act may, if not otherwise prohibited by law, be destroyed at any time by the agency in possession of such materials ~~with~~ without the prior approval of the Administrator. The Administrator may formulate

procedures and interpretation to guide in the disposition of nonrecord materials.

SECTION 4. AMENDATORY 67 O.S. 2021, Section 301, is amended to read as follows:

Section 301. A. 1. Any public officer of the state or any county, public trust, authority or agency, city, municipality, district or legal subdivision thereof, may cause any or all records, papers or documents kept by him or her to be photographed, microphotographed, reproduced on film, or duplicated in a manner acceptable to the State Archives and Records Commission. The custodian of the records may permit any record to be removed from his or her office for the purpose of photographic filming or other duplication, and his or her responsibility for their care and return shall continue during the times of their removal from the area controlled by the custodian of the records during photographic or duplication processes. The custodian of the records shall, before delivering any records for photographing, duplication or microphotographing, make a complete catalog list of the records to be filmed and retain the same until the records are returned. He or she may require a bond, and shall require written receipt identifying each record removed from his or her custody. Such photographic film shall comply with the minimum standards of quality for film, processing, and storage of permanent photographic records promulgated by the Archives and Records Commission. Any other media containing duplicates of records shall comply with standards promulgated by the Archives and Records Commission. The device used to reproduce such records on such film or other media shall accurately reproduce the original thereof in all details. Such photographs, microphotographs, photographic film or other duplicates shall be deemed to be original records for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification, or certified copy thereof, for all purposes recited herein, shall be deemed to be a transcript, exemplification, or certified copy of the original.

2. The original photographs, microphotographs, film or other media containing duplicate records shall be stored in a ~~maximum security vault~~ secure location that offers protection from unauthorized access and environmental hazards and conforms to the administrative rules promulgated by the State Records Administrator and Archives and Records Commission, and only be removed therefrom for the purpose of making copies thereof as the custodian of the records may require. At the election of the custodian of the

records, however, the master ~~negative~~ file or copy may, immediately upon being made, be deposited with the Oklahoma Department of Libraries which shall retain it in a ~~maximum security vault~~ secure location that offers protection from unauthorized access and environmental hazards and conforms to the administrative rules promulgated by the State Records Administrator and Archives and Records Commission, and furnish such copies thereof as may be required for the purposes of the custodian of the records. ~~The cost of any photographic, microphotographic, reproduction or filming service requested by and furnished to a state agency or subdivision of government shall be paid to the Department of Libraries rendered on the basis of fee schedules established by the Archives and Records Commission.~~

3. A copy of such photographs, microphotographs, reproductions on film or other duplicates properly certified and cataloged shall be placed in conveniently accessible files and provisions made for preserving, examining and using the same, including reproduction of same. There shall be available for use by the public at least two devices for viewing, and at least one of said devices shall provide for reproducing the photographic or other duplicate records. Such copies shall be certified by their custodian as true copies of the originals, and the copies so certified shall have the same force and effect as the originals. A statement in writing describing the record and certifying it to be a true copy, and attached securely to the reproduction, will be deemed a sufficient certification. Any viewing devices in use at the time of the passage of this act may continue to be used, although such device does not provide a reproducing system.

B. The provisions of this section shall not affect and are cumulative to the provisions of the Records Management Act, Section 201 et seq. of this title and Sections ~~564~~ 305 through ~~576~~ 317 of ~~Title 74 of the Oklahoma Statutes~~ this title.

SECTION 5. AMENDATORY 67 O.S. 2021, Section 306, is amended to read as follows:

Section 306. Every state officer and the heads of all departments, boards, commissions, agencies and institutions of the State of Oklahoma who have in their custody public records and archives deemed by them to be unnecessary for the transaction of the business of their offices shall consult with the State Librarian for the purpose of determining if such records and archives are desired for deposit in the archives division of the Oklahoma State Library.

Upon certification by the State Librarian that such records and archives are or are not desired for such purpose, then such custodian shall, in conformity with such determination, apply to the Archives and Records Commission for authorization to destroy or transfer such records and archives to the Oklahoma State Library as hereinafter provided. Upon the filing of such application the Commission shall have authority to authorize or direct the disposition of such records and archives by any one or more of the following methods:

1. By destruction; provided that, the Commission shall not authorize destruction of records and archives less than five (5) years old except upon a showing of good cause by the agency or the Archives and Records Division of the Oklahoma Department of Libraries and a unanimous vote of the members of the Commission, or their designees, present.

2. By transfer to the custody and control of the Oklahoma State Library and there retained. The State Librarian may, in his or her discretion, ~~microfilm~~ digitize such records and archives, especially if so doing would aid in the preservation of their contents.

3. By transfer to the Oklahoma State Library with authorization to the State Librarian to ~~microfilm~~ digitize said records and archives and upon the completion of this process to destroy said records and archives in accordance with the order of the Commission.

Records and archives transferred to the Oklahoma State Library shall never be returned to their former custody except by order of the Commission and written consent of the State Librarian.

SECTION 6. AMENDATORY 67 O.S. 2021, Section 317, is amended to read as follows:

Section 317. As used in this resolution unless the context otherwise requires:

1. Secretary of the Archives and Records Commission means and refers to that office created under the terms of ~~Title 74 O.S. 1951, Section 564 and following~~ Section 204 of this title, and to the powers, privileges, and duties assigned that office under such statutes.

2. The Archives and Records Commission means and refers to that Commission created under the terms of ~~Title 74 O.S. 1951, Section 564~~

Section 305 of this title, and to the powers, privileges, and duties assigned such Commission under such statutes.

3. The phrase "dead storage files" refers to and includes all rooms, storehouses, warehouses, floor space, office space, files, filing cabinets, vaults, and other places in which are stored, kept, maintained, or otherwise held documents, papers, records, and archives not in actual use which belong to, or are in the custody of, any agency, authority, board, commission, department, institution, instrumentality, office, officer, official, or society of the State of Oklahoma. To be in actual usage such documents, papers, records, and archives must be in continual demand for immediate reference purposes, for actual use in the day-to-day work required of any agency, authority, board, commission, department, institution, instrumentality, office, officer, official, or society of the State of Oklahoma in their principal offices or places of business. Any documents, papers, records, and archives not in such continual usage are to be considered dead storage files.

SECTION 7. REPEALER 67 O.S. 2021, Section 312, is hereby repealed.

SECTION 8. This act shall become effective November 1, 2024.

Passed the House of Representatives the 11th day of March, 2024.

Presiding Officer of the House
of Representatives

Passed the Senate the 15th day of April, 2024.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____