

State Records Act and State Records Commission Rules



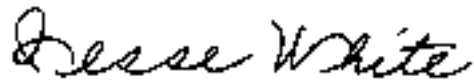
JESSE WHITE
Secretary of State and State Archivist

A MESSAGE FROM THE SECRETARY

The Illinois State Archives works closely with state government agencies to preserve records that may have legal, administrative, or historical value. As State Archivist, I want to inform all agencies about the proper management and disposal of records.

This booklet contains the provisions of the State Records Act (5 ILCS 160/1) and the rules established by the State Records Commission to implement this act. The commission is serviced and staffed by the Records Management Section of the State Archives in the Office of the Secretary of State.

If you have any questions about the State Records Act, or if you need to dispose of records, call or write the State Records Unit, Illinois State Archives, Margaret Cross Norton Building, Springfield, IL 62756 (217) 782-2647.

A handwritten signature in black ink that reads "Jesse White". The signature is written in a cursive style with a large initial "J" and "W".

Secretary of State
& State Archivist

The State Records Act

AN ACT relating to State records, providing for a State Archives division of the office of Secretary of State, creating the State Records Commission and defining its powers and duties, providing for a continuing records and paperwork management program and repealing an Act therein named. (Laws 1957, p. 1687, approved and eff. July 6, 1957.)

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

160/1. Short title §1. This Act may be cited as the State Records Act.

Laws 1957, p. 1687, § 1, eff. July 6, 1957. Amended by P.A. 86-1475, Art. 4 §, 4-82, eff. Jan. 10, 1991.
Formerly Ill. Rev. Stat. 1991, ch. 116, ¶43.4.

160/2. Definitions § 2. For the purposes of this Act:

“Secretary” means the Secretary of State.

“Record” or “records” means all books, papers, maps, photographs, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed or received by any agency in the State in pursuance of state law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its successor as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the State or of the State Government, or because of the informational data contained therein. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in this Act. Reports of impaired physicians under Section 16.04 of the Medical Practice Act¹ or Section 23 of the Medical Practice Act of 1987² are not included within the definition of records as used in this Act.

“Agency” means all parts, boards, and commissions of the executive branch of the State government including but not limited to State colleges and universities and their governing boards and all departments established by the “Civil Administrative Code of Illinois,” as heretofore or hereafter amended.³

“Public Officer” or “public officers” means all officers of the executive branch of the State government, all officers created by the ‘Civil Administrative Code of Illinois,’ as heretofore or hereafter amended, and all other officers and heads, presidents, or chairmen of boards, commissions, and agencies of the State government.

“Commission” means the State Records Commission.

“Archivist” means the Secretary of State.

Laws 1957, p.1687, § 2, eff. July 6, 1957. Amended by P.A. 83-663, § 1 eff. Jan 1, 1984; P.A. 84-164, § 3, eff. Aug. 16, 1985; P.A. 85-1209, Art. III, § 3-126, eff. Aug. 30, 1988.
Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.5.

¹ Former Ill. Rev. Stat. Chapter 111, ¶ 4437 (repealed).

² 225 ILCS 60/23.

³ 20 ILCS 5/1 et seq.

160/3. Reports and records of obligation, receipt and use of public funds as public records §3. Reports and records of the obligation, receipt and use of public funds of the State are public records available for inspection by the public, except as access to such records is otherwise limited or prohibited by law or pursuant to law. These records shall be kept at the official place of business of the State or at a designated place of business of the State. These records shall be available for public inspection during regular office hours except when in immediate use by persons exercising official duties which require the use of those records. The person in charge of such records may require a notice in writing to be submitted 24 hours prior to inspection and may require that such notice specify which records are to be inspected. Nothing in this section shall require the State to invade or assist in the invasion of any person’s right to privacy. Nothing in this Section shall be construed to limit any right given by statute or rule of law with respect to the inspection of other types of records.

Warrants and vouchers in the keeping of the State Comptroller may be destroyed by him as authorized by “An Act in relation to the reproduction and destruction of records kept by the Comptroller”, approved August 1, 1949, as now or hereafter amended.¹

Laws 1957, p. 1687, § 3, eff. July 6, 1957. Amended by P.A. 77-1870, § 1, eff. Oct. 1, 1972; P.A. 79-139, § 2, eff. Oct. 1 1975; P.A. 83-663, § 1, eff. Jan. 1, 1984.
Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.6.

¹15 ILCS 415/1 et seq.

160/4. Right of access by public—Reproductions—Fees §4. Any person shall have the right of access to any public records of the expenditure or receipt of public funds as defined in Section 3¹ for the purpose of obtaining copies of the same or of making photographs of the same while in the possession, custody and control of the lawful custodian thereof, or his authorized deputy. The photographing shall be done under the supervision of the lawful custodian of said records, who has the right to adopt and enforce reasonable rules governing such work. The work of photographing shall, when possible, be done in the room where the records, documents or instruments are kept. However, if in the judgment of the lawful custodian of the records, documents

or instruments, it would be impossible or impracticable to perform the work in the room in which the records, documents or instruments are kept, the work shall be done in some other room or place as nearly adjacent as possible to the room where kept. Where the providing of a separate room or place is necessary, the expense of providing for the same shall be borne by the person or persons desiring to photograph the records, documents or instruments. The lawful custodian of the records, documents or instruments may charge the same fee for the services rendered by him or his assistant in supervising the photographing as may be charged for furnishing a certified copy or copies of the said record, document or instrument. In the event that the lawful custodian of said records shall deem it advisable in his judgment to furnish photographs of such public records, instruments or documents in lieu of allowing the same to be photographed, then in such event he may furnish photographs of such records and charge a fee of 35¢ per page when the page to be photographed does not exceed legal size and \$1.00 per page when the page to be photographed exceeds legal size and where the fees and charges therefor are not otherwise fixed by law.

