

# Local Government Records Act

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**SLRM**  
STATE AND LOCAL  
RECORDS  
MANAGEMENT

LOCAL GOVERNMENT BULLETIN D  
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# **LOCAL GOVERNMENT CODE**

## **Title 6. Records**

### **Subtitle C. Records Provisions Applying to More Than One Type of Local Government**

#### **CHAPTER 201. GENERAL PROVISIONS**

##### **Section 201.001. SHORT TITLE.**

This subtitle may be cited as the Local Government Records Act.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

##### **Section 201.002. PURPOSE.**

Recognizing that the citizens of the state have a right to expect, and the state has an obligation to foster, efficient and cost-effective government and recognizing the central importance of local government records in the lives of all citizens, the legislature finds that:

- (1) the efficient management of local government records is necessary to the effective and economic operation of local and state government;
- (2) the preservation of local government records of permanent value is necessary to provide the people of the state with resources concerning their history and to document their rights of citizenship and property;
- (3) convenient access to advice and assistance based on well-established and professionally recognized records management techniques and practices is necessary to promote the establishment of sound records management programs in local governments, and the state can provide the assistance impartially and uniformly; and
- (4) the establishment of uniform standards and procedures for the maintenance, preservation, microfilming, or other disposition of local government records is necessary to fulfill these important public purposes.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

##### **Section. 201.003. DEFINITIONS.**

In this subtitle:

- (1) "Commission" means the Texas State Library and Archives Commission.
- (2) "Custodian" means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

- (3) "Designee" means an employee of the commission designated by the director and librarian as provided by Section [441.167](#), Government Code.
- (4) "Director and librarian" means the executive and administrative officer of the Texas State Library and Archives Commission.
- (5) "Essential record" means any local government record necessary to the resumption or continuation of government operations in an emergency or disaster, to the re-creation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the state.
- (6) "Governing body" means the court, council, board, commission, or other body established or authorized by law to govern the operations of a local government. In those instances in which authority over an office or department of a local government is shared by two or more governing bodies or by a governing body and the state, the governing body, for the purposes of this subtitle only, is the governing body that provides most of the operational funding for the office or department.
- (7) "Local government" means a county, including all district and precinct offices of a county, municipality, public school district, appraisal district, or any other special-purpose district or authority.
- (8) "Local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:
  - (A) extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;
  - (B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;
  - (C) blank forms;
  - (D) stocks of publications;
  - (E) library and museum materials acquired solely for the purposes of reference or display;
  - (F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter [552](#), Government Code, or other state law; or
  - (G) any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Section [2009.054\(c\)](#), Government Code, associated with a matter conducted under an alternative dispute resolution procedure in which

personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

- (9) "Office" means any office, department, division, program, commission, bureau, board, committee, or similar entity of a local government.
- (10) "Permanent record" or "record of permanent value" means any local government record for which the retention period on a records retention schedule issued by the commission is given as permanent.
- (11) "Record" means a local government record.
- (12) "Records control schedule" means a document prepared by or under the authority of a records management officer listing the records maintained by a local government or an elective county office, their retention periods, and other records disposition information that the records management program in each local government or elective county office may require.
- (13) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.
- (14) "Records management officer" means the person identified under Section [203.001](#) or designated under Section [203.025](#) as the records management officer.
- (15) "Records retention schedule" means a document issued by the Texas State Library and Archives Commission under authority of Subchapter J, Chapter [441](#), Government Code, establishing mandatory retention periods for local government records.
- (16) "Retention period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 31, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1352, Sec. 3, eff. Sept. 1, 1999.

#### **Section 201.004. RECORD BOOKS.**

If a state law relating to the keeping of records by a local government officer or employee requires the records to be kept in a "book," "record book," or "well-bound book," or contains any similar



requirement that a record be maintained in bound paper form, the record whose creation is called for in the provision may be maintained on microfilm or stored electronically in accordance with the requirements of Chapters [204](#) and [205](#) and rules adopted under those chapters unless the law specifically prohibits those methods.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 201.005. DECLARATION OF RECORDS AS PUBLIC PROPERTY; ACCESS.**

(a) Local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property and are subject to the provisions of this subtitle and Subchapter J, Chapter [441](#), Government Code.

(b) A local government officer or employee does not have, by virtue of the officer's or employee's position, any personal or property right to a local government record even though the officer or employee developed or compiled it.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 201.006. RECORDS TO BE DELIVERED TO SUCCESSOR IN OFFICE.**

(a) A custodian of local government records shall, at the expiration of the custodian's term of office, appointment, or employment, deliver to the custodian's successor, if there is one, all local government records in custody. If there is no successor, the governing body shall determine which officer of the local government shall have custody.

(b) If the functions of an office of one local government are assumed by another local government, the governing bodies of the two local governments shall determine in which local government custody of the records of the office shall be vested.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 201.007. RECORDS OF ABOLISHED LOCAL GOVERNMENTS.**

(a) If a local government is abolished or declared void pursuant to state law, the records of the local government shall be dealt with according to this section.

(b) After the settlement of the outstanding indebtedness of an abolished municipality and the satisfaction of the other applicable requirements of Chapter [62](#), Local Government Code, the municipality's governing body at the time the municipality is abolished, or the receiver or trustees if appointed by a court, shall transfer the records of the municipality to the custody of the comptroller. A record of an abolished municipality may not be sold to satisfy an outstanding indebtedness.

(c) After the settlement of the outstanding indebtedness of an abolished special-purpose district or authority, other than a school district, and the satisfaction of the other applicable requirements of state law establishing or permitting the establishment of the district or authority or governing its abolition, the district's governing body at the time the district is abolished shall transfer the records of the district

to the custody of the comptroller. A record of an abolished special-purpose district or authority may not be sold to satisfy an outstanding indebtedness.

