

1987 Assembly Bill 535

Date of enactment: **March 10, 1988**
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1987 Wisconsin Act 147

AN ACT to repeal 16.61 (2) (at), 16.61 (5) and 20.505 (1) (kh); to renumber and amend 16.61 (4) and 16.61 (10) (a); to amend 16.61 (2) (ad), 16.61 (2) (ap), 16.61 (2) (c), 16.61 (3) (i), 16.61 (3m) (h), 16.61 (6), 16.61 (7) (a) (intro.), 2 and 5, (b) and (c), 16.61 (8) and (9), 16.61 (11) and (12), 16.75 (3t) (c) 7, 19.21 (5) and 20.505 (1) (kg); and to create 16.61 (2) (am), 16.61 (3) (r) and 16.61 (4) (c) of the statutes; and to affect laws of 1981, chapter 350, sections 2, 4, 6, 10, 12, 12bh, 12bt and 13 (2); and laws of 1981, chapter 350, section 14, relating to public records and forms and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 16.61 (2) (ad) of the statutes is amended to read:

16.61 (2) (ad) "Form" means ~~every piece of paper, transparent plate or film containing information, any written material, by whatever means~~ printed, generated or reproduced ~~by whatever means~~, with blank spaces left for the entry of additional information to be used for the purpose of providing information, collecting information or requiring action in any transaction involving this state. ~~"Form" includes instructions for entry of information on a form.~~

SECTION 2. 16.61 (2) (am) of the statutes is created to read:

16.61 (2) (am) "Microfilm reproduction" means any manner by which an image is reduced in size and reproduced on fine-grain, high resolution film.

SECTION 3. 16.61 (2) (ap) of the statutes is amended to read:

16.61 (2) (ap) "Public contact form" means a form generated and used by any state agency in transactions between a the state agency and a member of the public.

SECTION 4. 16.61 (2) (at) of the statutes is repealed.

SECTION 5. 16.61 (2) (c) of the statutes is amended to read:

16.61 (2) (c) "Records series" means records that are arranged under a single manual or automated filing system, or are kept together as a unit, because they relate to a particular subject, result from the same activity, or have a particular form.

SECTION 6. 16.61 (3) (i) of the statutes is amended to read:

16.61 (3) (i) Shall review and approve or disapprove all public contact forms ~~and public data collection forms~~, except as provided in sub. (3m).

SECTION 7. 16.61 (3) (r) of the statutes is created to read:

16.61 (3) (r) Shall consider recommendations and advice offered by records and forms officers.

SECTION 8. 16.61 (3m) (h) of the statutes is amended to read:

16.61 (3m) (h) Forms that are not public contact ~~or public data collection~~ forms.

SECTION 9. 16.61 (4) of the statutes is renumbered 16.61 (4) (a) and amended to read:

16.61 (4) (a) All public records made or received by or in the custody of a state agency shall be and remain the property of the state. ~~Such~~ Those public records may not be disposed of without the written approval of the board.

(b) State agencies shall submit records ~~disposal authorizations~~ retention schedules for all public records series in their custody to the board for its approval within one year after each record series has been received or created unless a shorter period of retention is authorized by law, in which case ~~authorization~~ a retention schedule shall be submitted within that period. The board may alter retention periods for any records series; but if retention for a certain period is specifically required by law, the board may not decrease the length of that period. The board may not authorize the destruction of any public records during the period specified in s. 19.35 (5).

SECTION 10. 16.61 (4) (c) of the statutes is created to read:

16.61 (4) (c) A records retention schedule approved by the board on or after the effective date of this paragraph [revisor inserts date], is effective for 10 years,

unless otherwise specified by the board. At the end of the effective period, an agency shall resubmit a retention schedule for approval by the board. During the effective period, if approved by the board and the board has assigned a disposal authorization number to the public record or record series, a state agency may dispose of a public record or record series according to the disposition requirements of the schedule without further approval by the board.

SECTION 11. 16.61 (5) of the statutes is repealed.

SECTION 12. 16.61 (6) of the statutes is amended to read:

16.61 (6) (title) PROCEDURE FOR MICROFILM REPRODUCTION OF PUBLIC RECORDS. Any state agency desiring to ~~photographically reproduce~~ microfilm public records ~~in order to permit the destruction of original records having permanent value~~ may shall submit a request to the board ~~to reproduce photographically such records for the microfilm reproduction of each records series to be reproduced together with such any information as the board requires. In granting or denying approval, the board shall consider factors such as the long-term value of the public records, the cost-effectiveness of microfilm reproduction compared with other records management techniques and the technology appropriate for the specific application.~~ Upon receiving written approval from the board, any state agency may cause any public record to be ~~photographed, microfilmed or otherwise reproduced by photography.~~ The photographic reproduction shall comply in compliance with this section and the rules adopted pursuant thereto.

SECTION 13. 16.61 (7) (a) (intro.), 2 and 5, (b) and (c) of the statutes are amended to read:

16.61 (7) (a) (intro.) Any photographic microfilm reproduction of an original record is deemed an original record if all of the following conditions are met:

2. The reproduction is on film which complies with the minimum standards of quality for ~~photographic records~~ microfilm reproductions, as established by the board.

5. ~~The custodian of the record~~ state agency records and forms officer or other person designated by the head of the state agency executes a statement of intent and purpose describing the record to be reproduced, the disposition of the original record, the disposal authorization number assigned by the board for state records, the enabling ordinance or resolution for cities, towns, villages or school districts, or the resolution which authorizes the reproduction for counties when required, and a certificate that the record was received or created and microfilmed in the normal course of business, and that the statement of intent and purpose is properly recorded as directed by the board.

