

**Senate Bill No. 2067**

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Passed the Senate August 25, 2000

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*Secretary of the Senate*

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Passed the Assembly August 21, 2000

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2000, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Sections 12168.7, 14756, 25105, 26205, 26205.1, 26205.5, 27322.2, 34090.5, and 60203 of the Government Code, to amend Section 102235 of the Health and Safety Code, and to amend Section 10851 of the Welfare and Institutions Code, relating to records.

## LEGISLATIVE COUNSEL'S DIGEST

SB 2067, Bowen. Records.

Under existing law, the reproduction of various state agency records and county records is required to be done in compliance with regulations adopted by the Secretary of State.

This bill would require the Secretary of State, in consultation with the Department of General Services, to approve and adopt appropriate standards established by the American National Standards Institute or the Association for Information and Image Management, and would require that reproduction of those records be done in compliance with the minimum standards or guidelines, or both, recommended by the American National Standards Institute or the Association for Information and Image Management.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12168.7 of the Government Code is amended to read:

12168.7. (a) The California Legislature hereby recognizes the need to adopt uniform statewide standards for the purpose of storing and recording permanent and nonpermanent documents in electronic media.

(b) In order to ensure that uniform statewide standards remain current and relevant, the Secretary of State, in consultation with the Department of General Services, shall approve and adopt appropriate standards established by the American National Standards Institute



or the Association for Information and Image Management.

(c) The standards specified in subdivision (b) shall include a requirement that a trusted system be utilized. For this purpose and for purposes of Sections 25105, 26205, 26205.1, 26205.5, 27322.2, 34090.5, and 60203, Section 102235 of the Health and Safety Code, and Section 10851 of the Welfare and Institutions Code, “trusted system” means a combination of techniques, policies, and procedures for which there is no plausible scenario in which a document retrieved from or reproduced by the system could differ substantially from the document that is originally stored.

(d) In order to develop statewide standards as expeditiously as possible, and until the time that statewide standards are adopted pursuant to subdivision (b), state officials shall ensure that microfilming, electronic data imaging, and photographic reproduction are done in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records.

SEC. 2. Section 14756 of the Government Code is amended to read:

14756. The public records of any state agency may be microfilmed, electronically data imaged, or otherwise photographically reproduced and certified upon the written authorization of the head of the agency. The microfilming, electronic data imaging, or photographic reproduction shall be made in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management, and as adopted by the Department of General Services in consultation with the Secretary of State, for recording of permanent records or nonpermanent records.

The certification of each reproduction or set of reproductions shall be in accordance with the standards,



or have the approval, of the Attorney General. The certification shall contain a statement of the identity, description, and disposition or location of the records reproduced, the date, reason, and authorization for the reproduction, and other information that the Attorney General requires.

The certified reproductions shall be deemed to be original public records for all purposes, including introduction in courts of law and state agencies.

SEC. 3. Section 25105 of the Government Code is amended to read:

25105. The board of supervisors may authorize the use of photographs, microphotographs, electronic data processing records, optical disks, or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or photocopies of all records, books, and minutes of the board.

(a) Each photograph, microphotograph, or photocopy shall be made in a manner and on paper which will comply with Section 12168.7 for recording of permanent records or nonpermanent records, whichever applies. Every reproduction shall be deemed and considered an original; a transcript, exemplification, or certified copy of any reproduction shall be deemed and considered a transcript, exemplification, or certified copy, as the case may be, of the original. Each roll of microfilm shall be deemed and constitute a book and shall be designated and numbered, and provision shall be made for preserving, examining, and using it. A duplicate of each roll of microfilm shall be made and kept in a safe and separate place.

(b) Electronic data processing records, records recorded on optical disk, and records recorded on any other medium shall comply with Section 12168.7. A duplicate copy of any record reproduced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records, whichever applies, shall be deemed an original.



(c) In the event the authorization provided herein is granted, the personal signatures required by Section 25103, if technically feasible, may be reproduced by the authorized process, and the reproduced signatures shall be deemed to satisfy the requirement of Section 25103. If the documents are signed using a digital signature, reproduced documents shall be considered authenticated if the reproduced documents are created by a trusted system, as defined in pertinent digital signature regulations.

