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1 A bill to be entitled
 2 An act relating to information technology used to manage
 3 public records; amending s. 119.01, F.S.; removing the
 4 policy statement related to designing or acquiring an
 5 electronic recordkeeping system; amending s. 119.021,
 6 F.S.; providing criteria that must be considered by an
 7 agency when designing or acquiring an electronic
 8 recordkeeping system; providing rulemaking authority;
 9 providing minimum standards for the destruction of public
 10 records; reorganizing the section; providing an effective
 11 date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Paragraph (b) of subsection (2) of section
 16 119.01, Florida Statutes, is repealed.

17 Section 2. Section 119.021, Florida Statutes, is amended
 18 to read:

19 119.021 Custodial requirements; maintenance, preservation,
 20 ~~and retention,~~ and disposal of public records; rulemaking.--

21 (1) MAINTENANCE AND PRESERVATION OF PUBLIC RECORDS.--

22 Public records shall be maintained and preserved as follows:

23 (a) All public records should be kept in the buildings in
 24 which they are ordinarily used.

25 (b) Insofar as practicable, a custodian of public records
 26 of vital, permanent, or archival records shall keep them in
 27 fireproof and waterproof safes, vaults, or rooms fitted with

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28 | noncombustible materials and in such arrangement as to be easily
 29 | accessible for convenient use.

30 | (c)1. Record books should be copied or repaired,
 31 | renovated, or rebound if worn, mutilated, damaged, or difficult
 32 | to read.

33 | 2. Whenever any state, county, or municipal records are in
 34 | need of repair, restoration, or rebinding, the head of the
 35 | concerned state agency, department, board, or commission; the
 36 | board of county commissioners of such county; or the governing
 37 | body of such municipality may authorize that such records be
 38 | removed from the building or office in which such records are
 39 | ordinarily kept for the length of time required to repair,
 40 | restore, or rebind them.

41 | 3. Any public official who causes a record book to be
 42 | copied shall attest and certify under oath that the copy is an
 43 | accurate copy of the original book. The copy shall then have the
 44 | force and effect of the original.

45 | (d) When designing or acquiring an electronic
 46 | recordkeeping system, an agency must consider whether such
 47 | system is capable of providing data in some common format such
 48 | as, but not limited to, the American Standard Code for
 49 | Information Interchange, EXtensible Markup Language, Portable
 50 | Document Format, or ISO/IEC 26300 OASIS Open Document Format.

51 | (2) RETENTION SCHEDULES FOR PUBLIC RECORDS.--

52 | (a) The Division of Library and Information Services of
 53 | the Department of State shall adopt rules to establish retention
 54 | schedules ~~and a disposal process~~ for public records. At a
 55 | minimum, the retention schedule shall be established based upon

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56 a review of the public record in the context of the custodial
 57 agency's statutory functions and authorities.

58 (b) Each agency shall comply with the rules establishing
 59 retention schedules ~~and disposal processes~~ for public records
 60 which are adopted by the records and information management
 61 program of the division.

62 (c) Agency orders that comprise final agency action and
 63 that must be indexed or listed pursuant to s. 120.53 have
 64 continuing legal significance; therefore, notwithstanding any
 65 other provision of this chapter or any provision of chapter 257,
 66 each agency shall permanently maintain records of such orders
 67 pursuant to the applicable rules of the Department of State.
 68 ~~Each public official shall systematically dispose of records no~~
 69 ~~longer needed, subject to the consent of the records and~~
 70 ~~information management program of the division in accordance~~
 71 ~~with s. 257.36.~~

72 (d) ~~The division may ascertain the condition of public~~
 73 ~~records and shall give advice and assistance to public officials~~
 74 ~~to solve problems related to the preservation, creation, filing,~~
 75 ~~and public accessibility of public records in their custody.~~
 76 ~~Public officials shall assist the division by preparing an~~
 77 ~~inclusive inventory of categories of public records in their~~
 78 ~~eustody. The division shall establish a time period for the~~
 79 ~~retention or disposal of each series of records. Upon the~~
 80 ~~completion of the inventory and schedule, the division shall,~~
 81 ~~subject to the availability of necessary space, staff, and other~~
 82 ~~facilities for such purposes, make space available in its~~
 83 ~~records center for the filing of semicurrent records so~~

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84 ~~scheduled and in its archives for noncurrent records of~~
 85 ~~permanent value, and shall render such other assistance as~~
 86 ~~needed, including the microfilming of records so scheduled.~~

87 (3) DISPOSAL OF PUBLIC RECORDS.--

88 (a) The Division of Library and Information Services of
 89 the Department of State shall adopt rules to establish a
 90 disposal process for public records. At a minimum, such rules
 91 shall provide a process for:

92 1. Sanitizing or scrubbing hardware prior to disposal.

93 2. Destroying public records containing confidential or
 94 exempt information in a manner that safeguards the interests of
 95 the State and the safety, security, and privacy of its citizens.

96 The rule shall specify destruction methods that prevent
 97 unauthorized access to or use of the information and shall
 98 ensure that the information cannot be read, reconstructed, or
 99 recovered.

100 (b) Each agency shall comply with the rules establishing
 101 disposal processes for public records which are adopted by the
 102 records and information management program of the division.

103 (c) Each public official shall systematically dispose of
 104 records no longer needed, subject to the consent of the records
 105 and information management program of the division in accordance
 106 with rules promulgated pursuant to this section and s. 257.36.

107 ~~Agency orders that comprise final agency action and that must be~~
 108 ~~indexed or listed pursuant to s. 120.53 have continuing legal~~
 109 ~~significance; therefore, notwithstanding any other provision of~~
 110 ~~this chapter or any provision of chapter 257, each agency shall~~

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111 ~~permanently maintain records of such orders pursuant to the~~
 112 ~~applicable rules of the Department of State.~~

113 (4) CUSTODY OF PUBLIC RECORDS.--

114 (a) Whoever has custody of any public records shall
 115 deliver, at the expiration of his or her term of office, to his
 116 or her successor or, if there be none, to the records and
 117 information management program of the Division of Library and
 118 Information Services of the Department of State, all public
 119 records kept or received by him or her in the transaction of
 120 official business.

121 (b) Whoever is entitled to custody of public records shall
 122 demand them from any person having illegal possession of them,
 123 who must forthwith deliver the same to him or her. Any person
 124 unlawfully possessing public records must within 10 days deliver
 125 such records to the lawful custodian of public records unless
 126 just cause exists for failing to deliver such records.

127 (5) ASSISTANCE TO CUSTODIANS OF PUBLIC RECORDS.--

128 (a) The Division of Library and Information Services of
 129 the Department of State may ascertain the condition of public
 130 records and shall give advice and assistance to public officials
 131 to solve problems related to the preservation, creation, filing,
 132 and public accessibility of public records in their custody.

133 (b) Public officials shall assist the division by
 134 preparing an inclusive inventory of categories of public records
 135 in their custody. The division shall establish a time period for
 136 the retention or disposal of each series of records.

137 (c) Upon the completion of the inventory and schedule, the
 138 division shall, subject to the availability of necessary space,

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139 | staff, and other facilities for such purposes, make space
140 | available in its records center for the filing of semicurrent
141 | records so scheduled and in its archives for noncurrent records
142 | of permanent value, and shall render such other assistance as
143 | needed, including the microfilming of records so scheduled.

144 | Section 3. This act shall take effect October 1, 2008.