(d) As an exception to Subsections (b) and (c), if some or all of the functions of an abolished municipality or special-purpose district or authority, other than a school district, are assumed by another local government, the records of the abolished local government relating to the assumed functions shall be transferred to the appropriate offices of the local government assuming the functions.

(e) The records of annexed, consolidated, or abolished school districts shall be transferred as provided by this subsection. The records of an annexed school district shall be transferred to the custody of the governing body of the school district to which the abolished school district has been annexed. The records of each of two or more school districts that have been consolidated shall be transferred to the custody of the governing body of the consolidated school district. The records of an abolished school district whose entire territory is annexed to another school district shall be transferred to the custody of the governing body of that school district. The commissioner of education shall determine to which governing body custody of the records of an abolished school district shall be transferred in those instances in which the territory of the abolished district is divided among two or more school districts.

(f) The cost of the transfer of records to the comptroller under this section shall be paid for out of the funds of the abolished local government. If funds of the local government are not available for this purpose, the cost of the transfer shall be paid out of the funds of the comptroller.

(g) The records retention schedules issued by the commission shall be used, as far as practicable, as the basis for the retention and disposition of local government records transferred to the custody of the comptroller under this section.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 558, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.99, eff. September 1, 2007.

#### **Section. 201.008. RECORDS OF ABOLISHED OFFICES OF COUNTY SUPERINTENDENTS OF SCHOOLS.**

(a) Records of an office of county superintendent of schools or county superintendent of education abolished under former Section 17.95, Education Code, before September 1, 1989, that are still in the possession of a custodian of county records or a county officer shall be transferred to the custody of the commission by order of the director and librarian.

(b) The director and librarian shall determine the time and manner of the transfer of the records on a county-by-county basis. The cost of the transfer shall be paid for out of funds of the commission.

(c) The county judge of a county in which a custodian of county records has possession of the records of an abolished office of the county superintendent of schools may petition the director and librarian to allow the county to retain all or part of the records and the director and librarian may grant the petition.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 6.70, eff. Sept. 1, 1997.

## **Section 201.009. ACCESS TO RECORDS.**

(a) Local government records are subject to Chapter [552](#), Government Code.

(b) Any local government record to which public access is denied under Chapter [552](#), Government Code, including a birth record maintained by a local registrar, is, if still in existence, open to public inspection 75 years after it was originally created or received. However, a death record maintained by a local registrar is, if still in existence, open to public inspection 55 years after it was originally created or received. This subsection does not limit the authority of a governing body or an elected county officer to establish retention periods for records under Section [203.042](#).

(c) Subsection (b) does not apply to a local government record whose public disclosure is prohibited by an order of a court or by another state law.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995. Amended by Acts 2011, 82nd Leg., R.S., Ch. 462 (S.B. 1907), Sec. 2, eff. September 1, 2011.

## **CHAPTER 202. DESTRUCTION AND ALIENATION OF RECORDS**

### **Section 202.001. DESTRUCTION OF RECORDS.**

(a) A local government record may be destroyed if:

- (1) the record is listed on a valid records control schedule and either its retention period has expired or it has been microfilmed or stored electronically in accordance with the requirements of Chapters 204 and 205;
- (2) the record appears on a list of obsolete records as provided by Section [203.044](#); or
- (3) the record is not listed on a records retention schedule issued by the commission and the local government provides notice to the commission at least 10 days before destroying the record as required by Section [441.169](#), Government Code.

(b) The following records may be destroyed without meeting the conditions of Subsection (a):

- (1) records the destruction or obliteration of which is directed by an expunction order issued by a court pursuant to state law; and
- (2) records defined as exempt from scheduling or filing requirements by rules adopted by the commission or listed as exempt in a records retention schedule issued by the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2017, 85th Leg., R.S., Ch. 1149 (H.B. 557), Sec. 9, eff. September 1, 2017; Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 13, eff. September 1, 2019.

### **Section 202.002. LITIGATION AND OPEN RECORDS REQUESTS.**

(a) Regardless of any other provision of this subtitle or rules adopted under it, a local government record the subject matter of which is known by the custodian to be in litigation may not be destroyed until the litigation is settled.

(b) Regardless of any other provision of this subtitle or rules adopted under it, a local government record subject to a request under Chapter [552](#), Government Code, may not be destroyed until the request is resolved.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

### **Section 202.003. METHOD OF DESTRUCTION.**

(a) A local government record may be destroyed by burning, shredding, pulping, or burial in a landfill or by sale or donation for recycling purposes except as provided by Subsection (b).

(b) Records to which public access is restricted under Chapter [552](#), Government Code, or other state law may be destroyed only by burning, pulping, or shredding.

(c) A local government that sells or donates records for recycling purposes shall establish procedures for ensuring that the records are rendered unrecognizable as local government records by the recycler.

(d) The director and librarian may approve other methods of destruction that render the records unrecognizable as local government records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

### **Section 202.004. ALIENATION OF RECORDS.**

(a) A local government record may be sold or donated, loaned, transferred, or otherwise passed out of the custody of a local government to any public institution of higher education, public museum, public library, or other public entity with the approval of the local government's records management officer and after the expiration of the record's retention period under the local government's records control schedule.

(b) A local government record may not be sold or donated (except for the purposes of recycling), loaned, transferred, or otherwise passed out of the custody of a local government to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the director and librarian and after the expiration of its retention period under the local government's records control schedule.

(c) A records management officer or custodian may temporarily transfer a local government record to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 28, eff. Sept. 1, 1995.

### **Section 202.005. RIGHT OF RECOVERY.**

(a) The governing body may demand and receive from any person any local government record in private possession created or received by the local government the removal of which was not authorized by law.

(b) If the person in possession of a local government record refuses to deliver the record on demand, the governing body may petition the district court of the county in which the person resides for the return of the record. If the court finds that the record is a local government record, the court shall order the return of the record.

