

MISSISSIPPI CODE OF 1972
TITLE 25
CHAPTER 59
ARCHIVES AND RECORDS MANAGEMENT

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§ 25-59-1. Short title.

This chapter shall be known and may be cited as the "Mississippi Archives and Records Management Law of 1981."

Sources: Laws, 1981, ch. 501, § 1, eff from and after July 1, 1981.

§ 25-59-3. Definitions.

For the purposes of this chapter:

- (a) "Department" shall mean the Mississippi Department of Archives and History.
- (b) "Public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other materials regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency or by any appointed or elected official. Books, periodicals and other published material normally found in a library are excluded from this definition.
- (c) "State record" shall mean a record which normally is maintained within the custody or control of a state agency or by any appointed or elected state official or any other record which

is designated or treated as a state record according to general law.

(d) "Vital record" shall mean any record vital to the resumption of the legal and financial status of government in the state or to the protection and fulfillment of obligations to the citizens of the state of Mississippi.

(e) "Agency" shall mean any state office, department, division, board, bureau, commission, institution of higher learning or other separate unit or institution of state government created or established by law.

(f) "Mississippi State Archives" shall mean an establishment maintained by the department for the preservation of those public records and other documentary materials that have been determined by the department to have sufficient historical or other enduring value to warrant their continued preservation by the state and that have been accepted by the department for deposit in its custody.

(g) "Records center" shall mean an establishment maintained by the department primarily for the processing, servicing and security of public records that must be retained for varying periods of time but need not be retained in an agency's office, equipment or space.

(h) "Records control schedule" shall mean a set of instructions prescribing how long, where or in what form records shall be kept.

(i) "Records management" shall mean the application of management techniques to the creation, utilization, maintenance, retention, preservation and disposal of records undertaken to reduce costs and improve efficiency of record-keeping. Records management includes management of filing and microfilm equipment and supplies, filing and information retrieval systems, historical documentation, micrographics, records system scheduling and vital records protection.

(j) "Director" shall mean the director of the Mississippi Department of Archives and History.

(k) "State records committee" shall mean a committee established by this chapter whose duties are to review, approve, disapprove, amend or modify records control schedules submitted by agency heads.

Sources: Laws, 1981, ch. 501, § 2, eff from and after July 1, 1981.

§ 25-59-5. Department of archives and history to be archival and records management agency.

The archival and records management agency of the state of Mississippi shall be the Mississippi Department of Archives and History.

Sources: Laws, 1981, ch. 501, § 3, eff from and after July 1, 1981.

§ 25-59-7. State records committee; duties as to records control schedules.

There is hereby created the state records committee to be composed of the governor, state registrar of vital records, state auditor of public accounts, secretary of state and the director of the department of archives and history, or their designated representatives. It shall be the duty of the committee to review, approve, disapprove, amend or modify records control schedules submitted by agency heads or appointed and elected state officials through the department for

the disposition of records based on administrative, legal, fiscal or historical value. Such records control schedules, once approved, shall be authoritative and directive, and shall have the force and effect of law. A records schedule may be determined by three (3) members of the committee. Records control schedules may be amended by the committee on change of program mission, legislative change or other actions affecting the basic mission of the agency and in turn affecting the records. The director of the department shall serve as chairman of the committee and shall schedule meetings of the committee as required. Each agency has the right of appeal to the committee for actions taken.

Sources: Laws, 1981, ch. 501, § 4, eff from and after July 1, 1981.

§ 25-59-9. Powers and duties of department of archives and history.

The Mississippi Department of Archives and History, with respect to the Mississippi Archives and Records Management Law, shall have the following powers and duties:

- (a) The department may make and enter into contracts and agreements with other agencies, organizations, associations, corporations and individuals or federal agencies as it may determine are necessary, expedient or incidental to the performance of its duties or the execution of its powers under this chapter.
- (b) The department shall adopt such rules and regulations deemed necessary to carry out its duties and responsibilities under this chapter, which rules shall be binding on all agencies and the persons affected thereby. The department shall publish said rules and regulations in accordance with the provisions of the Administrative Procedures Act, Sections 25-43-1 et seq., Mississippi Code of 1972.
- (c) Conduct a records management program including a records center and subject to the availability of staff and funds, conduct a centralized microfilming program for the benefit of all state agencies; and provide advice, assistance and training to all state agencies in matters pertaining to the economical and efficient management of public records.
- (d) Cooperate with and assist, insofar as possible, state institutions, departments, agencies, counties, municipalities and individuals engaged in the field of state archives, manuscripts and history.
- (e) Establish safeguards against unauthorized or unlawful removal or loss of records.
- (f) Initiate appropriate action to recover records removed unlawfully or without authorization.
- (g) Establish and maintain a program in cooperation with each agency for the selection and preservation of vital records considered essential to the operation of government and to the protection of the rights and privileges of citizens; make or have made preservation duplicates, or designate existing copies as preservation duplicates to be preserved in a place of safekeeping as prescribed by the department.
- (h) Promulgate rules and regulations permitting the storage, use and dissemination of records which are transferred by any local governmental body in this state to a local historical or archival group which has been incorporated and operates as a private, nonprofit corporation. Such rules and regulations shall be in accordance with the provisions of Section 25-59-25.

