

RESOLUTION OF THE CITY COUNCIL

No. 79

Approved January 24, 1995

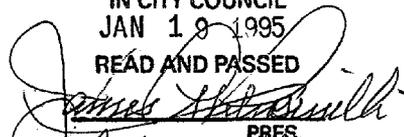
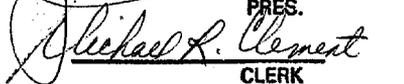
WHEREAS, The Federal and State law prescribe that specific requirements for the preservation and maintenance of records generated by departments of Municipal Government, and

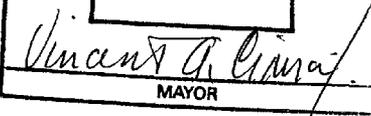
WHEREAS, It has been in the best interest of the City of Providence that all documents be maintained in accordance with these guidelines, and

WHEREAS, It's requested that all records, documents, reports, studies and photographic documentation generated by departments of City Government Agencies, Boards, Commissions, Committees and Individuals, place on deposit with the City Archives to record, and

WHEREAS, Such documents which pertain to the respective departments, by using the prescribed transmittal procedure the documents will be preserved and maintained in accordance with Federal Guidelines in order to insure their future accessibility.

NOW, THEREFORE, BE IT RESOLVED, That every agency of the City of Providence proceed with punctuality and caution, to make an inventory of all documents within their respective agency and determine which documents and recorded information should be maintained within their office and then make arrangements with the City Archivist to transfer those other documents, clearly identified in regulation containers, to the City Archivist/Record Center.

IN CITY COUNCIL
JAN 19 1995
READ AND PASSED

PRES.

CLERK

APPROVED
JAN 24 1995

MAYOR

Council President Council

TITLE 38
PUBLIC RECORDS

CHAPTER.

1. CUSTODY AND PROTECTION, §§ 38-1-1 — 38-1-11.
2. PUBLIC ACCESS, §§ 38-2-1 — 38-2-12.
3. PUBLIC RECORDS ADMINISTRATION, §§ 38-3-1 — 38-3-7.

CHAPTER 1

CUSTODY AND PROTECTION

SECTION	SECTION
38-1-1. Delivery of records on leaving public office.	38-1-4. Keeping of records in vaults provided — Penalty.
38-1-1.1. Definitions	38-1-5 to 38-1-8. [Repealed.]
38-1-2. Delivery of records to lawful custodian.	38-1-9. Custodian designated
38-1-3. Receptacles for city and town records.	38-1-10. Disposal of records
	38-1-11. Assistance of the public records administration program

38-1-1. Delivery of records on leaving public office. — Every person who shall hold a public office shall, upon leaving the same, deliver to his successor in office, or, if there be no successor, to the director of the department of administration, all records, books, writings, letters and documents, kept or received by him in the transaction of his official business, and all moneys in his hands which he shall have received as trust funds from any person or otherwise in the course of his official business; and every such person who shall, without just cause, refuse or neglect for the space of ten (10) days after request made in writing by any citizen of the state, to deliver as herein required such records, books, writings, letters or documents, or to pay over such moneys, to the person authorized to receive the same, shall be fined not exceeding five hundred dollars (\$500) and be imprisoned not exceeding five (5) years.

History of Section.

G.L. 1896, ch. 31, § 1; G.L. 1909, ch. 41, § 1;
G.L. 1923, ch. 42, § 1; G.L. 1938, ch. 494, § 1;
G.L. 1956, § 38-1-1; P.L. 1981, ch. 353, § 2.
Cross References. Delivery of records on transfer of functions between departments, § 42-21-5.

Duty of chief clerk of executive department, § 42-7-3.

Comparative Legislation. Public records, Conn. Gen. Stat. §§ 1-7 — 1-29, 1-21a, 11-4 — 11-9 (1981).

Mass. Ann. Laws ch. 66, §§ 1 et seq.