(c) As part of the petition to the district court or at any time after its filing, the governing body may petition to have the record seized pending the determination of the court if the governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.

(d) The director and librarian may demand and receive from any person any local government record of permanent value in private possession.

(e) If the person in possession of the local government record of permanent value refuses to deliver the record on demand, the director and librarian may ask the attorney general to petition for the recovery of the record as provided by this section. As part of the petition or at any time after its filing, the attorney general may petition to have the record seized pending the determination of the court if the governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.

(f) A local government record recovered as the result of a petition by the attorney general shall be transferred to the custody of the commission or, at the discretion of the director and librarian, be returned to the local government that originally had custody of the record.

(g) If a local government refuses to deliver custody of a record to the commission as provided by Section [201.007](#), [201.008](#), or [203.050](#), the director and librarian may ask the attorney general to petition for recovery of the record. If the court determines that the director and librarian has acted in accordance with Section [201.007](#), [201.008](#), or [203.050](#), as applicable, and with regard to Section [203.050](#), the court finds that the survival of the record is imperiled, the court shall order the record to be transferred to the custody of the commission.

(h) If a governing body petitions a court for the recovery of a record under Subsection (b) and prevails or if the attorney general petitions a court for the recovery of a record under Subsection (e) or (g) and prevails, the court shall award attorney's fees and court costs to the prevailing party.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 202.006. DESTRUCTION OF NONRECORD MATERIAL.**

(a) Material that is not included in the definition of a local government record and is described by Section [201.003](#)(8)(A), (B), or (C) may be disposed of at the discretion of the custodian or the creator of the document, as applicable, subject to any policies developed in each local government or elective county office regarding the destruction.

(b) Extra identical copies of a local government record to which public access is restricted under Chapter [552](#), Government Code, or other state law may be destroyed only by burning, pulping, or shredding.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

#### **Section. 202.007. PERSONAL LIABILITY.**

A custodian of local government records, records management officer, or other officer or employee of a local government may not be held personally liable for the destruction of a local government record if the destruction is in compliance with this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 202.008. PENALTY: DESTRUCTION OR ALIENATION OF RECORD.**

An officer or employee of a local government commits an offense if the officer or employee knowingly or intentionally violates this subtitle or rules adopted under it by destroying or alienating a local government record in contravention of this subtitle or by intentionally failing to deliver records to a successor in office as provided by Section [201.006](#)(a). An offense under this section is a Class A misdemeanor.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 202.009. PENALTY: POSSESSION OF RECORD BY PRIVATE ENTITY.**

(a) A private college or university, a private museum or library, a private organization of any other type, or an individual commits an offense if the entity knowingly or intentionally acquires or possesses a local government record. An offense under this subsection is a Class A misdemeanor.

(b) It is a defense to prosecution under this section that a private college, university, museum, or library, by agreement with the commission under Subchapter J, Chapter [441](#), Government Code, provides physical housing for a local government record the title to which has been vested in the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

## **CHAPTER 203. MANAGEMENT AND PRESERVATION OF RECORDS**

### **SUBCHAPTER A. ELECTIVE COUNTY OFFICES**

#### **Section 203.001. RECORDS MANAGEMENT OFFICER.**

Each elected county officer is the records management officer for the records of the officer's office.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 203.002. DUTIES AND RESPONSIBILITIES OF ELECTED COUNTY OFFICERS AS RECORDS MANAGEMENT OFFICERS.**

The elected county officer shall:

- (1) develop policies and procedures for the administration of an active and continuing records management program;
- (2) administer the records management program so as to reduce the costs and improve the efficiency of recordkeeping;
- (3) identify and take adequate steps to preserve records that are of permanent value;
- (4) identify and take adequate steps to protect the essential records of the office;
- (5) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the records management program and the requirements of this subtitle and rules adopted under it; and
- (8) cooperate with the commission in its conduct of statewide records management surveys.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 14, eff. September 1, 2019.

#### **Section 203.003. DUTIES OF COMMISSIONERS COURT.**

The commissioners court of each county shall:

- (1) promote and support the efficient and economical management of records of all elective offices in the county to enable elected county officers to conform to this subtitle and rules adopted under it;
- (2) facilitate the creation and maintenance of records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of each elective office and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and the persons affected by the activities of the local government;

- (3) facilitate the identification and preservation of the records of elective offices that are of permanent value;
- (4) facilitate the identification and protection of the essential records of elective offices;
- (5) establish a county clerk records management and preservation fund for fees subject to Section [118.0216](#) and approve in advance any expenditures from the fund; and
- (6) establish a records management and preservation fund for the records management and preservation fees authorized under Sections [118.052](#), [118.0546](#), and [118.0645](#), and Section [51.317](#), Government Code, and approve in advance any expenditures from the fund, which may be spent only for records management preservation or automation purposes in the county.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 675, Sec. 4, eff. Sept. 1, 1993; Acts 2019, 86th Leg., ch. 1352 (S.B. 346), Sec. 4.36, eff. January 1, 2020.

#### **Section 203.004. DIRECTOR AND LIBRARIAN.**

The director and librarian shall provide advice and assistance to records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 203.005. RECORDS MANAGEMENT PROGRAM TO BE ESTABLISHED.**

(a) On or before January 1, 1991, each elected county officer shall adopt a written plan establishing an active and continuing program for the efficient and economical management of the records of the elective office of which the elected officer is custodian.

(b) The plan must provide policies, methods, and procedures to fulfill the duties and responsibilities set out in Section [203.002](#) concerning the management and preservation of records. The plan may establish additional policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.

(c) A copy of the plan must be filed by the elected county officer with the director and librarian within 30 days after the date of its adoption.

(d) A plan establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the plan is in conflict with this subtitle or a rule adopted under it. A copy of the amended plan shall be filed with the director and librarian as provided by Subsection (c).

