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April 4, 2024

ENGROSSED 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; adding punctuation; 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.

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

1 business, the expenditure of public funds, or the administration of
2 public property. Library and museum material made or acquired and
3 preserved solely for reference or exhibition purposes and stocks of
4 publications are not included within the definition of records as
5 used in this act.

6 (b) "State record" means:

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

10 (2) A record of the State Legislature.

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

22 Section 211. Nonrecord materials or materials not included
23 within the definition of records as contained in this act may, if
24 not otherwise prohibited by law, be destroyed at any time by the

1 agency in possession of such materials ~~with~~ without the prior
2 approval of the Administrator. The Administrator may formulate
3 procedures and interpretation to guide in the disposition of
4 nonrecord materials.

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

7 Section 301. A. 1. Any public officer of the state or any
8 county, public trust, authority or agency, city, municipality,
9 district or legal subdivision thereof, may cause any or all records,
10 papers or documents kept by him or her to be photographed,
11 microphotographed, reproduced on film, or duplicated in a manner
12 acceptable to the State Archives and Records Commission. The
13 custodian of the records may permit any record to be removed from
14 his or her office for the purpose of photographic filming or other
15 duplication, and his or her responsibility for their care and return
16 shall continue during the times of their removal from the area
17 controlled by the custodian of the records during photographic or
18 duplication processes. The custodian of the records shall, before
19 delivering any records for photographing, duplication or
20 microphotographing, make a complete catalog list of the records to
21 be filmed and retain the same until the records are returned. He or
22 she may require a bond, and shall require written receipt
23 identifying each record removed from his or her custody. Such
24 photographic film shall comply with the minimum standards of quality

1 for film, processing, and storage of permanent photographic records
2 promulgated by the Archives and Records Commission. Any other media
3 containing duplicates of records shall comply with standards
4 promulgated by the Archives and Records Commission. The device used
5 to reproduce such records on such film or other media shall
6 accurately reproduce the original thereof in all details. Such
7 photographs, microphotographs, photographic film or other duplicates
8 shall be deemed to be original records for all purposes, including
9 introduction in evidence in all courts or administrative agencies.
10 A transcript, exemplification, or certified copy thereof, for all
11 purposes recited herein, shall be deemed to be a transcript,
12 exemplification, or certified copy of the original.

13 2. The original photographs, microphotographs, film or other
14 media containing duplicate records shall be stored in a ~~maximum~~
15 ~~security vault~~ secure location that offers protection from
16 unauthorized access and environmental hazards, and conforms to the
17 administrative rules promulgated by the State Records Administrator
18 and Archives and Records Commission, and only be removed therefrom
19 for the purpose of making copies thereof as the custodian of the
20 records may require. At the election of the custodian of the
21 records, however, the master ~~negative~~ file or copy may, immediately
22 upon being made, be deposited with the Oklahoma Department of
23 Libraries which shall retain it in a ~~maximum security vault~~ secure
24 location that offers protection from unauthorized access and

1 environmental hazards, and conforms to the administrative rules
2 promulgated by the State Records Administrator and Archives and
3 Records Commission, and furnish such copies thereof as may be
4 required for the purposes of the custodian of the records. ~~The cost~~
5 ~~of any photographic, microphotographic, reproduction or filming~~
6 ~~service requested by and furnished to a state agency or subdivision~~
7 ~~of government shall be paid to the Department of Libraries rendered~~
8 ~~on the basis of fee schedules established by the Archives and~~
9 ~~Records Commission.~~

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

1 B. The provisions of this section shall not affect and are
2 cumulative to the provisions of the Records Management Act, Section
3 201 et seq. of this title and Sections ~~564~~ 305 through ~~576~~ 317 of
4 ~~Title 74 of the Oklahoma Statutes~~ this title.

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

7 Section 306. Every state officer and the heads of all
8 departments, boards, commissions, agencies and institutions of the
9 State of Oklahoma who have in their custody public records and
10 archives deemed by them to be unnecessary for the transaction of the
11 business of their offices shall consult with the State Librarian for
12 the purpose of determining if such records and archives are desired
13 for deposit in the archives division of the Oklahoma State Library.
14 Upon certification by the State Librarian that such records and
15 archives are or are not desired for such purpose, then such
16 custodian shall, in conformity with such determination, apply to the
17 Archives and Records Commission for authorization to destroy or
18 transfer such records and archives to the Oklahoma State Library as
19 hereinafter provided. Upon the filing of such application the
20 Commission shall have authority to authorize or direct the
21 disposition of such records and archives by any one or more of the
22 following methods:

23 1. By destruction; provided that, the Commission shall not
24 authorize destruction of records and archives less than five (5)

1 years old except upon a showing of good cause by the agency or the
2 Archives and Records Division of the Oklahoma Department of
3 Libraries and a unanimous vote of the members of the Commission, or
4 their designees, present.

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

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

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

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

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

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

1 2. The Archives and Records Commission means and refers to that
2 Commission created under the terms of ~~Title 74 O.S.1951, Section 564~~
3 Section 305 of this title, and to the powers, privileges, and duties
4 assigned such Commission under such statutes.

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

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
24 April 4, 2024 - DO PASS