38-1-1.1. Definitions. — For the purpose of this chapter:

(a) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound

recordings, or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

(b) "Agency" or "public body" shall mean any executive, legislative, judicial, regulatory, administrative body of the state or any political subdivision thereof; including, but not limited to any department, division, agency, commission, board, office, bureau, authority, any school, fire or water district, or other agency of Rhode Island state or local government which exercises governmental functions, or any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

(c) "Public business" means any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(d) "Supervisor of the regulatory body" means the chief or head of a section having enforcement responsibility for a particular statute or set of rules and regulations within a regulatory agency.

History of Section.

P.L. 1981, ch. 353, § 1.

Compiler's Notes. The 1984 reenactment

P.L. 1984, ch. 81, § 1 substituted "this chapter" for "this act" in the introductory language.

✓ **38-1-2. Delivery of records to lawful custodian.** — Every person, other than the lawful custodian thereof, who shall have in his possession, or under his control, any such record, book, writing, letter or document as is designated in § 38-1-1, and who shall, without just cause, refuse or neglect for the space of ten (10) days after request made in writing by any citizen of the state, to deliver such record, book, writing, letter or document to the lawful custodian of the same, shall be fined not exceeding five hundred dollars (\$500) and be imprisoned not exceeding five (5) years.

History of Section.

G.L. 1896, ch. 31, § 2; G.L. 1909, ch. 41, § 2;
G.L. 1923, ch. 42, § 2; G.L. 1938, ch. 194, § 2;

G.L. 1956, § 38-1-2.

Cross References. Stealing as larceny.
§ 11-41-1.

38-1-3. Receptacles for city and town records. — It shall be the duty of every city and town to provide fireproof receptacles for records and documents relating to the official business of said city or town, where the same may be kept free from injury from any cause. Said receptacles shall be of suitable type and subject to approval by the public records administrator. In case of failure of any city or town to provide such fireproof receptacles, in accordance with the provisions of this section, it shall be the duty of the public records administrator to furnish such receptacles as may be suitable for said purpose, and he shall have a claim against the town for said expense, which claim shall be enforced in accordance with 45-15-5.

History of Section.

G.L., ch. 41, § 3, as enacted by P.L. 1911, ch. 700, § 1; G.L. 1923, ch. 42, § 3; P.L. 1926, ch. 839, § 1; G.L. 1938, ch. 494, § 3; G.L. 1956, § 38-1-3; P.L. 1981, ch. 353, § 2.

Compiler's Notes. The 1984 reenactment

(P.L. 1984, ch. 81, § 1) substituted "public records administrator" for "state record commissioner" at the end of the first sentence.

Cross References. State librarian as state record commissioner, § 29-1-1.

✓ **38-1-4. Keeping of records in vaults provided — Penalty. —**

When not in use, such records and documents shall be kept in the fireproof rooms, vaults or safes provided for them. Whoever unlawfully keeps in his possession any public record, or unlawfully removes the same from the room in which it is usually kept, or alters, defaces, mutilates or destroys any public record, or violates any provision of this section, shall, for each offense, be punished by a fine of not less than twenty dollars (\$20.00) nor more than five hundred dollars (\$500).

History of Section.

G.L., ch. 41, § 4, as enacted by P.L. 1911, ch. 700, § 1; G.L. 1923, ch. 42, § 4; G.L. 1938, ch. 494, § 4; G.L. 1956, § 38-1-4.

Cross References. Obsolete records, destruction, § 42-22-3.

Original acts, resolutions, and proceedings of general assembly, § 43-2-3.

38-1-5 to 38-1-8. [Repealed.]

Compiler's Notes. These sections (P.L. 1910, ch. 645, §§ 1, 2; P.L. 1912, ch. 822, § 1; P.L. 1916, ch. 1397, § 1; P.L. 1919, ch. 1732, § 1; P.L. 1920, ch. 1922, § 1; P.L. 1922, ch. 2219, § 1; G.L. 1923, ch. 36, §§ 5, 6; G.L. 1923, ch. 42, § 5; P.L. 1925, ch. 622, § 2; P.L. 1927, ch. 985, § 1; P.L. 1935, ch. 2250, § 149; G.L. 1938, ch. 494, §§ 5-8; G.L. 1956,

§§ 38-1-5 — 38-1-8, concerning collection, maintenance, and seizure of records by the state record commissioner, and employment of personnel by and expenses of the commissioner, were repealed by P.L. 1981, ch. 353, § 3. For present provisions of law, see §§ 38-1-9 — 38-1-11, 38-3-1 — 38-3-7.

