

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.
Act 569 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

A Bill

SENATE BILL 800

5 By: Senator Teague
6
7

For An Act To Be Entitled

9 AN ACT TO GIVE COUNTY OFFICIALS ADMINISTRATIVE
10 RIGHTS TO COUNTY ELECTRONIC INFORMATION AND
11 RECORDS; AND FOR OTHER PURPOSES.
12

Subtitle

14 TO GIVE COUNTY OFFICIALS ADMINISTRATIVE
15 RIGHTS TO COUNTY ELECTRONIC INFORMATION
16 AND RECORDS.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 14, Chapter 14, Subchapter 1 is amended
22 to add an additional section to read as follows:

23 14-14-111. Electronic records.

24 (a)(1) County governments in Arkansas are the repository for vast
25 numbers of public records necessary for the regulation of commerce and vital
26 to the health, safety, and welfare of the citizens of the state.

27 (2) These records are routinely kept in electronic format by the
28 county officials who are the custodians of the records.

29 (3) It is the intent of this section to:

30 (A) Ensure that all public records kept by county
31 officials are under the complete care, custody, and control of the county
32 officials responsible for the records; and

33 (B) Prevent a computer or software provider doing business
34 with a county from obtaining complete care and control of county records and
35 from becoming the "de facto" custodian of the records.



1 (b) As used in this section:

2 (1) "Administrative rights" means permissions and powers,
 3 including without limitation the permissions and powers to access, alter,
 4 copy, download, read, record, upload, write, or otherwise manipulate and
 5 maintain records kept by a county official;

6 (2) "Electronic record" means a record created, generated, sent,
 7 communicated, received, or stored by electronic means; and

8 (3)(A) "Public records" means writings, recorded sounds, films,
 9 tapes, electronic or computer-based information, or data compilations in any
 10 medium required by law to be kept or otherwise kept and that constitute a
 11 record of the performance or lack of performance of official functions that
 12 are or should be carried out by a public official or employee, a governmental
 13 agency, or other agency wholly or partially supported by public funds or
 14 expending public funds. All records maintained in county offices or by county
 15 employees within the scope of employment are public records.

16 (B) "Public records" does not mean software acquired by
 17 purchase, lease, or license.

18 (c)(1) A county official required by law to maintain public records
 19 and who in the normal performance of official duties chooses to keep and
 20 maintain the records in an electronic record retains administrative rights
 21 and complete access to all the records.

22 (2) A contract between a county and an electronic record
 23 provider shall include the information under subdivision (c)(1) of this
 24 section.

25
 26 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 27 General Assembly of the State of Arkansas that some counties and county
 28 officials that have public records stored in an electronic record may not
 29 have complete access and control of the records and that this act is
 30 necessary because the lack of control has led or will lead to lawsuits of
 31 which the basis is the county officeholder's inability to access the county's
 32 own records. Therefore, an emergency is declared to exist and this act being
 33 necessary for the preservation of the public peace, health, and safety shall
 34 become effective on:

35 (1) The date of its approval by the Governor;

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

3 (3) If the bill is vetoed by the Governor and the veto is
4 overridden, the date the last house overrides the veto.

5
6 **APPROVED: 3/24/2009**
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36