(e) A copy of an amended plan relating to the establishment or operation of the records management plan must be filed with the director and librarian within 30 days after the date of its adoption.



(f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the elected county officer in writing any aspect of a plan filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with requirements of this subtitle or rules adopted under it.

(g) An elected county officer is authorized, instead of or in conjunction with submitting a plan and establishing an independent records program for the elective office, to participate in a county program established as provided by Subchapter B or in one or more specific components of a county program and to authorize the records management officer of the county program to act as the records management officer for the records of the elective office.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

## **SUBCHAPTER B. ALL OTHER LOCAL GOVERNMENT OFFICES**

### **Section 203.021. DUTIES AND RESPONSIBILITIES OF GOVERNING BODY.**

The governing body of a local government, including a commissioners court with regard to nonelective county offices, shall:

- (1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;
- (2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;
- (3) facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government;
- (4) facilitate the identification and preservation of local government records that are of permanent value;
- (5) facilitate the identification and protection of essential local government records; and
- (6) cooperate with the commission in its conduct of statewide records management surveys.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 203.022. DUTIES AND RESPONSIBILITIES OF CUSTODIANS.**

(a) Custodians of records in each local government shall:

- (1) cooperate with the records management officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records and in carrying out the requirements of this subtitle;
- (2) adequately document the transaction of government business and the services, programs, and duties for which the custodian and the custodian's staff are responsible; and
- (3) maintain the records in the custodian's care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it.

(b) State law relating to the duties, other responsibilities, or recordkeeping requirements of a custodian of local government records do not exempt the custodian or the records in the custodian's care from the application of this subtitle and rules adopted under it and may not be used by the custodian as a basis for refusal to participate in the records management program of the local government whose establishment is required by this chapter.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 203.023. DUTIES OF RECORDS MANAGEMENT OFFICER.**

The records management officer in each local government shall:

- (1) assist in establishing and developing policies and procedures for a records management program for the local government;
- (2) administer the records management program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping;
- (3) in cooperation with the custodians of the records, prepare the records control schedules and amended schedules required by Section [203.041](#) and the list of obsolete records as provided by Section [203.044](#);
- (4) in cooperation with custodians, identify and take adequate steps to preserve local government records that are of permanent value;
- (5) in cooperation with custodians, identify and take adequate steps to protect essential local government records;
- (6) in cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it;

- (7) disseminate to the governing body and custodians information concerning state laws, administrative rules, and the policies of the government relating to local government records; and
- (8) in cooperation with custodians, establish procedures to ensure that the handling of records in any context of the records management program by the records management officer or those under the officer's authority is carried out with due regard for:
  - (A) the duties and responsibilities of custodians that may be imposed by law; and
  - (B) the confidentiality of information in records to which access is restricted by law.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by: Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 15, eff. September 1, 2019.

#### **Section 203.024. DIRECTOR AND LIBRARIAN.**

The director and librarian shall provide advice and assistance to governing bodies, custodians, and records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 203.025. DESIGNATION OF RECORDS MANAGEMENT OFFICER.**

- (a) On or before June 1, 1990, the governing body of each local government shall designate a records management officer by:
  - (1) designating an individual; or
  - (2) designating an office or position, the holder of which shall be the records management officer.
- (b) The name, office, or position of the records management officer shall be entered on the minutes of the governing body.
- (c) The name or the name and office or position of the records management officer shall be filed by the records management officer with the director and librarian within 30 days after the date of the designation.
- (d) The designation of a new individual or a new office or position shall be entered on the minutes and reported by the records management officer to the director and librarian in the same manner as the original designation.
- (e) If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder's name with the director and librarian within 30 days after the date of assuming the office or position.

(f) Through an agreement or contract under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes), a person may serve as records management officer to more than one local government if the person is employed by one of the local governments that is party to the contract or agreement or employed by an administrative agency that is created by the contract or agreement.

(g) An elected county officer may not be designated as records management officer for the nonelective offices of a county without the county officer's consent.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 203.026. RECORDS MANAGEMENT PROGRAM TO BE ESTABLISHED.**

(a) On or before January 1, 1991, each governing body by ordinance or order, as appropriate, shall establish a records management program to be administered by the records management officer.

(b) The ordinance or order must provide methods and procedures to enable the governing body, custodians, and the records management officer to fulfill the duties and responsibilities set out in Sections [203.021](#), [203.022](#), and [203.023](#) concerning the management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.

(c) A copy of the ordinance or order must be filed by the records management officer with the director and librarian within 30 days after the date of its adoption.

(d) An ordinance or order establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the ordinance or order is in conflict with this subtitle or a rule adopted under it. A copy of the amended ordinance or order shall be filed with the director and librarian as provided by Subsection (c).

(e) A copy of an amended ordinance or revised order relating to the establishment or operation of the records management program must be filed by the governing body with the director and librarian within 30 days after the date of its adoption.

(f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the governing body in writing any aspect of an ordinance or order filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with the requirements of this subtitle or rules adopted under it.

(g) The governing body in a records management program established under this section may require the mandatory destruction of any record of the local government when its retention period has expired on a records control schedule developed under Section [203.041](#).

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

## SUBCHAPTER C. RECORDS CONTROL SCHEDULES

### Section 203.041. PREPARATION AND FILING OF RECORDS CONTROL SCHEDULES.

(a) On or before January 4, 1999, the records management officer shall:

(1) prepare a records control schedule listing the following records and establishing a retention period for each as provided by Section [203.042](#):

(A) all records created or received by the local government or elective county office;

(B) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has not expired; and

(C) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has expired but which will not be destroyed as provided by Section [203.044](#); and

(2) file with the director and librarian a written certification of compliance that the local government or the elective county office has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by the commission.