SEC. 4. Section 26205 of the Government Code is amended to read:

26205. At the request of the county officer concerned, the board of supervisors of any county may authorize the destruction of any record, paper, or document that is not expressly required by law to be filed and preserved if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, or reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one that accurately reproduces the original thereof in all details and which does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, electronically recorded video images on magnetic surfaces, records in the electronic data processing system, records recorded on optical disk, or other reproductions on film or any other medium are placed in conveniently accessible files and provision is made for preserving, examining, and using the files.



Notwithstanding any other provision of this section, destruction of the original records, papers, or documents is not authorized when the method of reproduction pursuant to this section is reproduction of electronically recorded video images on magnetic surfaces unless a duplicate videotape of the images is separately maintained. A duplicate copy of a record contained in the electronic data processing system, on optical disk, or on any other medium that does not permit additions, deletions, or changes to the original document images shall also be separately maintained.

SEC. 5. Section 26205.1 of the Government Code is amended to read:

26205.1. (a) The county officer having custody of nonjudicial public records, documents, instruments, books, and papers may cause to be destroyed any or all of the records, documents, instruments, books, and papers if all of the following conditions exist:

(1) The board of supervisors of the county has adopted a resolution authorizing the county officer to destroy records, documents, instruments, books, and papers pursuant to this subdivision. The resolution may impose conditions, in addition to those specified in this subdivision, that the board of supervisors determines are appropriate.

(2) The county officer who destroys any record, document, instrument, book, or paper pursuant to the authority granted by this subdivision and a resolution of the board of supervisors adopted pursuant to paragraph (1) shall maintain for the use of the public a photographic or microphotographic film, electronically recorded video production, a record contained in the electronic data processing system, a record recorded on optical disk, a record recorded by any other medium that does not permit additions, deletions, or changes to the original document, or other duplicate of the record, document, instrument, book, or paper destroyed.

(3) The record, paper or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in



the electronic data processing system, recorded on optical disk or reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) Paragraphs (2) and (3) of subdivision (a) do not apply to records prepared or received other than pursuant to a state statute or county charter, or records that are not expressly required by law to be filed and preserved.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

(c) The county clerk having custody of the original or a copy of the articles of any corporation may cause the destruction of any or all the documents. "Articles" includes the articles of incorporation, amendments thereto, amended articles, restated articles, certificate of incorporation, certificates of determination of preferences, dissolution certificates, merger certificates, and agreements of consolidation or merger.

(d) Notwithstanding any other provision of this section, destruction of the original records, papers, or documents is not authorized when the method of reproduction pursuant to this section is reproduction of electronically recorded video images on magnetic surfaces unless a duplicate videotape of the images is separately maintained. A duplicate copy of a record contained in the electronic data processing system, on optical disk, or on any other medium that does not permit additions, deletions, or changes to the original document shall also be separately maintained.

SEC. 6. Section 26205.5 of the Government Code is amended to read:

26205.5. At the request of the county recorder, the board of supervisors of any county may authorize the



destruction of any or all of the filed papers or record books created by handwriting, typing on printed forms, by typewriting, or by photographic methods, in the recorder's official custody, if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or reproduced under the direction and control of the county recorder on film, optical disk, or any other medium in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one that accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are made as accessible for public reference as the original records were.

(d) A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

However, no page of any record, paper, or document shall be destroyed if any page cannot be reproduced on film with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

SEC. 7. Section 27322.2 of the Government Code is amended to read:



27322.2. A system of microphotography, optical disk, or reproduction by any other technique that does not permit additions, deletions, or changes to the original document may be used by the recorder as a photographic reproduction process to record some or all instruments, papers, and notices that are required or permitted by law to be recorded or filed. All reproductions shall be made in compliance with Section 12168.7. A true copy of the document shall be kept in a safe and separate place that will reasonably assure its preservation for the duration of the retention prescribed by law against loss or destruction. A true copy of the document shall be arranged in a suitable place in the office of the recorder to facilitate public inspection.