38-1-9. Custodian designated. — The elected or appointed state, county, or municipal officer or officers charged by law with the responsibility of maintaining the office having public records shall be the custodian thereof.

History of Section.

G.L., § 39-1-9, as enacted by P.L. 1969, ch. 240, § 1; P.L. 1981, ch. 353, § 4.

38-1-10. Disposal of records. — No public official may mutilate, destroy, sell, loan or otherwise dispose of any public record without the consent of the public records administration program of the department of administration.

History of Section.

G.L., § 39-1-10, as enacted by P.L. 1969, ch. 240, § 1; P.L. 1981, ch. 353, § 4.

Compiler's Notes. The 1984 reenactment

(P.L. 1984, ch. 81, § 1) substituted the present section catchline for the former section catchline which read "Destruction of records regulated."

Cross References. Public records adminis-
tration program, § 38-3-3.

38-1-11. Assistance of the public records administration program. — The public records administration program of the department of administration shall have the right to examine the condition of public records and shall give advice and assistance to public officials in the solution of their problems of preserving, creating, filing and making available the public records in their custody. When requested by the program, public officials shall assist the program in the preparation of records control schedules of public records in their custody approved by the head of the agency having custody of the records. Upon review and approval of the schedules by the program, the program shall, subject to the availability of necessary space, staff and other facilities for such purposes, make available space in its record center for the filing of semi-current records so scheduled and in its public records repository for noncurrent records of permanent value and shall render such other assistance as needed, including the microfilming of records so scheduled.

History of Section 38-1-11, as enacted by P.L. 1969, chapter 38-3-3.

700 2 11 P.L. 1981, chapter 38-3-3.

CHAPTER 2 PUBLIC ACCESS

- 38-2-1. Purpose.
- 38-2-2. Definitions.
- 38-2-3. Right to inspect and copy records —
- 38-2-4. Duty to maintain minutes of meetings — Procedures for access.
- 38-2-5. Burden of proof.
- 38-2-6. Commercial use of public records.
- 38-2-7. Denial of access.
- 38-2-8. Administrative appeals.
- 38-2-9. Jurisdiction of state courts.
- 38-2-10. Burden of proof.
- 38-2-11. Right supplemental.
- 38-2-12. Severability.

38-2-1. Purpose. — The public's right to access to records pertaining to the policy-making responsibilities of government and the individual's right to dignity and privacy are both recognized to be principles of the utmost importance in a free society. The purpose of this chapter is to facilitate public access to governmental records which pertain to the policy-making functions of public bodies and are relevant to the public health, safety, and welfare. It is also the intent of this chapter to protect from disclosure information about particular individuals maintained in the files of public bodies when

disclosure would constitute an unwarranted invasion of personal privacy.

History of Section.

P.L. 1979, ch. 202, § 1.

Cross References. Hazardous waste management facilities, siting and impact agreements and related documents, public

access, § 23-19.7-12

Comparative Legislation. Access to public records:

Conn. Gen. Stat. §§ 1-19 — 1-19b, 1-20a.

Mass. Ann. Laws ch. 66, § 10.

NOTES TO DECISIONS

Right of privacy of officers accused of police brutality did not outweigh right of public to know their identity so as to prevent release, pursuant to records-access law, of reports of

hearing examiners investigating accusations of police brutality. *The Rake v. Gorodetsky*, — R.I. —, 452 A.2d 1144 (1982).

38-2-2. Definitions. — As used in this chapter:

(a) "Agency" or "public body" shall mean any executive, legislative, judicial, regulatory, administrative body of the state or any political subdivision thereof, including, but not limited to any department, division, agency, commission, board, office, bureau, authority, any school, fire, or water district, or other agency of state or local government which exercises governmental functions, or any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

(b) "Public business" means any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(c) "Supervisor of the regulatory body" means the chief or head of a section having enforcement responsibility for a particular statute or set of rules and regulations within a regulatory agency.