(b) At the discretion of the records management officer the records control schedule may also list and provide retention periods for material that is excluded from the definition of a local government record by Section [201.003](#)(8) and exempted records described by Section [202.001](#)(b) if in the officer's opinion the inclusion of the material or records is necessary to ensure the periodic destruction of the material or records in the interest of efficient records management.

(c) **Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(b)(1), eff. September 1, 2019.**

(d) The records management officer shall review the records control schedules of the local government or elective county office and prepare amendments to the schedules as needed to reflect new records created or received by the government or office or revisions to retention periods established in a records retention schedule issued by the commission. The records management officer shall file with the director and librarian a written certification of compliance that the local government or the elective county office has amended the records control schedules to comply with the minimum requirements established on records retention schedules issued by the commission.

(e) The governing body shall require in the ordinance or order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the local government as it considers necessary. The records control schedule or amended schedule for an elective county office need only be approved by the elected official in charge of that office.

(f) Records control schedules may be prepared on an office-by-office basis or on a department-by-department basis within each office.

(g) A local government that intends to retain all records permanently or that destroys only those records for which no retention periods have been established in a records retention schedule established under Section [441.158](#), Government Code, is not required to prepare a records control schedule under this section.

(h) Repealed by Acts 2019, 88th Leg., ch. 533 (H.B. 1962), Sec. 20(b)(1), eff. September 1, 2019.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 29, eff. Sept. 1, 1995. Amended by Acts 2019, 86th Leg., ch. 533 (H. B. 1962), Sec. 17, eff. September 1, 2019.

### **Section 203.042. RETENTION PERIODS.**

(a) A retention period for each record on the records control schedule shall be determined by the governing body or under its direction or by the elected county officer, as applicable.

(b) A retention period may not be less than:

- (1) a retention period prescribed by a state or federal law, regulation, or rule of court; or
- (2) a retention period for the record established on a records retention schedule issued by the commission.

(c) Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(b)(2), eff. September 1, 2019.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 203.043. FILING OF RECORDS CONTROL SCHEDULES.**

[REPEALED]

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 30, eff. Sept. 1, 1995. Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(b)(3), eff. September 1, 2019.

### **Section 203.044. INITIAL DESTRUCTION OF OBSOLETE RECORDS.**

(a) In preparing a records control schedule required by Section [203.041](#), the records management officer may list separately those obsolete records no longer created or received by the local government or elective county office whose retention periods on a records retention schedule issued by the commission have expired and that the local government or elected county officer wishes to destroy.

(b) The lists of obsolete records to be destroyed must be reviewed or approved in the same manner as records control schedules must be reviewed or approved under Section [203.041](#)(e).

(c) Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(b)(4), eff. September 1, 2019.

(d) Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(b)(4), eff. September 1, 2019.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 203.045. DESTRUCTION OF UNSCHEDULED RECORDS.**

[REPEALED]

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 31, eff. Sept. 1, 1995. Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(b)(5), eff. September 1, 2019.

#### **Section 203.046. RECORDKEEPING REQUIREMENTS.**

As the governing body may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 203.047. NEW LOCAL GOVERNMENTS.**

A local government established after September 1, 1989, shall fulfill the requirements of Sections [203.025](#), [203.026](#), and [203.041](#) within one year after the date of its establishment.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 203.048. CARE OF RECORDS OF PERMANENT VALUE.**

The commission shall adopt rules establishing standards for the proper care and storage of local government records of permanent value. The commission may require that certain local government records of permanent value be created on permanent-durable paper, the standards for which shall be established by rule. The rules must be approved as required by Section 441.165, Government Code.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 203.049. TRANSFER OF RECORDS OF PERMANENT VALUE.**

(a) The governing body or elected county officer may offer to transfer records of permanent value not needed in the day-to-day business of the local government to the custody of:

- (1) the commission; or

- (2) another local government that operates an archives, library, or museum that meets standards for the care and storage of permanent records established by the commission as provided by Section [203.048](#).

(b) Transfers of permanent records to another local government require the prior approval of the director and librarian.

(c) In a transfer of permanent records under this section, title and control of the records and all rights pertaining to the records granted by law to the original custodian or elected county officer are vested in the commission or the local government that receives the records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 203.050. INSPECTION OF PERMANENT RECORDS.**

(a) The director and librarian or the authorized representative of the director and librarian is entitled to inspect in the offices of any local government or elected county officer the condition of any permanent record to which access by the director and librarian or the representative is not restricted by law. The inspection is not a release of a record to a member of the public under Chapter [552](#), Government Code.

(b) The director and librarian, in writing, shall bring to the attention of the governing body or elected county officer, any aspect of the storage, handling, or use of the record that imperils its survival and state what measures must be taken to properly care for and preserve the record.

(c) If, after having been notified by the director and librarian as provided by Subsection (b), the governing body or the elected county officer fails to take required measures to preserve the record, the director and librarian may:

- (1) if the record is an obsolete record whose creation is no longer required by law, demand and receive delivery of the record to the custody of the commission; or
- (2) if the record is required for current use by the local government, make copies of the record for the purpose of preservation by the commission.

(d) The cost of transferring or copying records under this section shall be paid for out of funds of the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

## **CHAPTER 204. MICROFILMING OF RECORDS**

### **Section 204.001. DEFINITIONS.**

In this chapter:



- (1) "Microfilm" means roll microfilm, microfiche, and all other formats produced by any method of microphotography or other means of miniaturization on film.
- (2) "Microfilming" means the methods, procedures, and processes used to produce roll microfilm, microfiche, or other microphotographic formats.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 204.002. AUTHORIZATION.**

Any local government record may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of this chapter and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 204.003. MICROFILM PRODUCED UNDER PRIOR LAW.**

- (a) All microfilm produced before June 1, 1990, under prior law is validated to the extent the microfilm was produced in the manner and according to the standards prescribed by prior law.
- (b) In rules adopted under Section [204.004](#), the commission may establish procedures for the retrospective certification of uncertified or improperly certified microfilm produced before April 1, 1990, that otherwise meets the standards prescribed by prior law.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 204.004. STANDARDS AND PROCEDURES.**

(a) The commission shall adopt rules on or before April 1, 1990, establishing standards and procedures for the microfilming of local government records. The rules must be approved as required by Section 441.165, Government Code.