(b) ~~The record custodian's~~ statement of intent and purpose executed under par. (a) 5 is presumptive evidence of compliance with all conditions and standards prescribed by this subsection.

(c) Any ~~photographic microfilm~~ reproduction of an original record which was made prior to April 18, 1986, in accordance with the standards in effect under the applicable laws and rules for authenticating the record at the time the reproduction was made is deemed an original record.

SECTION 14. 16.61 (8) and (9) of the statutes are amended to read:

16.61 (8) ADMISSIBLE IN EVIDENCE. (a) Any photographic microfilm reproduction meeting the requirements of this section shall be taken as, stand in lieu of and have all the effect of the original document and shall be admissible in evidence in all courts and all other tribunals or agencies, administrative or otherwise, in all cases where the original document is admissible.

(b) Any enlarged copy of any photographic microfilm reproduction ~~on film~~ made as provided by this section and certified by the custodian as provided in s. 889.08 shall have the same force as the photographic microfilm reproduction itself.

(9) PRESERVATION OF REPRODUCTIONS. Provision shall be made for the preservation of any photographic microfilm reproductions of public records in conveniently accessible files in the agency of origin or its successor or in the state archives.

SECTION 15. 16.61 (10) (a) of the statutes is renumbered 16.61 (10) and amended to read:

16.61 (10) (title) CONTRACTS FOR MICROFILM REPRODUCTION. Contracts for photographic microfilm reproduction of records to be made as provided in this section shall be made by the secretary as provided in ~~s. 16.74~~ ss. 16.70 to 16.77 and the cost of making such photographic microfilm reproduction shall be paid out of the appropriation of the state agency having the reproduction made.

SECTION 16. 16.61 (11) and (12) of the statutes are amended to read:

16.61 (11) AUTHORITY TO REPRODUCE RECORDS. Nothing in this section shall be construed to prohibit the responsible officer of any state agency from reproducing any document ~~whatsoever~~ by any method when it is necessary to do so in the course of carrying out duties or functions in any case other than where the original document is to be destroyed; but no original public record ~~shall may~~ be destroyed after microfilming ~~or other reproduction~~ without the approval of the board as provided in sub. (4).

(12) (title) ACCESS TO MICROFILM REPRODUCTIONS. All persons may examine and use the photographic microfilm reproductions of public records subject to such reasonable rules as may be made by the responsible officer of the state agency having custody of the same.

SECTION 18. 16.75 (3t) (c) 7 of the statutes is amended to read:

16.75 (3t) (c) 7. Forms that are not public contact ~~or public data collection~~ forms.

SECTION 20. 19.21 (5) of the statutes, as affected by Supreme Court Order effective April 1, 1987, is amended to read:

19.21 (5) (a) Any county having a population of 500,000 or more may provide by ordinance for the destruction of obsolete public records, except for court records subject to SCR chapter 72, ~~without regard to ss. 59.715 to 59.717 and may undertake a management of records service and any other.~~

(b) Any county having a population of less than 500,000 may provide by ordinance for the destruction of obsolete public records, subject to ss. 59.715 to 59.716 and 59.717.

(c) The period of time any public record shall be kept before destruction shall be determined by ordinance except that in all counties the specific period of time expressed within s. 7.23 or 59.715 or any other law requiring a specific retention period shall apply. The period of time prescribed in the ordinance for the destruction of all records not governed by s. 7.23 or 59.715 or any other law prescribing a specific retention period may not be less than 7 years, unless a shorter period is fixed by the public records and forms board under s. 16.61 (3) (e).

(d) Prior to any destruction of records under this subsection, except those specified within s. 59.715, at least 60 days' notice of such destruction shall be given in writing, to the historical society, which may preserve any records it determines to be of historical interest. Notice is not required for any records for which destruction has previously been approved by the historical society or in which the society has indicated that it has no interest for historical purposes. Records which have a confidential character while in the possession of the original custodian shall retain such confidential character after transfer to the historical society unless the director of the historical society, with the concurrence of the original custodian, deter-

mines that such records shall be made accessible to the public under such proper and reasonable rules as the historical society promulgates.

(e) The county board of any county may provide, by ordinance, a program for the keeping, preservation, retention and disposition of public records including the establishment of a committee on public records and may institute a record records management service for the county and may appropriate funds to accomplish such purposes.

SECTION 22. 20.505 (1) (kg) of the statutes, as created by 1987 Wisconsin Act 27, is amended to read:

20.505 (1) (kg) *Records, microfilm and forms services.* The amounts in the schedule to provide records storage and microfilm services primarily to state agencies, and to fund services of the public records and forms board under s. 16.61. All moneys received from the provision of records storage and microfilm services primarily to state agencies and from services provided to state agencies by the public records and forms board shall be credited to this appropriation. ~~This paragraph does not apply after June 30, 1989.~~

SECTION 23. 20.505 (1) (kh) of the statutes, as affected by 1987 Wisconsin Act 27, is repealed.

SECTION 25. Laws of 1981, chapter 350, sections 2, 4, 6, 10, 12, 12bh, 12bt and 13 (2) are repealed.

SECTION 26. Laws of 1981, chapter 350, section 14, as last amended by 1985 Wisconsin Act 180, is repealed.

SECTION 27. **Nonstatutory provisions.** The repeal of chapter 350, laws of 1981, sections 2, 4, 6, 10, 12, 12bh, 12bt and 13 (2) by this act applies notwithstanding section 990.03 (3) of the statutes.

SECTION 29. **Initial applicability.** The treatment of section 19.21 (5) (c) of the statutes first applies to retention periods fixed on the effective date of this SECTION.