(d) "Public record" or "Public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. For the purposes of this chapter, the following records shall not be deemed public:

(1) All records which are identifiable to an individual applicant for benefits, clients, patient, student, or employee: including, but not limited to, personnel, medical treatment, welfare, employment security, and pupil records and all records relating to a client-attorney relationship and to a doctor-patient relationship.

(2) Trade secrets and commercial or financial information obtained from a person, firm, or corporation, which is of a privileged or confidential nature.

(3) Child custody and adoption records, records of illegitimate births, and records of juvenile proceedings before the family court.

(4) All records maintained by law enforcement agencies for criminal law enforcement. Provided, however, any records reflecting the initial arrest of an adult and any complaint against an adult filed in court by a law enforcement agency shall be public.

(5) Any records which would not be available by law or rule of court to an opposing party in litigation.

(6) Scientific and technological secrets and the security plans of military and law enforcement agencies, the disclosure of which would endanger the public welfare and security.

(7) Any records which disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to said contribution by the contributor.

(8) Reports and statements of strategy or negotiation involving labor negotiations or collective bargaining.

(9) Reports and statements of strategy or negotiation with respect to the investment or borrowing of public funds, until such time as those transactions are entered into.

(10) Any record of a discussion allowed to be held in executive session.

(11) Preliminary drafts, notes, impressions, memoranda, working papers and work products.

(12) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or promotion or academic examinations; provided, however, that a person shall have the right to review the results of his or her examination.

(13) Correspondence of or to elected officials with or relating to those they represent, and correspondence of or to elected officials in their official capacities.

(14) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by an agency relative to the acquisition of property or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all proceedings or transactions have been terminated or abandoned, provided the law of eminent domain shall not be affected by this provision.

(15) All tax returns.

(16) All investigatory records of public bodies pertaining to possible violations of statute, rule or regulation other than records of final actions taken, provided that all records prior to formal notification of violations or noncompliance shall not be deemed to be public.

(17) Records of individual test scores on professional certification and licensing examinations.

(18) Requests for advisory opinions until such time as the public body issues its opinion.

(19) Records, reports, opinions, information, and statements required to be kept confidential by federal or state law, rule, rule of court, or regulation or by state statute.

(20) Judicial bodies are included in the definition only in respect to their administrative function, provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt from the operation of this chapter.

(21) Library records which, by themselves, or when examined with other public records, would reveal the identity of the library user requesting, checking out, or using any library materials.

However, any reasonably segregable portion as determined by the chief administrative officer of the public body of a public record excluded by this section shall be available for public inspections after the deletion of the information which is the basis of the exclusion, if disclosure of said segregable portion does not violate the intent of this section.

(e) "Chief administrative officer" means the highest authority of the public body as defined in subsection (a) of this section.

History of Section.

P.L. 1979, ch. 202, § 1; P.L. 1980, ch. 269, § 1; P.L. 1981, ch. 353, § 5; P.L. 1982, ch. 416, § 1.

Compiler's Notes. The 1984 reenactment (P.L. 1984, ch. 81, § 1) deleted "of Rhode

Island" following "or other agency" in subdivision (a); inserted the semicolon in subdivision (d)(12); added a comma following "actions taken" in subdivision (d)(16); and substituted "provided that" for "provided that" in subdivision (d)(20).

NOTES TO DECISIONS

ANALYSIS

1. Personnel records.
2. Records kept confidential pursuant to law or rule of court.
3. Tax records.

1. Personnel Records.

Where procedure was established whereby any civilian complaint of police brutality was to be subject of evidentiary hearing before hearing officer, after which hearing a written finding of policeman's guilt or innocence was to be forwarded to police chief for his approval or rejection, finding was not a recommendation as to further personnel action but was a final action in itself, and thus was not subject to the personnel-record or investigatory-record exception. *The Rake v. Gorodetsky*, — R.I. —, 452 A.2d 1144 (1982).

Items of information could not be considered as coming under the "personnel records" exception merely by virtue of the fact that agency considered them to be personnel records and maintained them in files designated as "personnel files." *The Rake v. Gorodetsky*, — R.I. —, 452 A.2d 1144 (1982).

