

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.

1 State of Arkansas As Engrossed: H2/10/05 H2/18/05 H3/1/05 H3/3/05

2 85th General Assembly

# A Bill

3 Regular Session, 2005

HOUSE BILL 1514

4

5 By: Representative Mahony

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## For An Act To Be Entitled

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AN ACT CONCERNING THE RETENTION OF PUBLIC RECORDS

10

BY STATE AGENCIES; AND FOR OTHER PURPOSES.

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## Subtitle

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AN ACT CONCERNING THE RETENTION OF

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PUBLIC RECORDS BY STATE AGENCIES.

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

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

21 25-18-601. Legislative intent.

22 (a) The General Assembly finds that while the Freedom of Information  
23 Act of 1967 provides disclosure guarantees for public records, and due to Act  
24 1252 of 2001, there is no general requirement for agencies to preserve public  
25 records.

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

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31 25-18-602. Applicability.

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

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



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2 25-18-603. Definitions.

3 As used in this subchapter:

4 (1) "CIO Council" means the same as defined in § 25-33-102;

5 (2) "Executive Chief Information Officer" means the Executive  
6 Chief Information Officer of the state appointed under § 25-33-103;

7 (3) "Public records" means the same as defined in § 25-19-  
8 103(5)(A); and

9 (4) "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, the Court of Appeals, the Administrative Office of the Courts, and  
13 public institutions of higher education with respect to academic, research,  
14 health care, and existing information and technology applications and  
15 underlying support.

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17 25-18-604. Retention requirement.

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

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

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

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

30 (1) July 1, 2007; or

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

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

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2 25-18-605. Conflict with federal or state laws.

3 (a) If any rule promulgated under this subchapter is found to conflict  
4 with current federal or state law for the retention of public records, the  
5 federal or state law shall override the rule promulgated under this  
6 subchapter.

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

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11 *SECTION 2. Arkansas Code § 25-33-104(a), concerning the duties of the*  
12 *Executive Chief Information Officer, is amended to read as follows:*

13 *(a) The Executive Chief Information Officer shall:*

14 *(1) Utilize any personnel and resources of the Department of*  
15 *Information Systems as deemed necessary with the consent of the Governor,*  
16 *including, but not limited to, the functions currently performed by the*  
17 *Office of Information Technology;*

18 *(2)(A) Direct the formulation and promulgation of policies,*  
19 *standards, specifications, and guidelines for information technology in the*  
20 *state, including, but not limited to, those required to support state and*  
21 *local government exchange in a secure environment for the acquisition,*  
22 *storage, use, sharing, and distribution of core infrastructure components as*  
23 *defined by the State of Arkansas shared technical architecture.*

24 *(B) The areas in which standards, policies, and guidelines*  
25 *shall be developed shall include, but are not limited to, retention schedules*  
26 *for control, preservation, protection, and disposition of the electronic*  
27 *records of agencies;*

28 *(3) Develop a process for how all state agencies shall have*  
29 *input into the formation of these policies, standards, specifications, and*  
30 *guidelines and present the plan to the Governor and the General Assembly;*

31 *(4) If deemed necessary and appropriate, establish working*  
32 *groups to assist in the formulation of policies, standards, specifications,*  
33 *and guidelines and assure that all agencies have the opportunity to review*  
34 *and comment;*

35 *(5) Oversee the development of legislation and rules and*  
36 *regulations affecting electronic records management and retention, privacy,*

1 security, and related issues;

2 (6) Create a state security office to monitor information  
3 resource security issues, coordinate all security measures which could be  
4 used to protect resources by more than one (1) governmental entity, and act  
5 as an information technology resource to other state agencies;

6 (7) Oversee the development of information technology security  
7 policy for state agencies;

8 (8) Direct the development of policies and procedures, in  
9 consultation with the CIO Council, which state agencies shall follow in  
10 developing information technology plans and technology-related budgets and  
11 technology project justification;

12 (9) Establish criteria for enterprise projects and review  
13 enterprise project plans and budget requests and recommend priorities to the  
14 council;

15 (10)(A) Develop plans and implementation strategies to  
16 promulgate state-level missions, goals, and objectives for the use of  
17 information technology, with the review and advice of the council.

18 (B) These plans and strategies shall include, but not be  
19 limited to:

20 (i) Business case development for information  
21 technology applications;

22 (ii) Maximizing state purchasing power;

23 (iii) Increasing collaborative efforts for projects  
24 of mutual interest; and

25 (iv) Creating opportunities to develop public and  
26 private partnerships;

27 (11) Review procurements to ensure conformity with information  
28 policies and standards and state-level plans and implementation strategies;

29 (12) Advise state agencies in acquiring information technology  
30 service, as well as advise on information technology contracts and  
31 agreements;

32 (13) Make a quarterly report to the Joint Committee on Advanced  
33 Communications and Information Technology regarding the status of information  
34 technology deployment to meet the goals set forth in this enabling  
35 legislation;

36 (14) Solicit, receive, and administer funds from public and

1 private entities to be used for the purchase of information technology  
2 resources; ~~and~~

3 (15) Report to the committee and the Governor the total business  
4 analysis prepared for information technology projects; ~~and~~

5 (16) Develop and promulgate rules and guidelines governing the  
6 retention and management of public records commonly found in most state  
7 agencies.

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9 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
10 General Assembly of the State of Arkansas that there is no general records  
11 retention law and that this act is immediately necessary to preserve public  
12 records that could be lost permanently without this act. Therefore, an  
13 emergency is declared to exist and this act being immediately necessary for  
14 the preservation of the public peace, health, and safety shall become  
15 effective on:

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

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

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

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23 /s/ Mahony  
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