

1 A bill to be entitled
 2 An act relating to information technology used to manage
 3 public records; repealing s. 119.01(2)(b), F.S.; removing
 4 the policy statement relating to the design or acquisition
 5 of an electronic recordkeeping system by an agency;
 6 amending s. 119.021, F.S.; providing criteria that must be
 7 considered by an agency when designing or acquiring an
 8 electronic recordkeeping system; providing rulemaking
 9 authority; providing minimum standards for the destruction
 10 of public records; reorganizing provisions; providing an
 11 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. Paragraph (b) of subsection (2) of section
 16 119.01, Florida Statutes, is repealed.

17 Section 2. Section 119.021, Florida Statutes, is amended
 18 to read:

19 119.021 Custodial requirements; maintenance, preservation,
 20 ~~and retention, and disposal~~ of public records; rulemaking.--

21 (1) MAINTENANCE AND PRESERVATION OF PUBLIC
 22 RECORDS.--Public records shall be maintained and preserved as
 23 follows:

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

26 (b) Insofar as practicable, a custodian of public records
 27 of vital, permanent, or archival records shall keep them in
 28 fireproof and waterproof safes, vaults, or rooms fitted with

29 noncombustible materials and in such arrangement as to be easily
 30 accessible for convenient use.

31 (c)1. Record books should be copied or repaired,
 32 renovated, or rebound if worn, mutilated, damaged, or difficult
 33 to read.

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

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

46 (d) When designing or acquiring an electronic
 47 recordkeeping system, an agency must consider whether such
 48 system is capable of providing data in some common format.

49 (2) RETENTION SCHEDULES FOR PUBLIC RECORDS.--

50 (a) The Division of Library and Information Services of
 51 the Department of State shall adopt rules to establish retention
 52 schedules ~~and a disposal process~~ for public records. At a
 53 minimum, the retention schedule shall be established based upon
 54 a review of the public record in the context of the custodial
 55 agency's statutory functions and authorities.

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56 (b) Each agency shall comply with the rules establishing
57 retention schedules ~~and disposal processes~~ for public records
58 which are adopted by the records and information management
59 program of the division.

60 (c) Agency orders that comprise final agency action and
61 that must be indexed or listed pursuant to s. 120.53 have
62 continuing legal significance; therefore, notwithstanding any
63 other provision of this chapter or any provision of chapter 257,
64 each agency shall permanently maintain records of such orders
65 pursuant to the applicable rules of the Department of State.
66 ~~Each public official shall systematically dispose of records no~~
67 ~~longer needed, subject to the consent of the records and~~
68 ~~information management program of the division in accordance~~
69 ~~with s. 257.36.~~

70 (d) ~~The division may ascertain the condition of public~~
71 ~~records and shall give advice and assistance to public officials~~
72 ~~to solve problems related to the preservation, creation, filing,~~
73 ~~and public accessibility of public records in their custody.~~
74 ~~Public officials shall assist the division by preparing an~~
75 ~~inclusive inventory of categories of public records in their~~
76 ~~custody. The division shall establish a time period for the~~
77 ~~retention or disposal of each series of records. Upon the~~
78 ~~completion of the inventory and schedule, the division shall,~~
79 ~~subject to the availability of necessary space, staff, and other~~
80 ~~facilities for such purposes, make space available in its~~
81 ~~records center for the filing of semicurrent records so~~
82 ~~scheduled and in its archives for noncurrent records of~~

83 ~~permanent value, and shall render such other assistance as~~
 84 ~~needed, including the microfilming of records so scheduled.~~

85 (3) DISPOSAL OF PUBLIC RECORDS.--

86 (a) The Division of Library and Information Services of
 87 the Department of State shall adopt rules to establish a
 88 disposal process for public records. At a minimum, such rules
 89 shall provide a process for:

90 1. Sanitizing or scrubbing hardware prior to disposal.

91 2. Destroying public records containing confidential or
 92 exempt information in a manner that safeguards the interests of
 93 the state and the safety, security, and privacy of its citizens.

94 The rules shall specify destruction methods that prevent
 95 unauthorized access to or use of the information and shall
 96 ensure that the information cannot be read, reconstructed, or
 97 recovered.

98 (b) Each agency shall comply with the rules establishing
 99 disposal processes for public records which are adopted by the
 100 records and information management program of the division.

101 (c) Each public official shall systematically dispose of
 102 records no longer needed, subject to the consent of the records
 103 and information management program of the division in accordance
 104 with rules promulgated pursuant to this section and s. 257.36.

105 ~~Agency orders that comprise final agency action and that must be~~
 106 ~~indexed or listed pursuant to s. 120.53 have continuing legal~~
 107 ~~significance; therefore, notwithstanding any other provision of~~
 108 ~~this chapter or any provision of chapter 257, each agency shall~~
 109 ~~permanently maintain records of such orders pursuant to the~~
 110 ~~applicable rules of the Department of State.~~

111 (4) CUSTODY OF PUBLIC RECORDS.--

112 (a) Whoever has custody of any public records shall
 113 deliver, at the expiration of his or her term of office, to his
 114 or her successor or, if there be none, to the records and
 115 information management program of the Division of Library and
 116 Information Services of the Department of State, all public
 117 records kept or received by him or her in the transaction of
 118 official business.

119 (b) Whoever is entitled to custody of public records shall
 120 demand them from any person having illegal possession of them,
 121 who must forthwith deliver the same to him or her. Any person
 122 unlawfully possessing public records must within 10 days deliver
 123 such records to the lawful custodian of public records unless
 124 just cause exists for failing to deliver such records.

125 (5) ASSISTANCE TO CUSTODIANS OF PUBLIC RECORDS.--

126 (a) The Division of Library and Information Services of
 127 the Department of State may ascertain the condition of public
 128 records and shall give advice and assistance to public officials
 129 to solve problems related to the preservation, creation, filing,
 130 and public accessibility of public records in their custody.

131 (b) Public officials shall assist the division by
 132 preparing an inclusive inventory of categories of public records
 133 in their custody. The division shall establish a time period for
 134 the retention or disposal of each series of records.

135 (c) Upon the completion of the inventory and schedule, the
 136 division shall, subject to the availability of necessary space,
 137 staff, and other facilities for such purposes, make space
 138 available in its records center for the filing of semicurrent

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139 | records so scheduled and in its archives for noncurrent records
140 | of permanent value, and shall render such other assistance as
141 | needed, including the microfilming of records so scheduled.

142 | Section 3. This act shall take effect October 1, 2008.