Reports concerning civilian complaints of police brutality from which names of complainants and police officers had been deleted rendered such records as not "identifiable to an individual applicant" and thus as not coming under the personnel-records exception. *The Rake v. Gorodetsky*, — R.I. —, 452 A.2d 1144 (1982).

2. Records Kept Confidential Pursuant to Law or Rule of Court.

Consent judgment of superior court pursuant to which a procedure was established

for processing and hearing citizen complaints of police misconduct was not a "rule of court" under subsection (d)(19) and, regardless, did not by its terms require confidentiality of reports of hearings. *The Rake v. Corodetsky*, — R.I. —, 452 A.2d 1144 (1982).

3. Tax Records.

A protective order of the public utilities commission which seeks to protect the confidentiality of requested tax documents

through the use of in camera proceedings, but does not prevent the use of the information before the commission subject to the limitations set out in the order, does not deprive an aggrieved party of a meaningful public hearing or of some right to have the information made public. *Town of New Shoreham v. Rhode Island Pub. Util. Comm'n*, — R.I. —, 464 A.2d 730 (1983).

Collateral References. Patient's right to disclose of his or her own medical records under state freedom of information act. 26 A.L.R.4th 701.

Payroll records of individual government employees as subject to disclosure to public. 100 A.L.R.3d 699.

Public welfare recipients, confidentiality of records as to. 54 A.L.R.3d 768.

What constitutes preliminary drafts or notes provided by or for state or local governmental agency, or intra-agency memorandums, exempt from disclosure or inspection under state freedom of information acts. 26 A.L.R.4th 639.

38-2-3. Right to inspect and copy records — Duty to maintain minutes of meetings — Procedures for access. — (a) Except as provided in § 38-2-2 (d), all records maintained or kept on file by any public body, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to inspect and/or copy such records at such reasonable time as may be determined by the custodian thereof.

(b) Each public body shall make, keep, and maintain written or recorded minutes of its public meetings.

(c) Each public body shall establish procedures regarding access to public records.

(d) If a public record is in active use or in storage and, therefore, not available at the time a person requests access, the custodian shall so inform the person and make an appointment for said citizen to examine such records as expeditiously as they may be made available.

(e) Any public body which maintains its records in a computer storage system shall provide a printout of any data properly identified.

(f) Nothing herein shall be construed as requiring a public body to reorganize, consolidate, or compile data not maintained by the public body in the form requested at the time the request to inspect such public records was made.

History of Section.

P.L. 1979, ch. 202, § 1.

Compiler's Notes. The 1984 reenactment (P.L. 1984, ch. 31, § 1) substituted the present

section catchline for the former section catchline which read "Records of public bodies" and added the subsection designations.

Collateral References. Patient's right to disclose of his or her own medical records under state freedom of information act. 26 A.L.R.4th 701.

38-2-4. Costs. — Any reasonable expense involved in the retrieval and/or copying of such records may be levied as a charge to the person requesting such printout or copy. The public body must so inform the person making the request at the time when the request is received and must provide an estimate of the costs which will be incurred.

History of Section.

P.L. 1979, ch. 202, § 1.

Compiler's Notes. The 1984 reenactment

(P.L. 1984, ch. 81, § 1) deleted "assessed" at the end of the section catchline.

38-2-5. Effect of chapter on broader agency publication — Existing rights — Judicial records and proceedings. — Nothing in this chapter shall be:

(a) construed as preventing any public body from opening its records concerning the administration of such body to public inspection; or

(b) construed as limiting the right of access as it existed prior to July 1, 1979, of an individual who is the subject of a record to the information contained herein; or

(c) deemed in any manner to affect the status of judicial records as they existed prior to July 1, 1979, nor to affect the rights of litigants in either criminal or civil proceedings, including parties to administrative proceedings, under the laws of discovery of this state.

History of Section.

P.L. 1979, ch. 202, § 1.

Compiler's Notes. The 1984 reenactment (P.L. 1984, ch. 81, § 1) substituted the present section catchline for the former section

catchline which read "Opening of records" and substituted "July 1, 1979" for "the effective date of this chapter" in both subdivisions (b) and (c).

