

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: S3/1/17
A Bill

SENATE BILL 276

By: Senator Irvin
By: Representative Watson

For An Act To Be Entitled

AN ACT CONCERNING COUNTY RECORD RETENTION; TO
IMPLEMENT REQUIREMENTS FOR RECORD RETENTION
CONVERSION REVIEW; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING COUNTY RECORD RETENTION; AND
TO IMPLEMENT REQUIREMENTS FOR RECORD
RETENTION CONVERSION REVIEW.

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

SECTION 1. Arkansas Code § 13-4-301 is amended to read as follows:

13-4-301. Retention required – Destruction – Electronic reproduction.

(a)(1) ~~All counties of the State of Arkansas~~ A county shall maintain the records named in this subchapter for the period of time provided for in this subchapter, after which time the records may be destroyed.

(2)(A) ~~But in no case shall the~~ The records named in this subchapter shall not be destroyed until at least one (1) year after an audit by Arkansas Legislative Audit or ~~any a private auditor audit~~ audit is completed and approved.

(B) ~~No record of any kind~~ A record named in this subchapter that is over fifty (50) years old ~~will~~ shall not be destroyed before written notice by the custodian of the records describing the scope and nature of the records in question has been furnished to the Arkansas State Archives, ~~describing the scope and nature of the records,~~ at least sixty (60) days ~~prior to~~ before the destruction of the records.



(b)(1) If a record is photographically or electronically transferred to other media of a permanent nature, the original documents may be destroyed, except that no handwritten records over fifty (50) years old shall be destroyed.

(2) A county record that is photographically or electronically transferred to other media of a permanent nature shall be transferred by a process that accurately reproduces or forms a durable medium for reproducing the original.

(c) When county records are transferred to other media of a permanent nature, the resulting transfer shall meet the following requirements:

(1) The information in the county record retained shall be transferred into a usable and accessible format capable of accurately reproducing the original over the time periods specified in this section and §§ 13-4-302 -- 13-4-308;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information in the county record;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect the records against media destruction or deterioration and information loss; and

(4) A retention conversion-and-review schedule shall be established by each county official to ensure that electronically or optically stored information, for records required to be kept permanently, is reviewed for data conversion at least one (1) time every four (4) years or more frequently when necessary to prevent the physical loss of data or loss due to technological obsolescence of the medium.

~~(c)(d)~~ Before ~~any~~ a record ~~shall be~~ is destroyed, the custodian of the record shall document the date and type of document.

(e) Records not addressed explicitly under this subchapter may be destroyed no sooner than three (3) years after an audit by Arkansas Legislative Audit or any private auditor is completed and approved.

SECTION 2. Arkansas Code § 13-4-302 is amended to read as follows:
13-4-302. Court records.

~~All counties of the State of Arkansas shall maintain records for the county courts as follows, if they are currently being maintained~~ If a county

of the State of Arkansas maintains records for the county courts, the county shall maintain these records as follows:

(1)(A) For circuit court, civil and criminal, domestic relations, juvenile, and probate records:

~~(A)(i) Permanently maintain~~ The county shall permanently maintain:

~~(i)(a)~~ Complete case files and written exhibits for all courts;

~~(ii)(b)~~ Case indices for all courts;

~~(iii)(c)~~ Case dockets for all courts;

~~(iv)(d)~~ Grand jury reports;

~~(v)(e)~~ Grand juror lists;

~~(vi)(f)~~ Petit jury lists in criminal cases;

~~(vii)(g)~~ Original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a criminal case; and

~~(viii)(h)~~ All probate records required to be maintained under § 28-1-108;

~~(B)(ii) Maintain~~ The county shall maintain for ten (10) years, after audit by Arkansas Legislative Audit:

~~(i)(a)~~ Records and reports of costs; and

~~(ii)(b)~~ Fees assessed and collected; and

~~(C)(iii) Maintain~~ The county shall maintain for three (3) years, after audit by Arkansas Legislative Audit:

~~(i)(a)~~ Canceled checks;

~~(ii)(b)~~ Bank statements;

~~(iii)(c)~~ Petit jury lists in civil cases and original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a civil case; and

~~(iv)(d)~~ Served and quashed warrants+.

(B) The county shall maintain records of the juvenile division of circuit court, in accordance with § 9-27-309 and other provisions of Title 9 and the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;

(2) For county court records:

(A) ~~Permanently maintain~~ The county shall permanently maintain:

(i) County court ~~record~~ records;
(ii) Cemetery permits;
(iii) ~~Statement~~ Statements of receipt and expenditures; and
(iv) County improvement ~~districts~~ district reports;
and

(B) ~~Maintain~~ The county shall maintain for ten (10) years, after audit by Arkansas Legislative Audit:

(i) County court ~~file~~ files;
(ii) County general claims ~~docket~~ dockets;
(iii) County road claims ~~docket~~ dockets;
(iv) Contracts for lease-purchase on rental payments;
(v) County school board financial reports;
(vi) Solid waste disposal revenue bonds; and
(vii) ~~Allocation~~ Allocations of state funds for solid waste disposal; ~~and~~

(3) For quorum court records:

(A) ~~Permanently maintain~~ The county shall permanently maintain:

(i) Ordinance, appropriation ordinance, and resolution ~~register~~ registers;
(ii) ~~Record~~ Records of proceedings;
(iii) Codification of ordinances;
(iv) ~~Register~~ Registers of county advisory and administrative boards;
(v) Appointments to subordinate service districts;
and
(vi) Quorum court minutes; and

(B) ~~Maintain~~ The county shall maintain for one (1) year the county treasurer's monthly financial report.

SECTION 3. Arkansas Code § 13-4-306 is amended to read as follows:
13-4-306. Voter registration and election records.

