

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 90th General Assembly
3 Fourth Extraordinary Session, 2016
4

A Bill

DRAFT BPG/BPG
SENATE BILL

5 By: Senator Irvin
6

For An Act To Be Entitled

8 AN ACT CONCERNING COUNTY RECORD RETENTION; TO
9 IMPLEMENT REQUIREMENTS FOR RECORD RETENTION
10 CONVERSION REVIEW; AND FOR OTHER PURPOSES.
11

Subtitle

12 CONCERNING COUNTY RECORD RETENTION; AND
13 TO IMPLEMENT REQUIREMENTS FOR RECORD
14 RETENTION CONVERSION REVIEW.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 13-4-301 is amended to read as follows:

22 13-4-301. Retention required – Destruction – Electronic reproduction.

23 (a)(1) ~~All counties of the State of Arkansas~~ A county shall maintain
24 the records named in this subchapter for the period of time provided for in
25 this subchapter, after which time the records may be destroyed.

26 (2)(A) ~~But in no case shall the~~ The records named in this
27 subchapter shall not be destroyed until at least one (1) year after an audit
28 by Arkansas Legislative Audit or any a private auditor audit is completed and
29 approved.

30 (B) ~~No record of any kind~~ A record named in this
31 subchapter that is over fifty (50) years old ~~will~~ shall not be destroyed
32 before written notice by the custodian of the records describing the scope
33 and nature of the records in question has been furnished to the Arkansas
34 State Archives, ~~describing the scope and nature of the records,~~ at least
35 sixty (60) days ~~prior to~~ before the destruction of the records.

36 (b)(1) If a record is photographically or electronically transferred

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1 to other media of a permanent nature, the original documents may be
2 destroyed, except that no handwritten records over fifty (50) years old shall
3 be destroyed.

4 (2) A county record that is photographically or electronically
5 transferred to another media of a permanent nature must be transferred by a
6 process that accurately reproduces or forms a durable medium for reproducing
7 the original.

8 (c) When county records are transferred to other media of a permanent
9 nature, the resulting transfer shall meet the following requirements:

10 (1) The information retained shall be transferred into a usable
11 and accessible format capable of accurately reproducing the original over the
12 time periods specified in § 13-4-301 et seq.;

13 (2) Operational procedures shall ensure that the authenticity,
14 confidentiality, accuracy, reliability, and appropriate level of security are
15 provided to safeguard the integrity of the information;

16 (3) Procedures shall be available for the backup, recovery, and
17 storage of records to protect the records against media destruction or
18 deterioration and information loss; and

19 (4) A retention conversion-and-review schedule shall be
20 established by each county official to ensure that electronically or
21 optically stored information, for records required to be kept permanently, is
22 reviewed for data conversion at least one (1) time every four (4) years or
23 more frequently when necessary to prevent the physical loss of data or loss
24 due to technological obsolescence of the medium.

25 ~~(e)(d)~~ Before any a record shall be is destroyed, the custodian of the
26 record shall document the date and type of document.

27 (e) Records not explicitly addressed under this subchapter may be
28 destroyed no sooner than three (3) years after an audit by the Arkansas
29 Legislative Audit or any private auditor is completed and approved.

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31 SECTION 2. Arkansas Code § 13-4-302 is amended to read as follows:

32 13-4-302. Court records.

33 ~~All counties of the State of Arkansas shall maintain records for the~~
34 ~~county courts as follows, if they are currently being maintained~~ If a county
35 of the State of Arkansas maintains records for the county courts, the county
36 shall maintain these records as follows:

1 (1)(A) For circuit court, civil and criminal, domestic
2 relations, juvenile, and probate records:

3 ~~(A)(i) Permanently maintain The county shall~~
4 permanently maintain:

5 ~~(i)(a)~~ Complete case files and written
6 exhibits for all courts;

7 ~~(ii)(b)~~ Case indices for all courts;

8 ~~(iii)(c)~~ Case dockets for all courts;

9 ~~(iv)(d)~~ Grand jury reports;

10 ~~(v)(e)~~ Grand juror lists;

11 ~~(vi)(f)~~ Petit jury lists in criminal cases;

12 ~~(vii)(g)~~ Original records, documents, and
13 transcripts relating to the summoning of jurors and jury selection for a
14 petit jury in a criminal case; and

15 ~~(viii)(h)~~ All probate records required to be
16 maintained under § 28-1-108;

17 ~~(B)(ii) Maintain The county shall maintain~~ for ten
18 (10) years, after audit by Arkansas Legislative Audit:

