

1                                   A bill to be entitled  
 2       An act relating to custodial requirements for public  
 3       records; amending s. 119.021, F.S.; organizing provisions  
 4       relating to the maintenance, preservation, and retention  
 5       of public records and the custodial requirements for  
 6       confidential and exempt records; providing requirements  
 7       with respect to the authority of a custodian of a public  
 8       record to release the record; providing requirements with  
 9       respect to retention of confidential and exempt records by  
 10      an agency or other governmental entity; authorizing a  
 11      custodian of confidential and exempt records to require an  
 12      agency or other governmental entity authorized to receive  
 13      such record to acknowledge in writing the confidential and  
 14      exempt status of such record; specifying that the act does  
 15      not limit access to any record by an agency or entity  
 16      acting on behalf of a custodian of public records, the  
 17      Legislature, or pursuant to court order; providing an  
 18      effective date.

19  
 20   Be It Enacted by the Legislature of the State of Florida:

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 22           Section 1.   Section 119.021, Florida Statutes, is amended  
 23   to read:

24           119.021   Custodial requirements; maintenance, preservation,  
 25   and retention of public records.--

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

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

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

35 (c)1. Record books should be copied or repaired,  
36 renovated, or rebound if worn, mutilated, damaged, or difficult  
37 to read.

38 2. Whenever any state, county, or municipal records are in  
39 need of repair, restoration, or rebinding, the head of the  
40 concerned state agency, department, board, or commission; the  
41 board of county commissioners of such county; or the governing  
42 body of such municipality may authorize that such records be  
43 removed from the building or office in which such records are  
44 ordinarily kept for the length of time required to repair,  
45 restore, or rebind them.

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

50 (2) RETENTION SCHEDULES.--

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

54 (b) Each agency shall comply with the rules establishing  
55 retention schedules and disposal processes for public records

56 | which are adopted by the records and information management  
57 | program of the division.

58 |       (c) Each public official shall systematically dispose of  
59 | records no longer needed, subject to the consent of the records  
60 | and information management program of the division in accordance  
61 | with s. 257.36.

62 |       (d) The division may ascertain the condition of public  
63 | records and shall give advice and assistance to public officials  
64 | to solve problems related to the preservation, creation, filing,  
65 | and public accessibility of public records in their custody.  
66 | Public officials shall assist the division by preparing an  
67 | inclusive inventory of categories of public records in their  
68 | custody. The division shall establish a time period for the  
69 | retention or disposal of each series of records. Upon the  
70 | completion of the inventory and schedule, the division shall,  
71 | subject to the availability of necessary space, staff, and other  
72 | facilities for such purposes, make space available in its  
73 | records center for the filing of semicurrent records so  
74 | scheduled and in its archives for noncurrent records of  
75 | permanent value, and shall render such other assistance as  
76 | needed, including the microfilming of records so scheduled.

77 |       (3) INDEX OF AGENCY ORDERS.--Agency orders that comprise  
78 | final agency action and that must be indexed or listed pursuant  
79 | to s. 120.53 have continuing legal significance; therefore,  
80 | notwithstanding any other provision of this chapter or any  
81 | provision of chapter 257, each agency shall permanently maintain  
82 | records of such orders pursuant to the applicable rules of the  
83 | Department of State.

84           (4) ~~(a)~~ TRANSFER OF CUSTODY.--Whoever has custody of any  
 85 public records shall deliver, at the expiration of his or her  
 86 term of office, to his or her successor or, if there be none, to  
 87 the records and information management program of the Division  
 88 of Library and Information Services of the Department of State,  
 89 all public records kept or received by him or her in the  
 90 transaction of official business.

91           (5) ~~(b)~~ UNLAWFUL POSSESSION.--Whoever is entitled to  
 92 custody of public records shall demand them from any person  
 93 having illegal possession of them, who must forthwith deliver  
 94 the same to him or her. Any person unlawfully possessing public  
 95 records must within 10 days deliver such records to the lawful  
 96 custodian of public records unless just cause exists for failing  
 97 to deliver such records.

98           (6) CUSTODIAL REQUIREMENTS FOR CONFIDENTIAL AND EXEMPT  
 99 RECORDS.--

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

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

108           (c) A custodian of public records is authorized to require  
 109 the agency or other governmental entity that is authorized to  
 110 receive a confidential and exempt record pursuant to statute to  
 111 acknowledge in a written release that:

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- 112        1. Such record is confidential and exempt; and  
 113        2. The receiving agency or other governmental entity is  
 114 required by law to retain the confidential and exempt status of  
 115 such record.

116        (d) This subsection does not limit access to any record  
 117 by:

118        1. An agency or entity acting on behalf of a custodian of  
 119 public records;

120        2. The Legislature; or

121        3. Pursuant to court order.

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