

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.

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

HOUSE BILL 1514

By: Representative Mahony

For An Act To Be Entitled

AN ACT CONCERNING THE RETENTION OF PUBLIC RECORDS
BY STATE AGENCIES; AND FOR OTHER PURPOSES.

Subtitle

AN ACT CONCERNING THE RETENTION OF
PUBLIC RECORDS BY STATE AGENCIES.

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

SECTION 1. Arkansas Code Title 25, Chapter 18 is amended to add an additional subchapter to read as follows:

25-18-601. Legislative intent.

(a) The General Assembly finds that while the Freedom of Information Act of 1967 provides disclosure guarantees for public records, and due to Act 1252 of 2001, there is no general requirement for agencies to preserve public records.

(b) Therefore, the State of Arkansas is in need of a general records retention law to preserve records that are common to state agencies for disclosure under the Freedom of Information Act of 1967, for historical purposes, and for the efficient operation of state government.

25-18-602. Applicability.

This subchapter shall not apply to city, county, or local governmental entities.

25-18-603. Definitions.

As used in this subchapter:



1 (1)(A) "Public records" means writings, recorded sounds, films,
2 tapes, electronic or computer-based information, or data compilations in any
3 medium required by law to be kept or otherwise kept, and which constitute a
4 record of the performance or lack of performance of official functions that
5 are or should be carried out by state agencies.

6 (B) All records maintained in agency offices or by agency
7 employees within the scope of their employment shall be presumed to be public
8 records; and

9 (2) "State agencies" means all state departments, boards, and
10 commissions, but does not include the elected constitutional officers and
11 their staffs, the General Assembly and its committees and staffs, the Supreme
12 Court and the Administrative Office of the Courts, and public institutions of
13 higher education with respect to academic, research, health care, and
14 existing information and technology applications and underlying support.

15
16 25-18-604. Retention requirement.

17 (a) Before January 1, 2006, the Office of the Executive Chief
18 Information Officer shall promulgate pursuant to the Arkansas Administrative
19 Procedure Act, § 25-15-201 et seq., rules and guidelines governing the
20 retention and management of public records common to state agencies,
21 including, but not limited to, electronic records.

22 (b) Each state agency shall comply with the rules and guidelines
23 promulgated under this subchapter.

24
25 25-18-605. Conflict with federal or state laws.

26 (a) If any rule promulgated under this subchapter is found to conflict
27 with current federal or state law for the retention of public records, the
28 federal or state law shall override the rule promulgated under this
29 subchapter.

30 (b) Rules promulgated under this subchapter shall not require the
31 disclosure of public records otherwise exempt from disclosure by federal or
32 state law.

33
34 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
35 General Assembly of the State of Arkansas that there is no general records
36 retention law and that this act is immediately necessary to preserve public

1 records that could be lost permanently without this act. Therefore, an
2 emergency is declared to exist and this act being immediately necessary for
3 the preservation of the public peace, health, and safety shall become
4 effective on:

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

6 (2) If the bill is neither approved nor vetoed by the Governor,
7 the expiration of the period of time during which the Governor may veto the
8 bill; or

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