

LEGISLATIVE BILL 25

Approved by the Governor March 8, 1991

Introduced by Withem, 14

AN ACT relating to the duplication of records; to amend sections 25-12,112, 84-1202, and 84-1208, Reissue Revised Statutes of Nebraska, 1943; to provide for admissibility in evidence of duplicates made by optical imagery; to redefine terms; to provide for preservation duplicates to be made using optical imagery; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 25-12,112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-12,112. If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation, or combination thereof, of any act, transaction, occurrence, or event; and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, optical imagery, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law; ~~PROVIDED, that and, with respect to agencies or departments of government,~~ if the State Records Administrator must approve approves such destruction, ~~by any agency or department of government.~~ Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of the court. The introduction of a reproduced record, enlargement, or facsimile, does not preclude admission of the original.

Sec. 2. That section 84-1202, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

84-1202. As used in sections 84-1201 to 84-1226 For purposes of the Records Management Act, unless the context otherwise requires:

(1) Agency shall mean any department, division, office, commission, court, board, or elected, appointed, or constitutional officer, except individual members of the Legislature, or any other unit or body, however designated, of the executive, judicial, and legislative branches of the state government or of the government of any local political subdivision;

(2) Agency head shall mean the chief or principal official or representative in any such agency, or the presiding judge of any court, by whatever title known. When ; and when an agency consists of a single official, the agency and the agency head are shall be one and the same;

(3) State agency shall mean an agency of the state government; and a

(4) ~~Local local~~ agency shall mean an agency of a local political subdivision;

(5) ~~(4)~~ Local political subdivision shall mean any county, city, village, township, district, authority, or other public corporation or political entity, whether existing under charter or general law. Local political subdivision shall not include ; except that a metropolitan-class city of the metropolitan class or a district or other unit which by law is considered an integral part of the state government; is not included in the term;

(6) ~~(5)~~ Record shall mean any book, document, paper, photograph, microfilm, sound recording, magnetic storage medium, optical storage medium, or other material regardless of physical form or characteristics, created or received pursuant to law, charter, or ordinance or in connection with any other activity relating to or having an effect upon the transaction of public business;

(7) ~~(6)~~ State record shall mean a record which normally is maintained within the custody or control of a state agency, or any other record which is designated or treated as a state record according to general law;

(8) ~~(7)~~ Local record shall mean a record of a local political subdivision or of any agency thereof, unless designated or treated as a state record under general law;

(9) ~~(8)~~ Essential record shall mean a state or local record which is within one or the other of the

following categories, and which shall be preserved pursuant to ~~sections 84-1201 to 84-1226~~ the act:

(a) Category A. Records containing information necessary to the operations of government under all conditions, including a period of emergency created by a disaster; or

(b) Category B. Records not within Category A, but which contain information necessary to protect the rights and interests of persons, or to establish or affirm the powers and duties of state or local governments in the resumption of operations after a disaster;

~~(10)~~ ~~(9)~~ Preservation duplicate shall mean a copy of an essential record, which is used for the purpose of preserving the record pursuant to ~~sections 84-1201 to 84-1226~~ the act; and

~~(11)~~ ~~(10)~~ Disaster shall mean any occurrence of fire, flood, storm, earthquake, explosion, epidemic, riot, sabotage, or other conditions of extreme peril resulting in substantial injury or damage to persons or property within this state, whether such occurrence is caused by an act of nature or of man, including an enemy of the United States.

Sec. 3. That section 84-1208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1208. (1) The administrator may make or cause to be made preservation duplicates of essential records, or may designate as preservation duplicates existing copies thereof. A preservation duplicate shall be durable, accurate, complete, and clear, and, if made by means of photography, microphotography, photocopying, film, microfilm, optical imagery, or similar processes, shall be prepared in conformity to standards prescribed and approved by the board.

(2) A preservation duplicate made by a photographic, photostatic, microfilm, microcard, miniature photographic, optical imagery, or similar process, which accurately reproduces or forms a durable medium for so reproducing the original, shall have the same force and effect for all purposes as the original record, whether the original is in existence or not. A transcript, exemplification, or certified copy of such preservation duplicate shall for all purposes be deemed a transcript, exemplification, or certified copy of the original record.

(3) No copy of an essential record shall be used as a preservation duplicate unless, under the general laws of the state, the copy has the same force

and effect for all purposes as the original record.

Sec. 4. That original sections 25-12,112, 84-1202, and 84-1208, Reissue Revised Statutes of Nebraska, 1943, are repealed.