

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

As Engrossed: H2/10/05 H2/18/05 H3/1/05

85th General Assembly

A Bill

Regular Session, 2005

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 commonly found in most 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.

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

(b) This subchapter shall apply only to records created by each state agency after the date the state agency shall comply with the rules and guidelines promulgated under this subchapter.



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2 25-18-603. Definitions.

3 As used in this subchapter:

4 (1) "Public records" means the same as defined in § 25-19-
5 103(5)(A); and

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

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14 25-18-604. Retention requirement.

15 (a)(1) The Office of the Chief Executive Information Officer shall
16 direct the development of rules and guidelines for the retention of public
17 records commonly found in most state agencies.

18 (2) The CIO Council shall provide review and advice on the rules
19 and guidelines developed pursuant to subdivision (a)(1) of this section.

20 (b) Before January 1, 2006, the Office of the Executive Chief
21 Information Officer shall promulgate pursuant to the Arkansas Administrative
22 Procedure Act, § 25-15-201 et seq., rules and guidelines governing the
23 retention and management of public records commonly found in most state
24 agencies, including, but not limited to, electronic records.

25 (c) Each state agency shall comply with the rules and guidelines
26 promulgated under this subchapter upon the earlier of:

27 (1) July 1, 2007; or

28 (2) The line-item appropriation to the agency in question of
29 funds to comply with this subchapter.

30 (d) The Office of the Executive Chief Information Officer shall make
31 periodic updates to the rules governing the retention and management of
32 public records commonly found in most state agencies pursuant to the
33 provisions of the Arkansas Administrative Procedures Act, § 25-15-201 et seq.

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35 25-18-605. Conflict with federal or state laws.

36 (a) If any rule promulgated under this subchapter is found to conflict

1 with current federal or state law for the retention of public records, the
2 federal or state law shall override the rule promulgated under this
3 subchapter.

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

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8 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
9 General Assembly of the State of Arkansas that there is no general records
10 retention law and that this act is immediately necessary to preserve public
11 records that could be lost permanently without this act. Therefore, an
12 emergency is declared to exist and this act being immediately necessary for
13 the preservation of the public peace, health, and safety shall become
14 effective on:

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

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

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

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22 */s/ Mahony*
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