38-2-6. Commercial use of public records. — No person or business entity shall use information obtained from public records pursuant to this chapter to solicit for commercial purposes; or to obtain a commercial advantage over the party furnishing that information to the public body. Anyone who, knowingly and willfully, violates the provision of this section shall, in addition to any civil liability, be punished by a fine of not more than five hundred dollars (\$500) and/or imprisonment for no longer than one (1) year.

History of Section.

P.L. 1979, ch. 202, § 1.

38-2-7. Denial of access. — Any denial of the right to inspect or copy records provided for under this chapter shall be made to the person requesting such right by the public body official who has custody or control of the public record in writing giving the specific reasons for the denial within ten (10) business days of such request. Failure to comply with a request to so inspect or copy such public record within such ten (10) business day period, shall be deemed to be a denial. Except that for good cause, this limit may be extended for a period not to exceed thirty (30) business days.

History of Section.

P.L. 1979, ch. 202, § 1.

38-2-8. Administrative appeals. — (a) Any person denied the right to inspect a record of a public body by the custodian of said record may petition the chief administrative officer of that public body for a review of the determinations made by his/her subordinate. The chief administrative officer shall make a final determination whether or not to allow public inspection within ten (10) business days after the submission of the review petition.

(b) If the chief administrative officer determines that the record is not subject to public inspection, the person seeking disclosure may file a complaint with the attorney general. The attorney general shall investigate said complaint and if the attorney general shall determine that the allegations of the complaint are meritorious, he may institute proceedings for injunctive or declaratory relief on behalf of the complainant in the superior court of the county where the record is maintained. Nothing within this section shall prohibit any individual from retaining private counsel for the purpose of instituting proceedings for injunctive or declaratory relief in the superior court of the county where the record is maintained.

History of Section.

P.L. 1979, ch. 202, § 1; P.L. 1981, ch. 279, § 2.

Compiler's Notes. The 1984 reenactment (P.L. 1984, ch. 81, § 1) added the subsection designations.

38-2-9. Jurisdiction of state courts. — (a) Jurisdiction to hear and determine civil actions brought under this chapter is hereby vested in the superior court.

(b) Said court may examine any record which is the subject of such a suit in camera to determine whether said record or any part thereof may be withheld from public inspection under the terms of this chapter.

(c) Actions brought under this chapter may be advanced on the calendar upon motion of the petitioner made in accordance with the rules of civil procedure of the superior court.

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PUBLIC RECORDS ADMINISTRATION

38-3-2

History of Section.

P.L. 1979, ch. 202, § 1.

Compiler's Notes. The 1984 reenactment

(P.L. 1984, ch. 81, § 1) added the subsection designations.

38-2-10. Burden of proof. — In all actions brought under this chapter, the burden shall be on the public body to demonstrate that the record in dispute can be properly withheld from public inspection under the terms of this chapter.

History of Section.

P.L. 1979, ch. 202, § 1.

38-2-11. Right supplemental. — The right of the public to inspect public records created by this chapter shall be in addition to any other right to inspect records maintained by public bodies.

History of Section.

P.L. 1979, ch. 202, § 1.

Compiler's Notes. The 1984 reenactment

(P.L. 1984, ch. 81, § 1) substituted "supplemental" for "to inspect" in the section catchline.

38-2-12. Severability. — If any provision of this chapter is held unconstitutional, such decision shall not affect the validity of the remainder of this chapter. If the application of this chapter to a particular record is held invalid, such decision shall not affect other applications of this chapter.

History of Section.

P.L. 1979, ch. 202, § 1.

CHAPTER 3

PUBLIC RECORDS ADMINISTRATION

SECTION.

38-3-1. Short title.

38-3-2. Definitions.

38-3-3. Public records administration program.

SECTION.

38-3-4. Duties of administrator.

38-3-5. Duties of program.

38-3-6. Public records custody and disposal.

38-3-7. Agency responsibilities.

38-3-1. Short title. — This chapter shall be known as the "Public Records Administration Act."

History of Section.

P.L. 1981, ch. 353, § 6.

Compiler's Notes. The 1984 reenactment

(P.L. 1984, ch. 81, § 1) deleted "Rhode Island" preceding "Public Records."