Laws 1957, p. 1687, § 4, eff. July 6, 1957.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.7

¹⁵ ILCS 160/3.

160/5. State Archives Division—Creation § 5. The Secretary of State shall provide for a State Archives Division as a repository of State records. The State Archives may utilize space in the Archives Building or other buildings as may be necessary or appropriate for the purpose, in the opinion of the Secretary of State. Laws 1957, p. 1687, § 5, eff. July 6, 1957. Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.8.

160/6. Secretary of State to be State Archivist—Assistants § 6. The Secretary of State shall be the State Archivist and Records Administrator and he shall appoint such assistants, who shall be technically qualified and experienced in the control and management of archival materials and in records management practices and techniques, as are necessary to carry out his duties as State Archivist.

Laws 1957, p. 1687, § 6, eff. July 6, 1957.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.9.

160/7. Powers and duties of secretary—Public access to records § 7. The Secretary:

(1) whenever it appears to him to be in the public interest, may accept for deposit in the State Archives the records of any agency or of the Legislative or Judicial branches of the State government that are determined by him to have sufficient historical or other value to warrant the permanent preservation of such records by the State of Illinois;

(2) may accept for deposit in the State Archives official papers, drawings, maps, writings, and records of every description of counties, municipal corporations, political subdivisions and courts of this State, and records of the federal government pertaining to Illinois, when such materials are deemed by the Secretary to have sufficient historical or other value to warrant their continued preservation by the State of Illinois;

(3) whenever he deems it in the public interest, may accept for deposit in the State Archives motion picture films, still pictures, and sound recordings that are appropriate for preservation by the State government as evidence of its organization, functions and policies;

(4) shall be responsible for the custody, use, servicing and withdrawal of records transferred for deposit in the State Archives. The Secretary shall observe any rights, limitations, or restrictions imposed by law relating to the use of records, including the provisions of the Mental Health and Developmental Disabilities Confidentiality Act¹ which limit access to certain records or which permit access to certain records only after the removal of all personally identifiable data. Access to restricted records shall be at the direction of the depositing State agency or, in the case of records deposited by the legislative or judicial branches of State government at the direction of the branch which deposited them, but no limitation on access to such records shall extend more than 75 years after the creation of the records, except as provided in the Mental Health and Developmental Disabilities Confidentiality Act. The Secretary shall not impose restrictions on the use of records that are defined by law as public records or as records open to public inspection;

(5) shall make provision for the preservation, arrangement, repair, and rehabilitation, duplication and reproduction, description, and exhibition of records deposited in the State Archives as may be needed or appropriate;

(6) shall make or reproduce and furnish upon demand authenticated copies of any of the documents, photographic materials or other records deposited in the State Archives, the public examination of which is not prohibited by statutory limitations or restrictions or protected by copyright. The Secretary shall charge a fee therefor in accordance with the schedule of fees in Section 10 of "An Act concerning fees and salaries, and to classify the several counties of this state with reference thereto," approved March 29, 1872, as amended², except that there shall be no charge for making or authentication of such copies or reproductions furnished to any department or agency of the State for official use. When any such copy or reproduction is authenticated by the Great Seal of the State of Illinois and is certified by the Secretary, or in his name by his authorized representative, such copy or reproduction shall be admitted in evidence as if it were the original;

(7) any official of the State of Illinois may turn over to the Secretary of State, with his consent, for permanent preservation in the State Archives, any official books, records, documents, original papers, or files, not in current use in his office, taking a receipt therefor;

(8) shall require of all persons, firms, corporations or other legal entities who desire access to information not defined as public records or as records open to public inspection, but open to the public, as provided in this Act, an affidavit dated and signed by the person making the request or his representative, notarized by a notary public, and containing substantially the following:

"Application and Agreement for Release of Information

"The Secretary of State, State of Illinois, agrees to release the following described information subject to the following agreement:

"It is hereby agreed by _____, known as the User, that the information, lists, names and other material provided by the Office of the Secretary of State shall not be made available to other persons, firms, corporations or other legal entities. The User agrees that it shall preserve the confidentiality of any person or persons named in these records.

"The information contained shall not be exchanged with any other person, firm or corporation for other information or lists unless the identity of any person or persons named in these records has been removed. Such an act shall constitute a material breach of this agreement and all information previously received by the User shall be returned to the Office of the Secretary of State, State of Illinois.

"The user understands that any violation of this agreement is a Class A misdemeanor, punishable by imprisonment in a penal institution other than a penitentiary for not more than one year or a fine not exceeding \$1,000, or both.

"Description of information: _____

Date _____ Date _____

Signature

Signature

Secretary of State,
State of Illinois

User or his representative

by _____

User's name, if not above

Director
Archives and Records

User's Address

A violation of the provisions of an agreement under this paragraph (8) is a Class A misdemeanor.

(9) may cooperate with the Illinois State Genealogical Society, or its successor organization, for the mutual benefit of the Society and the Illinois State Archives, with the State Archives furnishing necessary space for the society to carry on its functions and keep its records, to receive publications of the Illinois State Genealogical Society, to use members of the Illinois State Genealogical Society as volunteers in various archival projects and to store the Illinois State Genealogical Society's film collections.

Laws 1957, p. 1687, § 7, eff. July 6, 1957. Amended by P.A. 81-913, § 1, eff. Sept. 22, 1979; P.A. 85-1238, § 4, eff. Aug. 30, 1988.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.10.

¹740 ILCS 110/1 et seq.

²Former Ill. Rev. Stat. Chapter 53, ¶ 24 (repealed).

160/8. Preservation of records § 8. The head of each agency shall cause to be made and preserved records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities.

This section shall not be construed to prevent the legal disposal of any records determined by the agency and by the Commission not to have sufficient value to warrant their continued preservation by the State or by the agency concerned.

Laws 1957, p. 1687, § 8, eff. July 6, 1957.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.11.