Sources: Laws, 1981, ch. 501, § 5; Laws, 1990, ch. 391, § 1, eff from and after July 1, 1990.

§ 25-59-11. Transfer of responsibility and title from central records storage facility to state records center.

The central records storage facility shall become the state records center. The commission of budget and accounting is hereby authorized to transfer the responsibility for the operation of the facility to the department of archives and history. The commission shall also transfer title to the building, equipment and property associated with the facility to the department.

Sources: Laws, 1981, ch. 501, § 6, eff from and after July 1, 1981.

§ 25-59-13. Procedures for transfer of records to the department of archives and history.

The transfer of records to the Mississippi Department of Archives and History shall be in accordance with the following:

(a) Agencies and appointed or elected officials are hereby authorized and empowered to turn over to the department any records no longer in current official use and the department is authorized, after conducting appropriate archival appraisal, to accept such records and to provide for their administration and preservation.

(b) All records of state agencies transferred to the department may be held in the records center or placed directly in the Mississippi State Archives as deemed appropriate.

(c) Title to any record placed in the records center shall remain in the agency transferring such records to the department.

(d) Title to any record transferred to the Mississippi State Archives shall be vested in the department.

(e) The department may make certified copies under seal of any records transferred to it upon the application of any person and said certificates signed by the director shall have the same force and effect as if made by the agency from which the records were received.

(f) The department may prescribe and charge reasonable fees for said services, which shall not be less than the actual cost thereof.

Sources: Laws, 1981, ch. 501, § 7, eff from and after July 1, 1981.

§ 25-59-15. Records management duties of state agencies and officials.

It shall be the duty of each state agency and each appointed or elected state official to:

(a) Cooperate with the department in complying with the provisions of this chapter.

(b) Establish and maintain an active and continuing program for the economical and efficient management of records.

(c) 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 or office and designed to furnish the information necessary to protect the legal and financial rights of the government and of the persons directly affected by the agency's activities.

(d) Submit to the department for review by the state records committee and in accordance with the rules and regulations of the department, a recommended retention schedule for records in its custody, except schedules for certain types of records common to all agencies or offices which may be established by the department and the state records committee. No records will be scheduled for retention any longer than is absolutely necessary in the performance of the required functions of the agency or office. Records not actively required for the performance of the agency's or official's duties will be transferred to the records center or the Mississippi State Archives in accordance with rules and regulations established by the department. Records which have been identified as archival, or which must be retained permanently, may be transferred directly to the Mississippi State Archives, consistent with the provisions of this chapter.

(e) As of the effective date of this chapter, state agencies and appointed or elected state officials shall not lease additional space for records storage or renew existing leases for that purpose without approval of the state records committee. Further, with the development of records control schedules, such records now in storage in leased offsite facilities will be removed from them in accordance with the rules and regulations of the department.

(f) Nothing in this chapter shall be construed to divest state agency heads or appointed or elected state officials of the authority to determine the nature and form of records acquired in the administration of their several responsibilities.

Sources: Laws, 1981, ch. 501, § 8, eff from and after July 1, 1981.

§ 25-59-17. Record control schedules for courts; destruction of court records.

The Mississippi Supreme Court may, by rule of the court, provide for the development of records control schedules for the various and several courts in the Mississippi judiciary system, provided that the director of the department of archives and history shall be consulted prior to the destruction of any court records.

The Mississippi Supreme Court may rule that the courts will cooperate with the department in the establishment of records control schedules for the records of the courts.

In the alternative, the courts in the individual counties may cooperate with the board of supervisors in that county in the development of an overall records management program and records control schedules. The director of the department of archives and history shall be consulted prior to the destruction of any county court records. The director shall respond to such requests within sixty (60) days.

The destruction of court records by authorized retention schedules shall not be construed as affecting the status of that court as a court of record.

Sources: Laws, 1981, ch. 501, § 9, eff from and after July 1, 1981.

§ 25-59-19. Records to be public property.

All records created or received in the performance of public duty and paid for by public funds are deemed to be public property and shall constitute a record of public acts.

Sources: Laws, 1981, ch. 501, § 10, eff from and after July 1, 1981.

§ 25-59-21. Consent of director required for disposal of public records; rules and regulations.

No person may destroy, sell, loan or otherwise dispose of any public record without the consent of the director. The department shall adopt reasonable rules and regulations, not inconsistent with this chapter, which shall be binding on all state agencies and appointed and elected state officials, relating to the destruction and disposal of records. Such rules and regulations shall include, but not be limited to: procedures for complying and submitting to the department lists and schedules of records proposed for disposal; procedures for the physical destruction or other disposal of records; and standards for the reproduction of records for security and with a view to the disposal of the original record.