38-3-2. Definitions. — For the purpose of this chapter:

(1) "Program" shall mean the public records administration program of the department of administration.

(2) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

(3) "Agency" or "public body" shall mean any executive, legislative, judicial, regulatory, administrative body of the state or any political subdivision thereof; including, but not limited to any department, division, agency, commission, board, office, bureau, authority, any school, fire, or water district, or other agency of state or local government which exercises governmental functions, or any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

(4) "Records control schedule" shall mean the document establishing the official retention, maintenance and disposal requirements for a series or type of record based on administrative, legal, fiscal and historical values for the scheduled records.

(5) "Records center" shall mean an establishment maintained by the program for the storage, processing, servicing, and security of public records that must be retained for varying periods of time but need not be retained in an agency's office equipment or space.

(6) "Public records repository" shall mean the establishment maintained by the program for preservation of those public records determined by the program to have permanent value warranting their continued preservation and which has been accepted by the program for transfer to its custody.

History of Section.

P.L. 1981, ch. 353, § 6.

Compiler's Notes. The 1984 reenactment

P.L. 1984, ch. 31, § 1) deleted "of Rhode Island" following "other agency" in subdivision (3).

38-3-3. Public records administration program. — (1) The public records administration program shall be organized as deemed necessary by the department of administration for the proper discharge of its duties and responsibilities under this chapter.

(2) There shall be an advisory council consisting of not less than five (5) nor more than nine (9) members, all of whom shall be appointed by the governor. Such appointments shall consist of persons who are qualified by training and experience and possessed of proven interest in public records management. In the first instance, three (3) members shall be appointed to said council for a one (1) year term, three (3) members for a two (2) year term and three (3) members for a three (3) year term; said members to hold office

until the first day of July in the years in which their respective terms end. Thereafter, prior to July 1, the governor shall appoint for a three (3) year period successors to the members of the advisory council whose terms expired. Vacancy of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

(3) The chairman of said council shall be elected annually by a majority of the members of the council and the public records administrator and shall serve as secretary of said council without vote. If a vacancy occurs in the office of chairman before the expiration of his term, a chairman shall be elected by the majority of the members of the council to serve the unexpired term of such vacated office.

(4) It shall be the duty of the advisory council to provide professional and technical assistance to the program as to all matters pertaining to the duties and responsibilities of the program in the administration of the provisions of this chapter. Members of the council shall serve without pay but shall be entitled to reimbursement for their necessary travel expenses incurred in carrying out their official duties.

(5) The director of the department of administration may appoint an administrator of the program and shall establish his qualifications other than the professional competence required. The administrator shall coordinate, direct, and administer the activities and responsibilities of the program. The program may employ other employees as deemed necessary for the performance of its duties under this chapter.

(6) The program may make and enter into contracts and agreements with other agencies, organizations, associations, corporations and individuals, or federal agencies as it may determine are necessary, expedient, or incidental to the performance of its duties or the execution of its powers under this chapter.

(7) The program shall adopt such rules and regulations deemed necessary to carry out its duties and responsibilities under this chapter, which rules shall be binding on all agencies and persons affected thereby. The willful violation of any of the rules and regulations adopted by the program shall constitute a misdemeanor.

(8) The program may accept gifts, grants, bequests, loans, and endowments for purposes not inconsistent with its responsibilities under this chapter.

History of Section.

P.L. 1981, ch. 353, § 6.

38-3-4. Duties of administrator. — (1) It shall be the duty and responsibility of the administrator to render all services required by

the program herein set forth that can advantageously and effectively be centralized. The office shall perform such other functions and duties as the director of the department of administration may direct.

(2) The administrator shall supervise, direct and coordinate the activities of the program.

(3) The administrator shall be designated "the public records administrator."

History of Section.

P. L. 1951, ch. 353, § 6.

Compiler's Notes. The 1984 reenactment P. L. 1984, ch. 81, § 1 deleted "the" preceding

"administrator" in the section catchline.

Cross References. Appointment of public records administrator, § 38-3-3.