160/9. Programs for efficient management of records § 9. The head of each agency shall establish, and maintain an active, continuing program for the economical and efficient management of the records of the agency.

Such program:

(1) shall provide for effective controls over the creation, maintenance, and the use of records in the conduct of current business;

(2) shall provide for cooperation with the Secretary in applying standards, procedures, and techniques to improve the management of records, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and disposal of records of temporary value;

(3) shall provide for compliance with the provisions of this Act the rules and regulations issued thereunder.

This Section shall not apply to State colleges and universities and their governing boards.

Laws 1957, p. 1687, § 9, eff. July 6, 1957. Amended by P.A. 83-663, § 1, eff. Jan. 1, 1984.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.12.

160.10. Transfer of agency records § 10. Whenever the head of any agency determines that substantial economies or increased operating efficiency can be effected thereby, he may, subject to the approval of the Secretary, provide for the storage, care, and servicing of records that are appropriate therefor in a records center operated and maintained by the Secretary.

Laws 1957, p. 1687, § 10 eff. July 6, 1957.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.13.

160/11. Records not to be damaged or destroyed § 11. All records made or received by or under the authority of or coming into the custody, control or possession of public officials of this State in the course of their public duties are the property of the State and shall not be mutilated, destroyed, transferred, removed or otherwise damaged or disposed of, in whole or in part except as provided by law.

Laws 1957, p. 1687, § 11, eff. July 6, 1957.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.14.

160/12. Surveys of management and disposal practices § 12. The Secretary shall make continuing surveys of State records management and disposal practices and obtain reports thereon from agencies.

Laws 1957, p. 1687, § 12, eff. July 6, 1957.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.15.

160/13. Improvement of management practices and security of records § 13. The Secretary, with due regard to the program activities of the agencies concerned, shall make provision for the economical and efficient management of records of State agencies by analyzing, developing, promoting, coordinating, and promulgating standards, procedures, and techniques designed to improve the management of records, to insure the maintenance and security of records deemed appropriate for preservation, and to facilitate the segregation and disposal of records of temporary value. The Secretary shall aid also in promoting the efficient and economical utilization of space, equipment, and supplies needed for the purpose of creating, maintaining, storing, and servicing records.

This Section shall not apply to State colleges and universities and their governing boards.

Laws 1957, p. 1687, § 13, eff. July 6, 1957. Amended by P.A. 83-663, § 1, eff. Jan 1, 1984.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.16.

160/14. Standards for retention § 14. The Secretary shall establish standards for the selective retention of records of continuing value and assist agencies in applying such standards to records in their custody.

Laws 1957, p. 1687, § 14, eff. July 6, 1957.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.17.

160/15. Records centers § 15. The Secretary shall establish, maintain, and operate records centers for the storage, care, and servicing of records of State agencies pending their deposit in the State Archives or the disposition of such records in any other manner authorized by law. The Secretary may establish, maintain, and operate centralized microfilming services for agencies.

Laws 1957, p. 1687, § 15, eff. July 6, 1957.

Formerly Ill Rev. Stat. 1991, ch. 116, ¶ 43.18.

160.15a. System for protection and preservation of records—Establishment

§ 15a. The head of each agency shall establish a system for the protection and preservation of essential State records necessary for the continuity of governmental functions in the event of an emergency arising from enemy action or natural disaster and for the reestablishment of State Government thereafter.

Laws, 1957, p. 1687, § 15a, added by Laws 1961, p. 3508, § 1, eff. Aug. 18, 1961. Amended by P.A. 85—414, § 1, eff. Jan. 1, 1988.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶43.18a.

160/15b. Records essential for emergency government operation - Determination § 15b. The head of each agency shall:

(1) Determine what records are "essential" for emergency Government operation through consultation with all branches of Government, State agencies, and with the State Civil Defense Agency.

(2) Determine what records are "essential" for post-emergency Government operations and provide for their protection and preservation.

(3) Establish the manner in which essential records for emergency and post-emergency Government operations shall be preserved to insure emergency usability.

(4) Establish and maintain an essential records preservation program.

The Secretary may provide for security storage or relocation of essential State records in the event of an emergency arising from enemy attack or natural disaster.

Laws 1957, p. 1687, § 15b, added by Laws 1961, p. 3508, § 1, eff. Aug. 18, 1961. Amended by P.A. 85—414, § 1, eff. Jan. 1, 1988.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.18b.

160/16. State Records Commission—Membership—Meetings—Duties § 16. There is created the State Records Commission. The Commission shall consist of the following members: The Secretary of State, or his representative, who shall act as chairman; the State Historian, who shall serve as secretary; the State Treasurer, or his authorized representative; the Director of Central Management Services, or his authorized representative; the Attorney General, or his authorized representative; and the State Comptroller, or his authorized representative. The Commission shall meet whenever called by the chairman, who shall have no vote on matters considered by the Commission. It shall be the duty of the Commission to determine what records no longer have any administrative, legal, research, or historical value and should be destroyed or disposed of otherwise. Laws 1957, p. 1687, § 16, eff. July 6, 1957. Amended by P.A. 78-592, § 41, eff. Oct. 1, 1973; P.A. 80-57, § 19, eff. July 1, 1977; P.A. 82-789, Art. I, § 30, eff. July 13, 1982. Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.19.

160/17. Disposal and reproduction of records — Regulations § 17. Regardless of other authorization to the contrary, no record shall be disposed of by any agency of the State, unless approval of the State Records Commission is first obtained. The Commission shall issue regulations, not inconsistent with this Act, which shall be binding on all agencies. Such regulations shall establish procedures for compiling and submitting to the Commission lists and schedules of records proposed for disposal; procedures for the physical destruction or other disposition of records proposed for disposal; and standards for the reproduction of records by photography or microphotographic processes with the view to the disposal of the original records. Such standards shall relate to the quality of film used, preparation of the records for filming, proper identification matter on the records so that an individual document or series of documents can be located on the film with reasonable facility, and that the copies contain all significant record detail, to the end that the photographic or microphotographic copies will be adequate.