All counties ~~of the State of Arkansas~~ shall maintain county voter registration and election records for the county as follows, if ~~they~~ the

records are currently being ~~maintained~~:

- (1) ~~Maintain~~ Maintained permanently:
 - (A) Voter registration record files;
 - (B) Maps of election precincts from the county election commission;
 - (C) ~~Certificate~~ Certificates of election; and
 - (D) Ordinance election results; and
- (2)(A) ~~Maintain~~ Maintained for ten (10) years, after canceled, a person's voter registration record and reason for cancellation of a person's voter registration.
 - (B) ~~Maintain~~ Maintained for ten (10) years:
 - (i) Minutes of board of election commission; and
 - (ii) Election ~~file~~ files.
 - (C) ~~Maintain~~ Maintained for five (5) years:
 - (i) Petition, certificate, and notices for ordinance;
 - (ii) Political practice ~~pledge~~ pledges;
 - (iii) Campaign contribution and expenditure sheets;
 - (iv) Code of ethics statements; and
 - (v) Financial ~~disclosure~~ disclosures.
 - (D) ~~Maintain~~ Maintained for two (2) years:
 - (i) Acknowledgement notices giving the disposition of a person's voter registration application;
 - (ii) Precinct voter registration lists prepared for each election;
 - (iii) Confirmation notices mailed by a county clerk to confirm a voter's change of residence or name;
 - (iv) Confirmation return cards received in response to a confirmation notice; ~~and~~
 - (v) Absentee ballot applications and lists, except where litigation follows or federal law governs-; (vi) Voter registration cards; and
 - (E) Until an election is certified to the Secretary of State under § 7-5-701, all unused ballots.

SECTION 4. Arkansas Code § 13-4-401 is amended to read as follows:

13-4-401. Retention required – Destruction – Electronic reproduction.

(a)(1) A county sheriff's office shall maintain the records named in this subchapter for the period of time provided in this subchapter, after which time the records may be destroyed.

(2)(A) ~~In no case shall administrative records~~ Administrative records shall not be destroyed until at least one (1) year after an audit by Arkansas Legislative Audit or a private auditor is completed and approved.

(B) ~~Any~~ A record over fifty (50) years old ~~will~~ shall not be destroyed before written notice by the custodian of the records in question has been furnished to the Arkansas State Archives, describing the scope and nature of the records, at least sixty (60) days before the destruction of the records.

(b)(1) If a record is photographically or ~~otherwise~~ electronically transferred to other media of a permanent nature, the original document may be destroyed, except that a handwritten record over fifty (50) years old shall not be destroyed.

(2) A county record that is photographically transferred to other media of a permanent nature shall be transferred by a process that accurately reproduces or forms a durable medium for reproducing the original.

(c) When county records are transferred to other media of a permanent nature, the resulting transfer shall meet the following requirements:

(1) The information in the county record retained shall be transferred into a usable and accessible format capable of accurately reproducing the original over the time periods specified in § 13-4-301 et seq.;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information in the county record;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect the records against media destruction or deterioration and information loss; and

(4) A retention conversion-and-review schedule shall be established to ensure that electronically or optically stored information is reviewed for data conversion at least one (1) time every four (4) years or more frequently when necessary to prevent the physical loss of data or loss due to technological obsolescence of the medium.

~~(e)~~(d) Before any record is destroyed, the custodian of the record shall document the date and type of document.

(e) Records explicitly not addressed in this subchapter may be destroyed no sooner than three (3) years after an audit by Arkansas Legislative Audit or a private auditor is completed and approved.

SECTION 5. Arkansas Code § 13-4-403 is amended to read as follows:
13-4-403. Criminal investigation documentation.

(a) ~~In~~ As used in this section, "criminal investigation documentation" includes without limitation:

- (1) Incident or offense reports;
- (2) Arrest warrant records;
- (3) Search warrant records; and
- (4) Investigative case files, including:
 - (A) Photographs;
 - (B) Lab reports; and
 - (C) Audiovisual media.

(b) Criminal investigation documentation shall be retained for the following periods of time:

(1) If the documentation is associated with a Class Y or Class A felony, it shall be retained ~~indefinitely~~ for at least thirty (30) years;

(2) If the documentation is associated with ~~any other~~ a non-Class Y felony, it shall be retained for at least ten (10) years;

(3) If the documentation is associated with a misdemeanor or violation, it shall be retained for at least five (5) years; and

(4) If the documentation relates to a civil matter or ~~any~~ other noncriminal matter, it shall be retained for at least three (3) years.

(c) Criminal investigation documentation may be disposed of by the order of the county judge upon recommendation of the county sheriff after the period of time dictated by subsection (b) of this section.

SECTION 6. Arkansas Code § 13-4-404 is amended to read as follows:
13-4-404. Jail booking records.

(a) ~~In~~ As used in this section, "jail booking records" means records generated and kept during jail booking procedures and while a person is in custody and includes without limitation:

- (1) Fingerprint cards;
- (2) Booking photographs; and
- (3) Jail detention logs.

(b) Jail booking records shall be kept for ~~thirty (30)~~ at least five (5) years, after which time they may be disposed of by order of the county judge upon recommendation of the county sheriff.

SECTION 7. Arkansas Code § 13-4-405 is amended to read as follows:
13-4-405. Dispatch reports.

(a) ~~In~~ As used in this section, "dispatch reports" means records generated and kept regarding:

- (1) Incoming calls to the county sheriff's office involving reports or complaints from the general public;
- (2) Complaint cards; and
- (3) Radio traffic logs.

(b) Dispatch reports shall be kept for a period of ~~seven (7)~~ at least five (5) years, after which they may be disposed of by the order of the county judge upon recommendation of the county sheriff.

/s/ Irvin