SEC. 8. Section 34090.5 of the Government Code is amended to read:

34090.5. Notwithstanding the provisions of Section 34090, the city officer having custody of public records, documents, instruments, books, and papers, may, without the approval of the legislative body or the written consent of the city attorney, cause to be destroyed any or all of the records, documents, instruments, books, and papers, if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or reproduced on film, optical disk, or any other medium in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one which accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images.



(c) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are made as accessible for public reference as the original records were.

(d) A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

However, no page of any record, paper, or document shall be destroyed if any page cannot be reproduced on film with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

SEC. 9. Section 60203 of the Government Code is amended to read:

60203. The legislative body of a district may authorize the destruction of any record, paper, or document that is not expressly required by law to be filed and preserved if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one that accurately reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium



are placed in conveniently accessible files and provision is made for preserving, examining, and using the files.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

SEC. 10. Section 102235 of the Health and Safety Code is amended to read:

102235. Notwithstanding any other provisions of law relating to retention of public records, the State Registrar may cause the original records of birth, death and marriage filed under this part to be destroyed if all of the following requirements have been met:

(a) One year has elapsed since the date of registration of the records.

(b) The birth, death, or marriage records have been reproduced onto microfilm or optical disk or by any other technique that does not permit additions, deletions, or changes to the original document in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(c) Adequate provisions are made that the permanent storage medium reflects additions or corrections to the records.

(d) A permanent copy is maintained in a manner that permits it to be used for all purposes served by the original record.

(e) A permanent copy has been stored at a separate physical location in a place and manner that will reasonably assure its preservation indefinitely against loss or destruction.

SEC. 11. Section 10851 of the Welfare and Institutions Code is amended to read:

10851. (a) Each county shall establish and maintain a case record for each public social services case and shall retain the record for a period of three years. The three-year retention period begins on the date on which public social services were last provided. The records shall be retained beyond the three-year retention period



when the county is notified by the department or the State Department of Health Services, whichever has jurisdiction over the records, to retain records for a longer period of time. The department or the State Department of Health Services, whichever has jurisdiction over the records, shall instruct a county to retain records beyond the three-year period when the retention is necessary to a pending civil or criminal action.

(b) Notwithstanding subdivision (a), the board of supervisors of any county may authorize the destruction of the case narrative portions of the case record that are over three years old in any case file, active or inactive, only after audit by the department or the State Department of Health Services, whichever has jurisdiction over the record. In addition, the board may also authorize the destruction of those documents contained in the case file that are over three years old and are no longer necessary to document the recipient's continued eligibility for public social services. However, if a civil or criminal action against a person based on alleged unlawful application for, or receipt of, public social services, is commenced before the expiration of the three-year period, no portion of the case record of the person shall be destroyed until the action is terminated.

(c) Each county shall maintain fiscal, statistical, and other records necessary for maintaining accountability and meeting reporting requirements relating to the administration of public social services. These fiscal and reporting records shall be retained for a minimum period of three years from the date of submission of the final expenditure report and shall be retained beyond the three-year period when audit findings have not been resolved.

(d) The retention requirements imposed by subdivisions (a) and (c) of this section are for public social services purposes only and are superseded to the extent another statute requires retention of the same records for a longer period for a different purpose.

(e) Notwithstanding subdivision (a), or any other statutory requirement concerning the retention of public



social services records, a child protective services agency may, but need not, retain a child abuse report that has been determined to be an unfounded report, as defined in Section 11165.12 of the Penal Code.

(f) Notwithstanding any other provision of law, a county may retain a case record established pursuant to subdivision (a), and retained pursuant to subdivisions (a) and (c), using either electronic or other alternative storage technologies. Permissible alternative storage technologies shall include, but not be limited to, photography, microphotography, electronically recorded video images on magnetic surfaces, electronic data processing systems, optical disk storage, or any other electronic medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and meets Section 12168.7 for recording of permanent records or nonpermanent records. A duplicate copy of any record reproduced shall be deemed an original.



Approved \_\_\_\_\_, 2000

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*Governor*