Such regulations shall also provide that the State archivist may retain any records which the Commission has authorized to be destroyed, where they have a historical value, and that the State archivist may deposit them in the State Library or State historical museum or with a historical society, museum or library.

Laws 1957, p. 1687, § 17, eff. July 6, 1957. Amended by P.A. 76-1667, § 1, eff. Oct. 3, 1969. Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.20.

160/18. Reports and schedules to be submitted by agency heads § 18 The head of each agency shall submit to the Commission, in accordance with the regulations of the Commission, lists or schedules of records in his custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal or fiscal value to warrant their further preservation. The head of each agency also shall submit lists or schedules proposing the length of time each record series warrants retention for administrative, legal or fiscal purposes after it has been received by the agency.

Laws 1957, p. 1687, § 18, eff. July 6, 1957. Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.21.

160/19. Disposition of reports and schedules § 19. All lists and schedules submitted to the Commission shall be referred to the Archivist who shall ascertain whether the records proposed for disposal have value to other agencies of the State or whether such records have research or historical value. The Archivist shall submit such lists and schedules with his recommendations in writing to the Commission; and the final disposition of such records shall be according to the orders of the Commission.

Laws 1957, p. 1687, § 19, eff. July 6, 1957. Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.22.

160/20. Destruction of nonrecord materials § 20. Nonrecord materials or materials not included within the definition of records as contained in this Act may be destroyed at any time by the agency in possession of such materials without the prior approval of the Commission. The Commission may formulate advisory procedures and interpretation to guide in the disposition of nonrecord materials.

Laws 1957, p. 1687, § 20, eff. July 6, 1957. Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.23.

160/21. Disposal of records - Consent of agency head § 21. The Archivist shall submit to the Commission, with his recommendations in writing, disposal lists of records that have been deposited in the State Archives as provided in subsections (1), (2), and (3) of Section 7 of this Act¹, after having determined that the records concerned do not have sufficient value to warrant their continued preservation by the State. However, any records deposited in the State Archives by any agency pursuant to the provisions of subsection (1) of Section 7 of this Act shall not be submitted to the Commission for disposal without the written consent of the head of such agency.

Laws 1957, p. 1687, § 21, eff. July 6, 1957. Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.24.

¹5 ILCS 160/7.

160/22. Disposition of records of terminated State agency § 22. Upon the termination of any State agency whose function or functions have not been transferred to another agency, the records of such terminated agency shall be deposited

in the State Archives. The Commission shall determine which records are of sufficient legal, historical, administrative, or fiscal value to warrant their continued preservation by the State. Records that are determined to be of insufficient value to warrant their continued preservation shall be disposed of as provided in Section 17 of this Act.

Laws 1957, p. 1687, § 22, eff. July 6, 1957.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.25

¹⁵ ILCS 160/17.

160/22a. State Archives Advisory Board—Members—Terms Officers — Compensation § 22a. There is hereby created the State Archives Advisory Board consisting of 12 voting members and 2 nonvoting members.

The voting members shall be appointed by the Secretary of State as follows: A member of the State Records Commission, a member of a Local Records Commission, a member of a local historical society or museum, a university archivist, a person in the field of education specializing in either history or political science, a genealogist, a research or reference librarian, a person who is employed or engaged as an archivist by a business establishment and 4 public members.

The nonvoting members shall be the Director of the State Library and the State Historian who shall serve ex-officio.

Four of the initial appointees shall serve a 1-year term; four shall serve 2-year terms; and the remaining 4 shall serve 3-year terms. The terms of the initial appointees shall be specified by the Secretary of State at the time of appointments. Subsequent to the initial appointments all members shall hold office for a period of 3 years. Vacancies shall be filled by appointment of the Secretary of State for the unexpired balance of the term. No person shall serve for more than 2 consecutive 3-year terms.

The State Archives Advisory Board shall elect from its own members one chairman and one vice chairman.

The members appointed to the Board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

Laws 1957, p. 1687, § 22a, added by P.A. 83-523, § 1, eff. Sept. 17, 1983.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.25a.

160/22b. State Archives Advisory Board—Meetings—Recommendations § 22b. The State Archives Advisory Board shall meet at the call of the chairman, but not less than 3 times in each calendar year, and shall make recommendations to the State Archivist on such matters as: general policies regarding the operation of the State archives; budget policies relative to annual appropriations by the General Assembly; and policies for federal funded archives programs.

Laws 1957, p. 1687, § 22b, added by P.A. 83-523, § 1, eff. Sept. 17, 1983.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.25b.

160/22c. Archiving of local government documents on optical disk media § 22c. The Secretary, no later than April 1, 1992, shall provide the General Assembly with his recommendations for the archiving of local government documents on optical disk media.

Laws 1957, p. 1687, § 22c, added by P.A. 87-825, § 3, eff. Dec. 16, 1991.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.25c.

160/23. Repeal - Saving clause § 23. "An Act creating the State Records Commission and defining its powers and duties," approved July 23, 1943, as amended, is repealed, but all orders heretofore issued by the State Records Commission created by said Act shall stand and continue to be in full force and effect.

Laws 1957, p. 1687, § 23, eff. July 6, 1957.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.26.

¹Former Ill. Rev. Stat. Chapter 116, ¶ 39 to 43.3 (repealed).

160/24. Penalty for violation § 24. Any officer or employee who violates the provisions of Section 3 of this Act¹ is guilty of a Class B misdemeanor.

Laws 1957, p. 1687, § 24, eff. July 6, 1957. Amended by P.A. 77-2221, § 1, eff. Jan. 1, 1973.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.27.

¹⁵ ILCS 160/3.