19 ~~(i)(a)~~ Records and reports of costs; and

20 ~~(ii)(b)~~ Fees assessed and collected; and

21 ~~(C)(iii) Maintain The county shall maintain~~ for
22 three (3) years, after audit by Arkansas Legislative Audit:

23 ~~(i)(a)~~ Canceled checks;

24 ~~(ii)(b)~~ Bank statements;

25 ~~(iii)(c)~~ Petit jury lists in civil cases and
26 original records, documents, and transcripts relating to the summoning of
27 jurors and jury selection for a petit jury in a civil case; and

28 ~~(iv)(d)~~ Served and quashed warrants;

29 (B) The county shall not maintain records of the juvenile
30 division of circuit court, which shall be maintained in accordance with § 9-
31 27-309 and other provisions of Title 9 and the Arkansas Juvenile Code of
32 1989, § 9-27-301 et seq.

33 (2) For county court records:

34 (A) ~~Permanently maintain The county shall permanently~~
35 maintain:

36 (i) County court ~~record~~ records;

- 1 (ii) Cemetery permits;
- 2 (iii) ~~Statement~~ Statements of receipt and
- 3 expenditures; and
- 4 (iv) County improvement ~~districts~~ district reports;
- 5 and
- 6 (B) ~~Maintain~~ The county shall permanently maintain for ten
- 7 (10) years, after audit by Arkansas Legislative Audit:
- 8 (i) County court ~~file~~ files;
- 9 (ii) County general claims ~~docket~~ dockets;
- 10 (iii) County road claims ~~docket~~ dockets;
- 11 (iv) Contracts for lease-purchase on rental
- 12 payments;
- 13 (v) County school board financial reports;
- 14 (vi) Solid waste disposal revenue bonds; and
- 15 (vii) ~~Allocation~~ Allocations of state funds for
- 16 solid waste disposal; and
- 17 (3) For quorum court records:
- 18 (A) ~~Permanently maintain~~ The county shall permanently
- 19 maintain:
- 20 (i) Ordinance, appropriation ordinance, and
- 21 resolution ~~register~~ registers;
- 22 (ii) ~~Record~~ Records of proceedings;
- 23 (iii) Codification of ordinances;
- 24 (iv) ~~Register~~ Registers of county advisory and
- 25 administrative boards;
- 26 (v) Appointments to subordinate service districts;
- 27 and
- 28 (vi) Quorum court minutes; and
- 29 (B) ~~Maintain~~ The county shall maintain for one (1) year
- 30 the county treasurer's monthly financial report.

31

32 SECTION 3. Arkansas Code § 13-4-306 is amended to read as follows:

33 13-4-306. Voter registration and election records.

34 All counties ~~of the State of Arkansas~~ shall maintain county voter

35 registration and election records for the county as follows, if ~~they~~ the

36 records are currently being maintained:

- 1 (1) ~~Maintain~~ Maintained permanently:
- 2 (A) Voter registration record files;
- 3 (B) Maps of election precincts from the county election
- 4 commission;
- 5 (C) ~~Certificate~~ Certificates of election; and
- 6 (D) Ordinance election results; and
- 7 (2)(A) ~~Maintain~~ Maintained for ten (10) years, after canceled, a
- 8 person's voter registration record and reason for cancellation of a person's
- 9 voter registration.
- 10 (B) ~~Maintain~~ Maintained for ten (10) years:
- 11 (i) Minutes of board of election commission; and
- 12 (ii) Election ~~file~~ files.
- 13 (C) ~~Maintain~~ Maintained for five (5) years:
- 14 (i) Petition, certificate, and notices for
- 15 ordinance;
- 16 (ii) Political practice ~~pledge~~ pledges;
- 17 (iii) Campaign contribution and expenditure sheets;
- 18 (iv) Code of ethics statements; and
- 19 (v) Financial ~~disclosure~~ disclosures.
- 20 (D) ~~Maintain~~ Maintained for two (2) years:
- 21 (i) Acknowledgement notices giving the disposition
- 22 of a person's voter registration application;
- 23 (ii) Precinct voter registration lists prepared for
- 24 each election;
- 25 (iii) Confirmation notices mailed by a county clerk
- 26 to confirm a voter's change of residence or name;
- 27 (iv) Confirmation return cards received in response
- 28 to a confirmation notice; ~~and~~
- 29 (v) Absentee ballot applications and lists, except
- 30 where litigation follows or federal law governs; and
- 31 (E) Until an election is certified to the Secretary of
- 32 State under § 7-5-701, all unused ballots.
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34 SECTION 4. Arkansas Code § 13-4-401 is amended to read as follows:

35 13-4-401. Retention required – Destruction – Electronic reproduction.

