

CHAPTER 18.

CUSTODY OF OFFICIAL PROPERTY AND PROCEEDINGS TO COMPEL THE
DELIVERY THEREOF BY PUBLIC OFFICERS TO
THEIR SUCCESSORS.

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| 18.01 Custody and delivery of official prop-
erty and records. | 18.03 Transfer of records or materials to
state historical society. |
| 18.02 Proceedings to compel the delivery of
official property. | |

18.01 Custody and delivery of official property and records. (1) Each and every officer of the state, or of any county, town, city, village, school district, or other municipality or district, is the legal custodian of and shall safely keep and preserve all property and things received from his predecessor or other persons and required by law to be filed, deposited, or kept in his office, or which are in the lawful possession or control of himself or his deputies, or to the possession or control of which he or they may be lawfully entitled, as such officers.

(2) Except as expressly provided otherwise, any person may with proper care, during office hours and subject to such orders or regulations as the custodian thereof may prescribe, examine or copy any of the property or things mentioned in subsection (1).

(3) Upon the expiration of his term of office, or whenever his office becomes vacant, each such officer, or on his death his legal representative, shall on demand deliver to his successor all such property and things then in his custody, and his successor shall receipt therefor to said officer, who shall file said receipt, as the case may be, in the office of the secretary of state, county clerk, town clerk, city clerk, village clerk, school district clerk, or clerk or other secretarial officer of the municipality or district, respectively; but if a vacancy occurs before such assessor is qualified, such property and things shall be delivered to and be receipted for by such secretary or clerk, respectively, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

(4) Any person who violates any of the provisions of this section shall, in addition to any other liability or penalty, civil or criminal, forfeit not less than twenty-five nor more than two thousand dollars; such forfeiture to be enforced by a civil action on behalf of, and the proceeds to be paid into the treasury of the state, municipality, or district, as the case may be.

18.02 Proceedings to compel the delivery of official property. (1) If any public officer refuses or neglects to deliver to his successor any official property or things as required in section 18.01, or if such property or things shall come to the hands of any other person who refuses or neglects, on demand, to deliver the same to the successor in such office, such successor may make complaint thereof to any judge of a court of record for the circuit or county where the person so refusing or neglecting resides. If such judge be satisfied by the oath of the complainant and such other testimony as may be offered that any such property or things are withheld he shall grant an order directing the person so refusing to show cause before him, within some short and reasonable time, why he should not be compelled to deliver the same.

(2) At the time appointed, or at any other time to which the matter may be adjourned, upon due proof of service of such order, if the person complained against makes affidavit before such judge that he has delivered to such successor all the official property and things in his custody or possession pertaining to such office, within his knowledge, the person complained against shall be discharged and all further proceedings in the matter before such judge shall cease.

(3) If the person complained against does not make such affidavit the matter shall proceed as follows:

(a) The judge shall inquire further into the matters set forth in the complaint, and if it appears that any such property or things are withheld by the person complained against the judge shall by warrant commit him to the county jail, there to remain until the delivery of such property and things to the complainant or until he be otherwise discharged according to law.

(b) If required by the complainant the judge shall also issue his warrant, directed to the sheriff or any constable of the county, commanding him in the daytime to search such places as shall be designated in such warrant for such official property and things