160/25. Partial invalidity § 25. The invalidity of any section or part or portion of this act shall not affect the validity of the remaining sections or parts thereof.

Laws 1957, p. 1687, § 25, eff. July 6, 1957.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.28.

160/26. Freedom of Information Act—Application § 26. Beginning July 1, 1984, the provisions of Sections 3 and 4 of this Act¹, as they relate to inspection and copying of records, shall apply only as to records and reports prepared or received prior to this date. Records and reports prepared or received on or after July 1, 1984, shall be covered under the provisions of "the Freedom of Information Act", approved by the 83rd General Assembly².

Laws 1957, p. 1687, § 26, added by P.A. 83-1013, § 12, eff. July 1, 1984.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 43.29

¹⁵ ILCS 160/3 and 160/4.

²⁵ ILCS 140/1.1 et seq.

LAWS RELATING TO STATE RECORDS ACT

AN ACT in relation to the reproduction of public records on film and the destruction of the records so reproduced. Laws 1943, vol. 1, p. 1057, approved and eff. July 24, 1943.

170/1. "Public officer" defined

§ 1. The term "public officer" means any officer of the Executive Department of the State government, the Clerk of the Supreme Court, all officers created by "The Civil Administrative Code of Illinois", approved March 7, 1917, as amended¹, and all other officers, boards, commissions and agencies of the State government.

Laws 1943, vol. 1, p. 1057, § 1, eff. July 24, 1943.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 35.

¹20 ILCS 5/1 et seq.

170/2. Reproduction of records on film

§ 2. Any public officer of the state may cause any or all records, papers or documents made or kept by him to be photographed, microphotographed or reproduced on film. The reproduction of records by photographic, microphotographic or other processes, when such reproductions are to serve as permanent records, shall comply with the regulations and standards of the State Records Commission. Other durable media using machine readable techniques may be used as an alternative to film, provided the medium is non-erasable and cannot be altered once the original document has been recorded.

Laws 1943, vol. 1, p. 1057, § 2, eff. July 24, 1943. Amended by Laws 1957, p. 1602, § 1, eff. July 6, 1957;

Laws 1959, p. 135, § 1, eff. July , 1959; P.A. 87-205, Art. 2, § 2-9, eff. July 1, 1992.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 36.

170/3. Film or other process as original record

§ 3. Such photographs, microphotographs or photographic film or the result of any other process authorized by Section 2¹ shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification, or certified copy of the original.

Laws 1943, vol. 1, p. 1057, § 3, eff. July 24, 1943. Amended by P.A. 87-205, Art. 2 § 2-9, eff. July 1, 1992.

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 37.

¹5 ILCS 170/2.

170/4. Disposition of originals

§ 4. Whenever such photographs, microphotographs, reproductions on film or the result of any other process authorized by Section 2¹ shall be placed in conveniently accessible files and provisions made for preserving, examining and using the same, any such public officer may, with the approval of the State Records Commission, cause the original records from which the photographs or microphotographs or other permanent record have been made or any part thereof to be disposed of according to methods prescribed by law.

Laws 1943, vol. 1, p. 1057, § 4, eff. July 24, 1943. Amended by Laws 1953, p. 1029, eff. July 10, 1953; P.A. 87-205, Art. 2 § 2-9, eff. July 1, 1992..

Formerly Ill. Rev. Stat. 1991, ch. 116, ¶ 38. ¹5 ILCS 170/2.

CRIMINAL CODE REFERENCE

(720 ILCS 5/32-8, the Criminal Code)

5/32-8. Tampering with Public Records § 32-8. A person who knowingly and without lawful authority alters, destroys, defaces, removes or conceals any public record commits a Class 4 felony.

Laws 1961, p. 1983, § 32-8, eff. Jan. 1, 1962. Amended by P.A. 77-2638, § 1, eff. Jan 1, 1973.

Formerly Ill. Rev. Stat. 1991, ch. 38, ¶ 32-8.

State Records Commission Rules

Section 4400.10 General

- a) The State Records Commission shall consist of the Secretary of State or his representative, who shall act as chairman; the State Historian, who shall act as secretary; the State Treasurer, or his authorized representative; the Director of Central Management Services, or his authorized representative; the Attorney General, or his authorized representative; and the State Comptroller, or his authorized representative.
- b) The Commission shall meet whenever called by the Chairman, who shall have no vote on matters considered by the Commission.
- c) All meetings of the Commission shall be open to the public and will be held in the conference room of the State Archives Building, unless otherwise stated in the call for the meeting.
- d) It is the duty of the Commission to determine what records no longer have administrative, legal, fiscal, research, or historical value and should be destroyed or disposed of otherwise. The State archivist may retain any records which the Commission has authorized to be destroyed, where they have a historical value, and may deposit them in the State Library or State historical museum or with a historical society, museum or library.
- e) No record shall be disposed of by any agency of the State, unless approval of the State Records Commission is first obtained.
- f) The Commission reserves the right to review, modify, or revoke approved records schedules if any changes occur in the records' administrative, legal, fiscal, research or historical value after initial scheduling for destruction. Reviews, modifications and revocations of existing records schedules may only take place after the head of each agency involved receives written notice two weeks prior to the Commission meeting stating time, date, and place of meeting and the reason for the proposed review. Commission meeting date, times and locations will be posted in the Illinois State Archives two weeks prior to each meeting and will be publicized in accordance with the Open Meetings Act (5 ILCS 120/1).
- g) "Agency" means all parts, boards, and commissions of the executive branch of the State government including but not limited to all departments established by the Civil Administrative Code of Illinois, (20 ILCS 5/1) as heretofore or hereafter amended.
- h) The head of each agency shall provide for compliance with provisions of these rules.