(b) The rules must prescribe:

- (1) standards for film quality, resolution, density, definition, and chemical stability;
- (2) tests and other methods of inspection required to establish that prescribed standards have been met;
- (3) procedures for verifying that records have been filmed accurately;
- (4) procedures for the certification of microfilmed records;
- (5) standards for the use of editorial and technical targets on microfilm;
- (6) standards for the production of use copies from and the storage of master microfilm negatives;

- (7) procedures for the labeling and indexing of microfilmed records;
- (8) procedures establishing the manner in which court case papers must be filmed;
- (9) procedures for the expunction of criminal records on microfilm pursuant to court order;
- (10) standards for computer-output microfilm; and
- (11) standards for providing access by the members of the public to records on microfilm to which they are entitled under law.

(c) In rules adopted under this section, the commission may establish differing standards and procedures for the microfilming of:

- (1) any permanent record;
- (2) any record of a municipal, justice, county, or district court; or
- (3) any record to which access is restricted under Chapter [552](#), Government Code, or other state law.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

#### **Section 204.005. RULES TO BE UPDATED.**

The director and librarian shall monitor standards relating to microfilming developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of information and records management in order to recommend to the commission any needed amendments to rules.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 204.006. INDEXING.**

An index to a microfilm record must show the same information that may be required by state law for an index to the same record if it is not microfilmed.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 204.007. DESTRUCTION OF ORIGINAL RECORDS.**

(a) The original of a record that has been microfilmed pursuant to this chapter and rules adopted under it may be destroyed before the expiration of its retention period on a records retention schedule issued by the commission.

(b) A list of the originals of microfilmed records destroyed shall be filed with the records management officer.

(c) The microfilm record must be retained until the expiration of the retention period for the original record.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by: Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 18, eff. September 1, 2019.

#### **Section 204.008. DESTRUCTION OF PERMANENT RECORDS.**

[REPEALED]

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Repealed by Acts 2019, 86th Leg., ch. 533 (H. B. 1962), Sec. 20(b)(5), eff. September 1, 2019.

#### **Section 204.009. MICROFILM OF PERMANENT RECORDS TO BE SUPPLIED.**

(a) A local government or elected county officer, at the request of the director and librarian, shall supply to the commission a copy of the microfilm of any permanent record to which access is not restricted by law.

(b) The commission shall reimburse the local government or elected county officer for the cost of the copy. If the film duplication is performed by the local government or elected county officer, the cost must be the same as that paid by state agencies to the Texas State Library for a similar microfilm copy. If the film duplication is done by a commercial microfilming service under contract with the local government or elected county officer, the cost of the copy may not exceed the cost paid by the local government or elected county officer for a copy under the contract.

(c) The director and librarian or an employee of the commission may not provide certified copies of a record on microfilm obtained under this section without the consent of the original local custodian of the record.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 204.010. COMMERCIAL MICROFILM STORAGE FACILITIES.**

(a) The commission may establish a program for the certification of commercial microfilm storage facilities for the storage of the master microfilm negatives of local government records.

(b) If the commission establishes a certification program, the procedures of this subsection apply. On request by the commercial storage facility, the director and librarian or the representative of the director and librarian shall inspect the facility to determine if the facility meets the minimum standards established by the commission under Section [204.004](#) for the storage of the microfilm of local government records. If the commercial storage facility meets the minimum standards established by the commission, the name of the facility shall be added to a list of certified storage facilities to be prepared by the director and librarian and made available on request to a local government, elected

county officer, or other interested party. The inspection and certification of commercial storage facilities shall be on a fee basis to be determined by the commission.

(c) The commission shall determine the period a certification made under this section is effective.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

#### **Section 204.011. EFFECTIVE AS ORIGINAL RECORD.**

(a) A microfilmed record created in compliance with this chapter and rules adopted under it, including microfilm validated by Section [204.003](#), is an original record and shall be accepted by any court or administrative agency of this state.

(b) If issued and certified by a local government recordkeeper, a copy on paper or film of a microfilmed record shall be accepted by a court or administrative agency of this state as a certified copy of an original record.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

## **CHAPTER 205. ELECTRONIC STORAGE OF RECORDS**

### **Section 205.001. DEFINITIONS.**

In this chapter:

- (1) "Electronic storage" means the maintenance of local government record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar machine-readable medium.
- (2) "Local government record data" means the information that by law, regulation, rule of court, ordinance, or administrative procedure in a local government comprises a local government record as defined by Section [201.003](#).
- (3) "Source document" means the local government record from which local government record data is obtained for electronic storage. The term does not include backup copies of the data in any media generated from electronic storage.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 205.002. AUTHORIZATION.**

Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of this chapter and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 205.003. STANDARDS AND PROCEDURES TO BE ADOPTED.**

(a) The commission shall adopt rules establishing standards and procedures for the electronic storage of any local government record data of permanent value and may adopt rules establishing standards and procedures for the electronic storage of any local government record data whose retention period is at least 10 years on a records retention schedule issued by the commission. The rules must be approved as required by Section 441.165, Government Code.