Sources: Laws, 1981, ch. 501, § 11, eff from and after July 1, 1981.

§ 25-59-23. Penalties for offenses involving records.

The theft, or deliberate alienation, alteration or destruction of records by any person or persons in a manner not authorized by an applicable records control schedule, or the unlawful divulging of restricted information under this chapter shall constitute a misdemeanor, punishable by a fine of not less than five hundred dollars (\$500.00) and not greater than one thousand dollars (\$1,000.00).

Sources: Laws, 1981, ch. 501, § 12, eff from and after July 1, 1981.

§ 25-59-25. Limitation on personal liability; closed or restricted records; compliance with requirements as to location for keeping records.

(1) No person acting in compliance with the provisions of this chapter shall be held personally liable. If it becomes necessary for archivists or records analysts on the staff of the department to inspect closed or restricted records in order to appraise them for archival significance those archivists or records analysts shall not be held liable under law for such inspection. It shall be unlawful for such archivists or records analysts to divulge any information contained in the closed or restricted records.

(2) Whenever laws and regulations prescribe where a record series must be kept, the custodian of such records shall be considered in compliance with those laws, rules and regulations if he transfers the records to a local holding area, a records center or the Mississippi State Archives when he does so in accordance with an approved records control schedule. All local governmental bodies in this state are hereby authorized and empowered, in their discretion, to transfer records, after the expiration of time when such bodies no longer have to retain the records, to a public library or to a local historical or archival group which has been incorporated and operates as a private, nonprofit corporation. Any local governmental body which desires to transfer records to a local historical or archival group or public library shall have certification from the department prior to the records being transferred indicating that such entity has satisfied all the rules and regulations of the department and that the department has officially approved such entity as a records depository. The title to all records transferred to any local historical or archival group or public library shall remain in the local governmental body which transfers the records to such entity, and the ultimate authority over the records shall continue to reside with the person charged with the responsibility for making and keeping the

records. Any local governmental body may also request certification from the department of the body's own record storage area for records which the body determines to retain in its custody. Sources: Laws, 1981, ch. 501, § 13; Laws, 1990, ch. 391, § 2; Laws, 1996, ch. 537, § 6, eff from and after July 1, 1996.

§ 25-59-27. Records to be open for public use; exceptions; disposal of closed and restricted records.

All records for which title has been transferred to the Mississippi Department of Archives and History shall be open for public use at a reasonable time and place under rules and regulations adopted by the Board of Trustees of the Mississippi Department of Archives and History with the exception of those records specifically prohibited from being opened to inspection by state law, federal law, court order, by contractual agreement with a private third party or by agency request consistent with law. Records such as income tax returns, medical records, scholastic records, adoption records and other records which by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this chapter, nor shall the definition of public records include those records which it is shown that the public interest is best served by not disclosing to the public. For purposes of records management closed and restricted records may be disposed of in accordance with the provisions of this chapter for the disposal of public records.

Sources: Laws, 1981, ch. 501, § 14; Laws, 1990, ch. 406, § 1, eff from and after July 1, 1990.

§ 25-59-29. Reproduction of records and storage of copies; destruction of originals.

Any custodian of public records as defined by this chapter is authorized to reproduce any part of the records kept by the office concerned unless otherwise prohibited by law or withheld from reproduction in the public interest. Such copies shall be produced by equipment and systems which shall accurately reproduce and preserve the original record in all material details and in a durable form. Each agency shall preserve such reproductions in conveniently accessible files and provide for preserving, examining and using them. If the records are of enduring value to the agency concerned or are determined to be of archival value by the Mississippi Department of Archives and History, the reproduction and storage methods and procedures used must meet standards approved by the department. One (1) master copy of each record of enduring or archival value reproduced shall be deposited with the department. Custodians of public records may destroy the original records from which the reproductions have been made, or any part of them, provided that (a) the records are of no value to the agency concerned, (b) the Mississippi Department of Archives and History certifies that the records may be destroyed through the provisions of retention schedules approved by the state records committee, and (c) the records microfilmed or reproduced and approved for destruction are reported to the Mississippi Department of Archives and History in such manner as it may direct. Any such reproduction or copy of any original record or other document shall be deemed to be the original record for all purposes and shall be admissible as evidence in all courts or administrative agencies. A facsimile, exemplified or certified copy thereof shall for all purposes be deemed to be a transcript or certified copy of the original record.

Sources: Laws, 1981, ch. 501, § 15; Laws, 1996, ch. 453, § 5, eff from and after July 1, 1996.

§ 25-59-31. Transition from existing program of reproduction and destruction of records.

In order to provide for an orderly implementation of this chapter, the department shall not disrupt the current microfilming and destruction of public records pursuant to law. Provided, however, that such agencies shall make no further disposition of public records without the approval of the director of the Mississippi Department of Archives and History pursuant to rules and regulations promulgated to implement this chapter.

Sources: Laws, 1981, ch. 501, § 16, eff from and after July 1, 1981.