Section 4400.20 Definitions

- a) "Records" means all books, papers, maps, photographs, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed, or received by any agency in the State in pursuance of state law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the State or of the State Government, or because of the informational data contained therein.
- b) "Nonrecord material" means:
 - 1) Material not filed as evidence of administrative activity or for the informational content thereof.
 - 2) Extra copies of documents preserved only for convenience of reference.
 - 3) Stocks of printed or reproduced documents kept for supply purposes, where file copies have been retained for record purposes.
 - 4) Books, periodicals, newspapers, posters, and other library and museum materials made or acquired and preserved solely for reference or exhibition purposes.
 - 5) Private materials neither made nor received by a state agency pursuant to state law or in connection with the transaction of public business.
 - 6) Perforated, magnetized and photographically coded cards and tapes, provided that documents containing the same information have been filed in the same office and such cards and tapes were not prepared as evidence of administrative decisions or transactions subject to audit.
- c) Whenever doubt arises whether certain papers are nonrecord materials, it should be presumed that they are records.
- d) Nonrecord materials may be destroyed at any time by the agency in possession of such materials without the prior approval of the State Records Commission.
- e) Permanent record film is a photographic camera original, or an exact copy of such an original film, so composed and treated that the image and support will have maximum keeping quality under archival room storage conditions of temperature. 65-70 degrees F. and humidity 30-40%.
- f) Raw stock. Raw stock is sensitized photographic material that has not undergone the process of development.

Section 4400.25 Record Management

- a) For purposes of this Section, the following definitions shall apply:

"Administrative Value" – Refers to those aspects of records which contain facts concerning an agency's administrative decisions which an agency needs for its immediate day-to-day function. This value almost always diminishes and is lost over time.

"Fiscal Value" – Refers to those aspects of records which contain monetary information which accounts for the expenditure of funds.

"Illinois State Archives" – Means the Department of the Archives and Records, Office of the Secretary of State established pursuant to the State Records Act (5 ILCS 160/1).

"Legal Value" – Refers to records which contain evidence of legally enforceable rights or obligations of the State such as legal decisions and opinions; fiscal documents representing agreements, such as leases, titles and contracts; and records of actions in particular cases, such as claim papers and legal dockets.

"Permanent" – To be retained forever (as long as the data stored on the particular medium is retrievable).

"Records Retention Schedule" – The document stating the official retention, maintenance and disposition requirements for a record series, or type of record, based on administrative, fiscal, legal or archival values for the scheduled records. The schedule is of no force unless approved by the State Records Commission (see Section 8 of the State Records Act (5 ILCS 160/8)).

"Record Series" – A group of identical or related documents (either as to form or content) which is arranged under a single filing system, or kept together as a unit because they consist of the same form, relate to the same subject, result from the same activity, or have certain common physical characteristics (i.e., maps, blueprints, etc.). A series may contain both forms and correspondence.

"Research, Historical or Archival Value" – Refers to records which document a specific state program, document a unique program, document a departure from previous state policy, document formation of public policy, document the activities of an important government official, and document a trend or movement by the citizenry.

"Secretary" – Secretary of State of Illinois.

- b) The State Records Act (5 ILCS 160/1) places with the Secretary of State the responsibility to provide the expertise and technical assistance necessary for State agencies to properly manage their records. The Secretary provides this service through the Illinois State Archives – Records Management Section.
- c) The State Records Act places three major responsibilities on State agencies:
 - 1) No record shall be disposed of by any agency of State, unless the approval of the State Records Commission (hereinafter referred to as the Commission) is first obtained.
 - 2) The head of each agency shall establish and maintain an active, continuing program for the economical and efficient management of records of the agency.
 - 3) The head of each agency shall submit to the Commission, lists or schedules of records in his custody that are not needed in the transaction of public business and do not warrant further preservation. Any agency that knowingly and without lawful authority alters, destroys, defaces, removes, or conceals any public record is guilty of a Class 4 felony as provided in Section 32-8 of the Criminal Code of 1961 (5 ILCS 160/8) and (720 ILCS 5/32.8).
- d) When requested by authorized State agency officials, the State Records Unit field representatives (hereinafter referred to as field representatives) present the records management program to the agency and provide guidance in the implementation of records management practices. The field representatives personally contact the State agencies for the purposes of:
 - 1) providing for the economical and efficient management of the records of an agency;
 - 2) analyzing, developing, promoting, coordinating, and promulgating management of records;
 - 3) establishing retentions for an agency's records;
 - 4) facilitating the segregation, storage, and disposal of records with temporary value; and
 - 5) insuring the maintenance and security of records deemed for permanent preservation.
- e) The State Records Commission has set standards for the reproduction of public records by micrographic process. Standards regarding the quality of film, preparation and identification of records, and proper certification of copies are provided in Sections 4400.50 and 4400.60.
- f) The field representative will complete a records inventory for the State agency. The inventory serves as basis of determining the records program required. The records inventory worksheet shall contain the following information:
 - 1) the date the worksheet was completed;
 - 2) the number of the inventory worksheet;
 - 3) the records series title;
 - 4) the beginning date of the series or an estimated date for records no longer created or required;
 - 5) the total number of cubic feet of the records series in existence at the time of the inventory;
 - 6) the accumulation, in cubic feet, of the series for the most recent year;
 - 7) the physical measurements of the documents or a description of the documents;
 - 8) whether the series is arranged chronologically, alphabetically, numerically, or by status (active, or closed);
 - 9) the official designation of the State agency and the division and/or subdivision if appropriate;
 - 10) the location of the office of the person having responsibility for the records;
 - 11) the name, title, and phone number of the person responsible for the records;
 - 12) a description of the index or finding aid for the records;
 - 13) a detailed and accurate description of each record series; and

- 14) the recommendation regarding retention of records in terms of years or months.
- g) The values considered by the Records Management Section in appraising records for retention purposes are as follows:
 - 1) the administrative value;
 - 2) the legal value;
 - 3) the fiscal value; and
 - 4) the research, historical, or archival value.
 - h) The Records Management Section will examine the records in light of the values listed in subsection (g) to determine if the records should be retained by the agency, transferred to the State Archives, or destroyed.
 - i) If the agency's approved Record Retention Schedule (Application for Authority to Dispose of State Records) authorized the destruction of records which are stored in the agency's own office(s), the State Records Disposal Certificate shall be completed and approved by the Chairman of the State Records Commission prior to the physical destruction of the agency's files. The Disposal Certificate shall be submitted thirty (30) days prior to the date of the proposed destruction unless the waiting period has been waived by the Commission Chairman.
 - j) If the agency's approved Records Retention Schedule provides for the transfer of agency files to the State Archives after retention in the office, Form ARD-50 (Archives Records Transfer Sheet) shall be completed and included with the Records when they are transferred to the Archives.