(b) With regard to the types of local government record data covered by Subsection (a), the rules may require or prescribe:

- (1) standards and procedures for the generation of backup or preservation copies of the local government record data on paper, microfilm, electronic, or other approved media;
- (2) standards and procedures for the recopying or duplication of the magnetic tape, optical disk, or similar machine-readable medium on which the local government record data are stored;
- (3) standards and procedures for the physical storage and maintenance of magnetic tapes, optical disks, or similar machine-readable media;
- (4) standards and procedures for providing access by members of the public to electronically stored local government record data to which they are entitled under law; and
- (5) other standards and procedures that the commission considers necessary to ensure the availability, readability, or integrity of the local government record data.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 205.004. RULES TO BE UPDATED.**

The director and librarian shall monitor standards and procedures relating to electronic storage developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of records and information management in order to recommend to the commission any needed amendments to rules.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 205.005. SUPREME COURT RULES.**

This chapter is not intended to conflict with Subchapter I, Chapter [51](#), Government Code, relating to the electronic filing of certain documents in district and county courts. The commission shall incorporate any rules adopted under that subchapter into its own.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 205.006. INDEX.**

An index to local government record data stored electronically must provide the same information that may be required by state law for an index to the source document, if applicable.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### **Section 205.007. ELECTRONIC STORAGE AUTHORIZATION REQUESTS.**

[REPEALED]

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Repealed by Acts 2019, 86th Leg., ch. 533 (H. B. 1962), Sec. 20(b)(5), eff. September 1, 2019.

### **Section 205.008. DESTRUCTION OF SOURCE DOCUMENTS.**

(a) The source document, if any, for electronically stored local government record data covered by rules adopted under Section [205.003](#)(a) may be destroyed or returned to the person who filed it for record.

(b) The magnetic tape, optical disk, or similar medium containing the local government record data and the hardware and software necessary to provide access to it must be retained by the local government or be available to the local government until the expiration of the retention period for all source documents, subject to the rules adopted under this chapter.

(c) The source document, if any, for electronically stored local government record data not covered by rules adopted under Section [205.003](#)(a) may be destroyed before the expiration of the retention period for the source document in a records retention schedule issued by the commission if the magnetic tape, optical disk, or similar medium and hardware and software necessary to provide access to local government record data on the media are retained for the retention period in the schedule. Conversely, the magnetic tape, optical disk, or similar medium may be erased, written over, or destroyed before the expiration of the retention period for a source document for local government record data not covered by rules adopted under Section [205.003](#)(a), if the source document, if any, is retained until the expiration of its retention period or, if the source document has already been destroyed, paper or microfilm copies are generated from the magnetic tape, optical disk, or similar medium before destruction or erasure and retained until the expiration of the retention period for the source document.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 19, eff. September 1, 2019.

### **Section 205.009. DENIAL OF ACCESS PROHIBITED.**

A person under contract or agreement with a local government or elected county officer to create, file, or store local government record data electronically or to provide services, equipment, or the means for the creation, filing, or storage, may not, under any circumstances, refuse to provide local government record data to the local government in a timely manner in a format accessible and useable by the local government.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Section 205.010. SECURITY BREACH NOTIFICATION BY LOCAL GOVERNMENT.**

(a) In this section:

- (1) "Breach of system security" has the meaning assigned by Section [521.053](#), Business & Commerce Code.
- (2) "Sensitive personal information" has the meaning assigned by Section [521.002](#), Business & Commerce Code.

(b) A local government that owns, licenses, or maintains computerized data that includes sensitive personal information shall comply, in the event of a breach of system security, with the notification requirements of Section [521.053](#), Business & Commerce Code, to the same extent as a person who conducts business in this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 419 (H.B. 2004), Sec. 6, eff. September 1, 2009.

# GOVERNMENT CODE

## Title 4. Executive Branch

### Subtitle D. History, Culture, and Education

#### SUBCHAPTER F. MAINTENANCE AND DISPOSITION OF CERTAIN COUNTY RECORDS

##### Section 441.091. DEFINITION.

In this subchapter, "county record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a county or precinct or any county or precinct officers or employees, including the district clerk, pursuant to law, including an ordinance or order of the commissioners court of the county, or in the transaction of public business. The term does not include:

- (1) extra identical copies of documents created only for convenience of reference or research by county or precinct officers or employees;
- (2) notes, journals, diaries, and similar documents created by a county or precinct officer or employee for the officer's or employee's personal convenience;
- (3) blank forms;
- (4) stocks of publications;
- (5) library and museum materials acquired solely for the purposes of reference or display;
- (6) copies of documents in any media furnished to members of the public to which they are entitled under Chapter [552](#), or other state law; or
- (7) any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Section [2009.054\(c\)](#), associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 123, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(96), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 31, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1352, Sec. 2, eff. Sept. 1, 1999.

##### Section 441.094. RECORDS SCHEDULE AND IMPLEMENTATION PLAN.

- (a) Repealed by Acts 1989, 71st Leg., ch. 1248, Sec. 85(3), eff. Sept. 1, 1989.



(b) A records schedule must:

- (1) contain a list by record title of the county records to be scheduled; and
- (2) prescribe a minimum retention period for each record that is at least as long as that prescribed by law or the county records manual or state that a retention period for the record will be assigned later.

(c) A records schedule may:

- (1) contain a list of all of the county records kept by the custodian or a list of only those records to be scheduled; and
- (2) contain a list of material that is excluded from the definition of county record by Section [441.091](#) and that is kept by the custodian, with retention periods assigned by the custodian.

(d) A custodian may amend a records schedule or implementation plan.

(e) Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(a)(1), eff. September 1, 2019.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 123, Sec. 2, eff. Sept. 1, 1989.

#### **Section 441.0945. DISPOSITION OF SCHEDULED RECORDS.**

(a) A county record may be destroyed if the record is listed on a valid records schedule and implementation plan and either its retention period has expired or it has been microfilmed or stored electronically in accordance with applicable law.

(b) The retention period of a record as listed on the records schedule and implementation plan must be at least as long as the retention period for the record established on a records retention schedule issued by the commission.

(c) Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(a)(2), eff. September 1, 2019.

