

1 A bill to be entitled
2 An act relating to custodial requirements for
3 public records; amending s. 119.021, F.S.;
4 clarifying the custodial requirements for a
5 record that is confidential and exempt from
6 disclosure pursuant to law; authorizing the
7 custodian of such record to require an agency
8 or other governmental entity that receives the
9 record to acknowledge in writing the
10 confidential and exempt status of the record;
11 providing an effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 119.021, Florida Statutes, is
16 amended to read:

17 119.021 Custodial requirements; maintenance,
18 preservation, and retention of public records.--

19 (1) MAINTENANCE AND PRESERVATION.--Public records
20 shall be maintained and preserved as follows:

21 (a) All public records should be kept in the buildings
22 in which they are ordinarily used.

23 (b) Insofar as practicable, a custodian of public
24 records of vital, permanent, or archival records shall keep
25 them in fireproof and waterproof safes, vaults, or rooms
26 fitted with noncombustible materials and in such arrangement
27 as to be easily accessible for convenient use.

28 (c)1. Record books should be copied or repaired,
29 renovated, or rebound if worn, mutilated, damaged, or
30 difficult to read.

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1 2. Whenever any state, county, or municipal records
2 are in need of repair, restoration, or rebinding, the head of
3 the concerned state agency, department, board, or commission;
4 the board of county commissioners of such county; or the
5 governing body of such municipality may authorize that such
6 records be removed from the building or office in which such
7 records are ordinarily kept for the length of time required to
8 repair, restore, or rebind them.

9 3. Any public official who causes a record book to be
10 copied shall attest and certify under oath that the copy is an
11 accurate copy of the original book. The copy shall then have
12 the force and effect of the original.

13 (2) RETENTION SCHEDULES.--

14 (a) The Division of Library and Information Services
15 of the Department of State shall adopt rules to establish
16 retention schedules and a disposal process for public records.

17 (b) Each agency shall comply with the rules
18 establishing retention schedules and disposal processes for
19 public records which are adopted by the records and
20 information management program of the division.

21 (c) Each public official shall systematically dispose
22 of records no longer needed, subject to the consent of the
23 records and information management program of the division in
24 accordance with s. 257.36.

25 (d) The division may ascertain the condition of public
26 records and shall give advice and assistance to public
27 officials to solve problems related to the preservation,
28 creation, filing, and public accessibility of public records
29 in their custody. Public officials shall assist the division
30 by preparing an inclusive inventory of categories of public
31 records in their custody. The division shall establish a time

1 period for the retention or disposal of each series of
2 records. Upon the completion of the inventory and schedule,
3 the division shall, subject to the availability of necessary
4 space, staff, and other facilities for such purposes, make
5 space available in its records center for the filing of
6 semicurrent records so scheduled and in its archives for
7 noncurrent records of permanent value, and shall render such
8 other assistance as needed, including the microfilming of
9 records so scheduled.

10 (3) INDEX OF AGENCY ORDERS.--Agency orders that
11 comprise final agency action and that must be indexed or
12 listed pursuant to s. 120.53 have continuing legal
13 significance; therefore, notwithstanding any other provision
14 of this chapter or any provision of chapter 257, each agency
15 shall permanently maintain records of such orders pursuant to
16 the applicable rules of the Department of State.

17 (4)~~(a)~~ TRANSFER OF CUSTODY.--Whoever has custody of
18 any public records shall deliver, at the expiration of his or
19 her term of office, to his or her successor or, if there be
20 none, to the records and information management program of the
21 Division of Library and Information Services of the Department
22 of State, all public records kept or received by him or her in
23 the transaction of official business.

24 (5)~~(b)~~ UNLAWFUL POSSESSION.--Whoever is entitled to
25 custody of public records shall demand them from any person
26 having illegal possession of them, who must forthwith deliver
27 the same to him or her. Any person unlawfully possessing
28 public records must within 10 days deliver such records to the
29 lawful custodian of public records unless just cause exists
30 for failing to deliver such records.

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1 (6) CUSTODIAL REQUIREMENTS FOR CONFIDENTIAL AND EXEMPT
2 RECORDS.--

3 (a) A custodian of public records who holds a record
4 that is confidential and exempt from s. 119.07(1) and s.
5 24(a), Art. I of the State Constitution may not release such
6 record except as provided in statute or pursuant to court
7 order.

8 (b) An agency or other governmental entity that is
9 authorized to receive a confidential and exempt record
10 pursuant to statute shall retain the confidential and exempt
11 status of such record, except as otherwise provided by law.

12 (c) A custodian of public records may require the
13 agency or other governmental entity that is authorized to
14 receive a confidential and exempt record pursuant to statute
15 to acknowledge in a written release that:

16 1. Such record is confidential and exempt; and

17 2. The receiving agency or other governmental entity
18 is required by law to maintain the confidential and exempt
19 status of such record.

20 (d) This subsection does not limit access to any
21 confidential and exempt record:

22 1. By an agency acting on behalf of the custodian of
23 that record;

24 2. By the Legislature; or

25 3. Pursuant to court order.

26 Section 2. This act shall take effect July 1, 2006.