Section 4400.30 Procedures for Compiling and Submitting Lists and Schedules of Records of Disposal

- a) The head of each agency shall submit to the Commission lists or schedules or records in his custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal, or fiscal value to warrant their further preservation.
 - 1) Lists are applications for authority to destroy records that have accumulated.
 - 2) Schedules are applications for continuing authority to destroy records after specified periods of time or the occurrence of specified events.
- b) New lists or schedules are required whenever the informational contents of a record series are changed.
- c) An original and two copies of all applications for authority to destroy records shall be submitted to the Commission on forms available from the State Records Commission, Archives Building, Springfield, Illinois, 62756.
- d) Application for authority to destroy records shall be accompanied by samples of each record series proposed for destruction, which will be filed as permanent records of the State Records Commission. Blank forms and explanatory statements may be submitted in lieu of confidential records.

Section 4400.40 Procedures for the Physical Destruction or Other Disposition of Records Proposed for Disposal

- a) Subject to statutory provisions, agencies may dispose of, records authorized for destruction by the Commission. All records, regardless of physical format or characteristics must be disposed of using the same procedures as followed for the disposition of original hard copy documents.
- b) Thirty days prior to planned disposal or destruction of records so authorized by the Commission, the head of any agency doing so will submit a State Records Disposal Certificate to the Chairman of the State Records Commission, and proceed with such disposal only after a copy of that certificate has been reviewed and signed by the Chairman and returned to the head of the agency. The original copy of this disposal certificate will be kept in the files of the State Records Commission and the duplicate copy signed and returned by the Chairman shall be retained by the disposing agency for its files.

Section 4400.50 Standards for the Reproduction of Records by Microphotographic Processes with a View to the Disposal of the Original Records.

- a) Records proposed for microfilming must be on a list or retention schedule approved by the State Records Commission.
- b) In submitting lists or schedules of records for which microfilm copies are to be substituted, the head of each agency shall certify that microfilm copies, made in accordance with standards of the State Records Commission, will be adequate substitutes for the original records.
- c) Computer Output Microfilm (COM) is to be considered an original record and not a copy of an original record. Therefore, authentication requirements for source document microfilm as found in Sections 4400.50(f) - and (9) do not apply to COM.
- d) Quality of the film used. The film stock used, and the processing thereof, shall comply with the minimum standards of quality required by the State Records Commission as set forth in Section 4400.60 of these rules.
- e) Preparation of the records for filming. All documents in the file shall be microfilmed, unless their size or physical form prevents microfilming, in which case an explanation of their omission shall be microfilmed at the appropriate point on the roll of film and be worded substantially as follows: " _____ Item Description) was omitted from this roll of film because _____ . It may be located _____ ." Any records not filmed shall be maintained by the agency or transferred to the Archives under terms specified on the approved records disposition schedule.

- f) Integrity of the original records.
- 1) The integrity of the original records shall be preserved through a photographic process such that the camera original, or exact duplicates thereof, will be adequate substitutes for the original records in that they will serve the purposes for which such records were created or maintained and that such copies will contain all significant record detail needed for probable future reference.
 - 2) Prior to microfilming, the original documents shall be so prepared, arranged, classified and indexed as to readily permit the subsequent location, examination and reproduction of the photographs thereof. Any significant characteristics of the records which would not reflect photographically (e.g., that the record is indistinct or that certain figures are of a color not suited to recording on microfilm) shall be indicated by means of an explanatory target inserted to guide the user. Any notations on the face or reverse side of any document shall be photographed and identified as forming an integral part of the original document. A significant characteristic is any part of the record necessary for its interpretation, including all words, numbers and illustrations.
 - A) Each film roll, camera negative, or sheet (including 105MM continuous fiche rolls, but not COM) shall be identified by or contain the following targets:
 - i) A technical target for measuring Resolution
 - ii) A film density target (8 1/2" x 11" bond paper).
 - iii) A roll number START target in characters that can be read without magnification.
 - iv) A TITLE target giving name of the office having custody of the records, a brief title of the record series, dates, file arrangement, and the number of the schedule approved by the State Records Commission authorizing the project.
 - v) Listed between the START file and END file targets must be explanatory targets for omission, deletion, misfiles, retakes, or any example given in Section 4400.50(f)(2).
 - B) At the end of each roll/sheet of film, after the document images, shall be targets as follow:
 - i) An END target containing the number of the list or schedule approved by the State Records Commission authorizing the project.
 - ii) Roll number.
 - iii) Brief title of the record series.
 - iv) Beginning and ending file designations.
 - v) A camera operator's certificate as follows:
 "I hereby certify that I have on this day of 19 photographed the documents appearing on this roll of film, that they are true copies of the documents found in the record file described above, and that the integrity of the above described record file has been maintained on the film by microfilming each document in the exact order in which it was found in the file. Reproductions designed to serve as permanent records comply with the regulations and standards of the State Records Commission."
 - vi) Signature of camera operator.
 - vii) A film density target (8 1/2" x 11" bond paper).
 - viii) A technical target for measuring Resolution.
- g) Security microfilm shall have no breaks, cuts or splices in the body of the film, which shall be the area following the START target and preceding the Camera Operator's Certificate. However, a retake of a length of film may be spliced ahead of the START target or after the Camera Operator's Certificate, providing that the retake be given its own START target and Camera Operator's Certificate. This shall be done in such a manner as not to overload a reel or cartridge. Exceptions to this rule are:
- 1) If the trailing end of a reel shall be fogged or unreadable, the camera operator shall rephotograph the original documents from a point 12 images in advance of the last readable image prior to the fogged or unreadable area. The retake will include a (camera operator's certificate) and will be spliced to the trailing end of the fogged or unreadable portion of the film.
 - 2) When a court-ordered expungement of specific records is issued and deletions are made from the roll of film, the court expungement order and a certificate of deletion, illustrated below, must be photographed and the images spliced to the beginning of the film.