Added by Acts 1989, 71st Leg., ch. 123, Sec. 3, eff. Sept. 1, 1989. Amended by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 6, eff. September 1, 2019.

#### **Section 441.095. DISPOSITION OF UNSCHEDULED RECORDS.**

(a) Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(a)(3), eff. September 1, 2019.

(b) Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(a)(3), eff. September 1, 2019.

(c) Repealed by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 20(a)(3), eff. September 1, 2019.

(d) A custodian may dispose of a county record that is not listed on a records retention schedule issued by the commission if, not later than the 10th day before the date the record is destroyed, the custodian files and records a notice with the county clerk. The notice must indicate the record to be destroyed, how it is to be destroyed, and the date of its destruction. On the day the notice is filed, the county clerk shall post a copy of it in the same manner that a notice of a meeting is posted under Chapter 551.

(e) The custodian may destroy the record at any time after the notice required by Subsection (d) has been posted for 10 days by the county clerk.

(f) A county record may be destroyed only by sale or donation for recycling purposes, shredding, burning, burial in a landfill, or pulping.

(g) A person is not civilly liable for destruction of a record in accordance with this subchapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 123, Sec. 4, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(79), eff. Sept. 1, 1995. Amended by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 7, eff. September 1, 2019.

## **SUBCHAPTER J. PRESERVATION AND MANAGEMENT OF LOCAL GOVERNMENT RECORDS**

### **Section 441.158. LOCAL GOVERNMENT RECORDS RETENTION SCHEDULES.**

(a) The director and librarian, under the direction of the commission, shall prepare and distribute free of charge to records management officers of affected local governments the records retention schedules for each type of local government, including a schedule for records common to all types of local government. The commission shall adopt the schedules by rule.

(b) Each records retention schedule must:

- (1) list the various types of records of the applicable local government;
- (2) state the retention period prescribed by a federal or state law, rule of court, or regulation for records for which a period is prescribed; and
- (3) prescribe retention periods for all other records, which periods have the same effect as if prescribed by law after the records retention schedule is adopted as a rule of the commission.

(c) In preparing the records retention schedules, the director and librarian shall consult with custodians and other local government officials whose records are affected by the schedules and with appropriate state agencies.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(7), eff. September 1, 2009.

(e) After the adoption of a records retention schedule, a retention period for a record prescribed in a new or amended federal or state law, rule of court, or regulation that differs from that in a records retention schedule prevails over that in the schedule.

(f) Expired.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 22, eff. Sept. 1, 1995. Amended by Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 26(7), eff. September 1, 2009.

#### **Section 441.159. PRIOR RETENTION PERIODS IN COUNTY RECORDS MANUAL.**

Retention periods for county records contained in the county records manual or any amendments to the manual approved before September 1, 1989, as provided under prior law are validated and have the same effect as retention periods in a records retention schedule adopted under Section [441.158](#). Any amendments to retention periods in the manual after September 1, 1989, must be in accordance with Section [441.160](#).

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

#### **Section 441.160. REVISIONS TO RECORDS RETENTION SCHEDULES.**

The records retention schedules may be revised and the revisions take effect according to their terms when they are approved and adopted in the same manner as provided by Section [441.158](#).

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.  
Amended by Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 15, eff. September 1, 2009.

#### **Section 441.166. STATE AGENCY RULES.**

A state agency other than the commission, the Texas Supreme Court, or the Texas Court of Criminal Appeals may not require a local government to retain a record for any specific period of time unless the requirements are imposed by federal law or regulation, state law, or rules adopted by the agency under Chapter [2001](#).

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995.

#### **Section 441.167. ASSISTANCE AND INFORMATION.**

The director and librarian may designate employees of the commission to provide assistance and information to local governments on records management issues under Subtitle C, Title 6, Local Government Code, or rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 9, eff. September 1, 1999.

#### **Section 441.168. MICROFILMING AND STORING LOCAL GOVERNMENT RECORDS.**

(a) On request of a local government, the director and librarian may provide for the microfilming or storage of the local government records of that local government. Local government records are open to the director and librarian for that purpose.

(b) The commission shall establish fees for the microfilming and storage of local government records in amounts sufficient to cover the costs of administering and expanding the microfilming and storage services of the records management division in the state library for the purpose of implementing Subsection (a). The fees received under this section shall be deposited in the state treasury in an account to be used only for the costs of administering and expanding microfilming and storage services.

(c) The director and librarian may allow the state records center to provide for the economical and efficient storage, accessibility, protection, and final disposition of inactive and vital local government records under this section.

Added by Acts 1991, 72nd Leg., ch. 738, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 2011, 82nd Leg., R.S., Ch. 1145 (H.B. 1844), Sec. 1, eff. June 17, 2011.

#### **Section 441.169 DUTIES OF LOCAL GOVERNMENTS.**

Each local government shall:

- (1) submit to the director and librarian the name of the local government's records management officer identified under Section [203.001](#), Local Government Code, or designated under Section [203.025](#), Local Government Code, and the name of the new officer in the event of a change;
- (2) file a plan or an ordinance or order establishing a records management program and any amendments to the plan or ordinance or order with the director and librarian as required by Sections [203.005](#) and [203.026](#), Local Government Code;
- (3) notify the commission at least 10 days before destroying a local government record that does not appear on a records retention schedule issued by the commission; and
- (4) file with the director and librarian a written certification as provided by Section [203.041](#), Local Government Code, that the local government has prepared a records control schedule that:
  - (A) establishes a retention period for each local government record as required by Subchapter C, Chapter 203, Local Government Code; and
  - (B) complies with a local government records retention schedule distributed by the director and librarian under Section [441.158](#) and any other state and federal requirements.

Added by Acts 2019, 86th Leg., ch. 533 (H.B. 1962), Sec. 10, eff. September 1, 2019.