

FIRST REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 34

90TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR JOHNSON.

Pre-filed December 1, 1998, and 1,000 copies ordered printed.

Read 2nd time January 12, 1999, and referred to the Committee on Financial and Governmental Organization.

Reported from the Committee February 9, 1999, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up February 23, 1999. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

S0475.01P

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## AN ACT

To repeal sections 109.120, 109.130, 109.241 and 575.110, RSMo 1994, relating to public records, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 109.120, 109.130, 109.241 and 575.110, RSMo 1994, are repealed and four new sections enacted in lieu thereof, to be known as sections 109.120, 109.130, 109.241 and 575.110, to read as follows:

109.120. 1. The head of any business, industry, profession, occupation or calling, or the head of any state, county or municipal department, commission, bureau or board may cause any and all records kept by such official, department, commission, bureau, board or business to be photographed, microphotographed, photostated or transferred to other material using photographic, video, or electronic processes and the judges and justices of the several courts of record within this state may cause all closed case files more than five years old to be photographed, microphotographed, photostated, or transferred to other material using photographic, video, or electronic processes. Such reproducing material shall be of durable material and the device used to reproduce the records shall be such as to accurately reproduce and perpetuate the original records in all details **and ensure their proper retention and integrity**

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**in accordance with standards established by the state records commission.**

2. The cost of reproduction of closed files of the several courts of record as provided herein shall be chargeable to the county and paid out of the county treasury wherein the court is situated.

3. When any recorder of deeds in this state is required or authorized by law to record, copy, file, recopy, replace or index any document, plat, map or written instrument, [he] **the recorder** may do so by photostatic, photographic, microphotographic, microfilm, or [similar mechanical] **electronic** process which produces a clear, accurate and permanent copy of the original. The reproductions so made may be used as permanent records of the original, **provided they meet the standards for permanent retention and integrity as promulgated by the local records board.** When microfilm or [a similar] **electronic** reproduction is used as a permanent record by recorder of deeds, duplicate reproductions of all recorded documents, indexes and files required by law to be kept by [him] **the recorder** shall be made and one copy of each document shall be stored in a fireproof vault and the other copy shall be readily available in [his] **the recorder's** office together with suitable equipment for viewing the [filmed] record by projection to a size not smaller than the original and for reproducing copies of the recorded or filmed documents for any person entitled thereto. In all cases where instruments are recorded under the provisions of this section by microfilm **or electronic process**, any release, assignment or other instrument affecting a previously recorded instrument by microfilm [may not be made by marginal entry but] **or electronic process** shall be filed and recorded as a separate instrument and shall be [in a separate book,] cross-indexed to the document which it affects.

109.130. Such reproduction of the original records shall be deemed to be an original record for all purposes provided that the reproduction is equal in resolution to microfilm **or electronic process** produced under those standards set forth in subsection 4 of section 109.241, and shall be admissible in evidence in all courts or administrative agencies. A facsimile, exemplification or certified copy thereof shall, for all purposes recited in sections 109.120 to 109.140, be deemed to be a transcript, exemplification or certified copy of the original.

109.241. The head of each local agency shall:

(1) Submit within six months after a call to do so from the secretary of state in accordance with standards established by the local records board and promulgated by the director of records management and archives, schedules proposing the length of time each local records series warrants retention for administrative, legal, historical or fiscal purposes after it has been received or created by the local agency;

(2) Submit lists of local records that are not needed in the transaction of current business and that do not have sufficient administrative, legal, historical or fiscal value to warrant their further retention;

(3) Cooperate with the director in the conduct of surveys made by [him] **the director** pursuant to the provisions of sections 109.200 to 109.310;

(4) When files in the custody of a local governmental agency are microfilmed or otherwise reproduced through photographic, video, electronic, or other reproduction processes, the public official having custody of the reproduced records shall, before disposing of the originals, certify to the director that **[he] the official** has made provisions for preserving the microfilms **or electronically-created records** for viewing and recalling images to paper or original form, as appropriate, **and that the official has done so in a manner guaranteeing the proper retention and integrity of the records in accordance with standards established by the local records board.** Certification shall include a statement, **written plan**, or reputable vendor's certificate, as appropriate, that any microfilm **or document reproduced through electronic process** meets the standards for archival permanence established by the United States of America Standards Institute or similar agency, **or local records board.** If records are microfilmed, original camera masters shall not be used for frequent reference or reading purposes, but copies shall be made for such purposes.

575.110. 1. A person commits the crime of tampering with a public record if with the purpose to impair the verity, legibility or availability of a public record:

(1) He **or she** knowingly makes a false entry in or falsely alters any public record; [or]

(2) Knowing he **or she** lacks authority to do so, **[he] the person** destroys, suppresses or conceals any public record[.];

**(3) If such person is a civil officer, the officer knowingly fails to deliver to his or her successor all records, books and papers, as required in section 109.010, RSMo; or**

**(4) If such person is a private person having or obtaining possession of any books, records or papers, appertaining to any public office, he or she knowingly fails to deliver such books, records or papers to the officer entitled to the same as required in section 109.080, RSMo.**

2. Tampering with a public record is a class [A misdemeanor] **D felony.**