38-3-5. Duties of program. — It shall be the duty and responsibility of the Public Records Administration Program to:

(1) Establish and administer a public records management program, including the operation of a record center or centers, director to the application of efficient and economical management methods relating to the creation, utilization, maintenance, retention, preservation and disposal of records.

(2) Analyze, develop, establish, and coordinate standards, procedures, and techniques of record-making and record-keeping.

(3) Insure the maintenance and security of records which are deemed appropriate for preservation.

(4) Institute and maintain a training and information program in all phases of records management to bring to the attention of all agencies approved and current practices, methods, procedures and devices for the efficient and economical management of records.

(5) Make available a centralized program of microfilming for the benefit of all agencies.

(6) Make continuous surveys of record-keeping operations.

(7) Recommend improvements in current records management practices, including the use of space, equipment, supplies and personnel in creating, maintaining and servicing records.

(8) (a) Establish and maintain a program, in cooperation with each agency, for the selection and protection of public records considered essential to the operation of government and to the protection of the rights and privileges of citizens.

(b) Make or to have made duplicates of essential records, or to designate existing record copies as essential records to be protected in the place and manner of safekeeping as prescribed by the program.

(c) The duplicate of any record made pursuant to this chapter shall have the same force and effect for all purposes as the original record. A transcript, exemplification, or certified copy of such duplicate shall be deemed, for all purposes, to be the original record.

History of Section.

P.L. 1981, ch. 353, § 6.
Compiler's Notes. The 1984 reenactment
(P.L. 1984, ch. 81, § 1) substituted the present

section catchline for the former section
catchline which read "Public records adminis-
tration."

38-3-6. Public records custody and disposal. — (1) Each agency shall prepare and submit to the program, in accordance with the rules and regulations of the program, record control schedules for all public records in the custody of the agency.

(2) The offices of the attorney general and the auditor general will advise the program on the legal and fiscal values of records covered by proposed records control schedules.

(3) Those records which are determined by an agency not to be needed in the transaction of current business but which, for legal or fiscal requirements, must be retained for specific time periods beyond administrative needs shall be sent to the records center. The records will be kept in the center until time for disposition as provided in record control schedules.

(4) Public records possessing permanent value as determined by approved records control schedules shall be transferred to the public records repository when no longer needed by an agency in transaction of current business.

(5) Title to any record placed in the records center shall remain in the agency placing such record in the center.

(6) Title to any record transferred to the public records repository, as authorized in this chapter, shall be vested in the program.

(7) The program shall preserve and administer such public records as shall be transferred to its custody according to approved conservation and security practices, and to permit them to be inspected, examined and copied at reasonable times and under supervision of the program; provided that any record placed in keeping of the program under special terms or conditions restricting their use shall be made available only in accordance with such terms and conditions.

(8) Provide a public research room where, upon policies established by the program, the records in the public records repository may be studied.

(9) The program may make certified copies under seal of any records transferred to it upon the application of any person, and said certificates, signed by the administrator or his designee, shall have the same force and effect as if made by the agency from which the records were received. The program may charge a reasonable fee for this service.

(10) No public record shall be destroyed or otherwise disposed of by any agency without prior notice to the program.

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(11) The program shall adopt reasonable rules and regulations not inconsistent with this chapter relating to the destruction and disposal of records. Such rules and regulations shall provide but not be limited to:

(a) Procedures for preparing and submitting record control schedules to the program.

(b) Procedures for the physical destruction or other disposal of records.

(c) Standards for the reproduction of records for security or with a view to the disposal of the original record.

(12) The program shall:

(a) Establish safeguards against unauthorized or unlawful removal or loss of records.

(b) Initiate appropriate action to recover records removed unlawfully or without authorization.

(13) The program may prepare and publish handbooks, guides, indexes and other literature directed toward encouraging the management, preservation and uses of the state's public records resource.

History of Section.
P.L. 1981, ch. 353, § 6

38-3-7. Agency responsibilities. — It shall be the duty of each agency to:

(1) Cooperate with the program in complying with the provisions of this chapter.

(2) Establish and maintain an active and continuous program for the economical and efficient management of public records.

History of Section.
P.L. 1981, ch. 353, § 6.