CERTIFICATE OF DELETION

This is to certify the deletion of microfilm images on this roll of microfilm, occurred due to Court Order #, date , signed by Judge . No other images other than those listed in this order were deleted.

Signature of Officer

- h) The camera used to microfilm the records shall be one which accurately reproduces the content of the original records with sufficient photographic contrast and resolution to be readable through three generations of reproductions.
- i) Each roll of original film or camera negative must be inspected after processing and before duplicate copies are made. The inspection must be conducted in such a manner as to reveal defects such as improper density, poor resolution,

blurred or obscured images, improper document sequence, or improper identification targets. If a defect prohibits a clear, legible, hard copy print from the files, the original records must be rephotographed.

- 1) Randomly sampling the film, making sure that the samples include the beginning, middle, and end of the roll or microform. (It is suggested that this be done on all film as a minimum quality control.)
 - 2) Visually inspecting the film by passing each image through a reader and checking for overlapping, double or folded images, or other types of problems that would impair retrieving any information on the microimages.
 - 3) Performing all of (2) plus, counting the number of microimages on the film and comparing that against the number of documents that were to be microfilmed. (If the numbers coincide, the conclusion is made that every document has been microfilmed.)
 - 4) Individually comparing each document with each microimage that was actually created. (This visual verification provides the highest assurance that every document has been properly filmed.)
- j) If more than one percent of the original images need to be refilmed (approximately 30 images per roll), the entire roll must be refilmed.
- k) Updateable Microfiche Systems:
An agency considering using such a system should first contact the State Records Unit to review the proposed application. The application will be approved if the updateable microfiche meets the following specifications:
- 1) each microfiche must have the specified targets at the beginning and end of each fiche as called for by Section 4400.50(f)(2)(A) and (B).
 - 2) each time a microfiche is updated, either a camera operator's certificate must be inserted at the end of the added documents or annotated reference to the original camera operator's certificate must appear on each added image.
 - 3) only records bearing retention periods of ten years or less may be placed on updateable microforms.
 - 4) if a court ordered expungement is necessary, a certificate of deletion must appear at the place of the deleted image.
- l) Prior to the destruction of records microfilmed under the authority of approved records schedules, the agency shall file with the State Records Commission a statement of compliance with its standards governing the microfilming of records. The statement shall include:
- 1) Agency having custody of the records.
 - 2) Date.
 - 3) Title and inclusive dates of the record series.
 - 4) The number of the list or schedule approved by the State Records Commission authorizing the project.
 - 5) The following statement:
"I hereby certify that the film on which the records were reproduced complies with the standards given in Section 4400.60 of the rules of the State Records Commission."
 - 6) Signature of the microfilm project supervisor.
- m) Each film carton shall be identified by a label or exterior marking indicating:
- 1) Roll number.
 - 2) Name of office.
 - 3) Title of the record series.
 - 4) Names of the file units at the start of the roll, at space targets, and at the end of the roll.
 - 5) The number of the application authorizing the microfilming of the record/record series.
- n) Inspection
Security or Master films of permanent record microforms, and records microfilmed to dispose of the original record, shall be inspected every 2 years during their scheduled life. The inspection shall be made using a 1 percent randomly selected sample in the following categories: 70 percent- microforms not previously tested, 20 percent - microforms tested in the last inspection, and 10 percent- control group. The control group shall represent samples of microforms filmed through the most current.

Section 4400.60 Minimum Standards of Quality for Permanent Record Photographic Original Microfilm Intended for Retention Periods in Excess of 10 Years

- a) These standards are concerned with both raw stock for permanent record films and with the processed films ready for storage. They are not restricted to microfilm but apply equally to motion picture films, roll films, and sheet films. No incorporation by reference in Section 4400.60 includes any later amendments or editions.
- b) All such film stock shall be of approved permanent type such as meets the minimum specifications of the American National Standards Institute (ANSI) as found in:
PH 1.25-1976
PH 1.28-1981
PH 1.41-1981
- c) Each frame of microfilm shall be exposed and processed so that every line and character on the document appears on the microfilm with sufficient clarity to permit reproducibility through three successive generations of reproduction. With regard to operational procedures, inspection, and quality control of silver gelatin microfilm, ANSI/AIIM MS23-1991, PH 1.25 1976, PH 1.28-1981, PH 1.41-1981 and PH 4.8-1978 shall apply.

d) The background photographic densities must be appropriate to the type of documents being filmed. Appropriate background densities are as follows:

Classification	Description of Documents	Background Density
Group 1	High-quality printed books, periodicals, and dense typing	1.30 – 1.50
Group 2	Fine-line originals, letters typed with a worn ribbon, pencil writing with a soft lead, and document with small printing	1.15 – 1.40
Group 3	Pencil drawings, faded printing, graph paper with pale, fine colored lines, and very small printing such as footnotes	1.00 – 1.20
Group 4	Very weak pencil manuscripts and drawings, and poorly printed, faint documents	0.90 – 1.10
Group 5	COM	1.50 – 2.00