36 (a)(1) A county sheriff's office shall maintain the records named in

1 this subchapter for the period of time provided in this subchapter, after
2 which time the records may be destroyed.

3 (2)(A) ~~In no case shall administrative records~~ Administrative
4 records shall not be destroyed until at least one (1) year after an audit by
5 Arkansas Legislative Audit or a private auditor is completed and approved.

6 (B) ~~Any~~ A record over fifty (50) years old ~~will~~ shall not
7 be destroyed before written notice by the custodian of the records in
8 question has been furnished to the Arkansas State Archives, describing the
9 scope and nature of the records, at least sixty (60) days before the
10 destruction of the records.

11 (b)(1) If a record is photographically or ~~otherwise~~ electronically
12 transferred to other media of a permanent nature, the original document may
13 be destroyed, except that a handwritten record over fifty (50) years old
14 shall not be destroyed.

15 (2) A county record that is photographically transferred to
16 another media of a permanent nature must be transferred by a process that
17 accurately reproduces or forms a durable medium for reproducing the original.

18 (c) When county records are transferred to other media of a permanent
19 nature, the resulting transfer shall meet the following requirements:

20 (1) The information retained shall be transferred into a usable
21 and accessible format capable of accurately reproducing the original over the
22 time periods specified in § 13-4-301 et seq.;

23 (2) Operational procedures shall ensure that the authenticity,
24 confidentiality, accuracy, reliability, and appropriate level of security are
25 provided to safeguard the integrity of the information;

26 (3) Procedures shall be available for the backup, recovery, and
27 storage of records to protect the records against media destruction or
28 deterioration and information loss; and

29 (4) A retention conversion-and-review schedule shall be
30 established to ensure that electronically or optically stored information is
31 reviewed for data conversion at least one (1) time every four (4) years or
32 more frequently when necessary to prevent the physical loss of data or loss
33 due to technological obsolescence of the medium.

34 ~~(e)(d)~~ Before any record is destroyed, the custodian of the record
35 shall document the date and type of document.

36 (e) Records explicitly not addressed in this subchapter may be

1 destroyed no sooner than three (3) years after an audit by the Arkansas
2 Legislative Audit or a private auditor is completed and approved.

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4 SECTION 5. Arkansas Code § 13-4-403 is amended to read as follows:

5 13-4-403. Criminal investigation documentation.

6 (a) ~~In~~ As used in this section, "criminal investigation documentation"
7 includes without limitation:

- 8 (1) Incident or offense reports;
9 (2) Arrest warrant records;
10 (3) Search warrant records; and
11 (4) Investigative case files, including:
12 (A) Photographs;
13 (B) Lab reports; and
14 (C) Audiovisual media.

15 (b) Criminal investigation documentation shall be retained for the
16 following periods of time:

- 17 (1) If the documentation is associated with a Class Y ~~or Class A~~
18 felony, it shall be retained indefinitely;
19 (2) If the documentation is associated with ~~any other~~ a non-
20 Class Y felony, it shall be retained for at least ten (10) years;
21 (3) If the documentation is associated with a misdemeanor or
22 violation, it shall be retained for at least five (5) years; and
23 (4) If the documentation relates to a civil matter or ~~any other~~
24 noncriminal matter, it shall be retained for at least three (3) years.

25 (c) Criminal investigation documentation may be disposed of by the
26 order of the county judge upon recommendation of the county sheriff after the
27 period of time dictated by subsection (b) of this section.

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29 SECTION 6. Arkansas Code § 13-4-404 is amended to read as follows:

30 13-4-404. Jail booking records.

31 (a) ~~In~~ As used in this section, "jail booking records" means records
32 generated and kept during jail booking procedures and while a person is in
33 custody and includes without limitation:

- 34 (1) Fingerprint cards;
35 (2) Booking photographs; and
36 (3) Jail detention logs.

1 (b) Jail booking records shall be kept for ~~thirty (30)~~ at least five
2 (5) years, after which time they may be disposed of by order of the county
3 judge upon recommendation of the county sheriff.
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5 SECTION 7. Arkansas Code § 13-4-405 is amended to read as follows:
6 13-4-405. Dispatch reports.

7 (a) ~~In~~ As used in this section, "dispatch reports" means records
8 generated and kept regarding:

9 (1) Incoming calls to the county sheriff's office involving
10 reports or complaints from the general public;

11 (2) Complaint cards; and

12 (3) Radio traffic logs.

13 (b) Dispatch reports shall be kept for a period of ~~seven (7)~~ at least
14 three (3) years, after which they may be disposed of by the order of the
15 county judge upon recommendation of the county sheriff.
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