

ASSEMBLY BILL NO. 195—COMMITTEE ON JUDICIARY

FEBRUARY 21, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the destruction and storage of court records. (BDR 19-550)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to court records; revising requirements for saving images of court records before the records may be destroyed; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the Clerk of the Supreme Court, a county clerk, a deputy
2 clerk of a justice court or a clerk of a municipal court may destroy documents,
3 records, instruments, books, papers, depositions and transcripts of court actions and
4 proceedings if the action or proceeding is not on appeal or review in any court.
5 (NRS 239.110) The clerk is required to maintain a microphotographic film copy of
6 every such record destroyed, and the copies are deemed to be the original
7 documents.

8 **Section 1** of this bill instead requires that, before a court record is destroyed by
9 the Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county
10 clerk, the clerk of a district court or a deputy clerk of a district court, the clerk must
11 place an image of the record on microfilm or save the image in an electronic
12 recordkeeping system. However, a deputy clerk of a justice court or a clerk of a
13 municipal court may destroy a court record pursuant to a schedule for the retention
14 and disposition of court records established by the Supreme Court without placing
15 an image of the record on microfilm or saving the image in an electronic
16 recordkeeping system. **Section 1** also: (1) requires the microfilm or saved image to
17 be durable, accurate, complete and clear; (2) clarifies that a reproduction of a court
18 record is considered to be the original, regardless of whether the actual original
19 document exists; and (3) requires the clerk who microfilms or saves the court
20 records to store the microfilm or the medium used to save the image in a manner
21 and place so as to protect it reasonably from loss or damage and as prescribed by
22 the Supreme Court.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 239.110 is hereby amended to read as follows:
2 239.110 1. ~~[The]~~ *In addition to any other requirement of*
3 *this section, the* Clerk of the Supreme Court, *a deputy clerk of the*
4 *Supreme Court, a county clerk, the clerk of a district court, a*
5 *deputy clerk of a district court, a* deputy clerk of a justice court or *a*
6 clerk of a municipal court may destroy ~~fall documents, records,~~
7 ~~instruments, books, papers, depositions and transcripts in any action~~
8 ~~or proceeding in the Supreme Court, district court, justice court or~~
9 ~~municipal court, respectively, or otherwise filed in the clerk's office~~
10 ~~pursuant to law, including transcripts of coroners' inquests and~~
11 ~~depositions, if the records of the clerk do not show that the action or~~
12 ~~proceeding is pending on appeal or review in any court, except that:~~
13 ~~—(a) If the written consent of the district attorney is first obtained,~~
14 ~~transcripts of preliminary hearings may be destroyed as provided in~~
15 ~~this section; and~~
16 ~~—(b) Minutes of the Supreme Court, district court, justice court or~~
17 ~~municipal court, affidavits supporting applications for marriage~~
18 ~~licenses, after those licenses have been issued, and certificates of~~
19 ~~fictitious names of businesses may be destroyed immediately~~
20 ~~subject to the provisions of subsections 2 and 3.~~
21 ~~—2. The clerk shall maintain for the use of the public a~~
22 ~~microphotographic film print or copy of each document, record,~~
23 ~~instrument, book, paper, deposition or transcript so destroyed, if the~~
24 ~~print or copy is placed and kept in a sealed container under~~
25 ~~certificate of the clerk and properly indexed. This print or copy shall~~
26 ~~be deemed to be the original.~~
27 ~~—3. The clerk shall promptly seal and store at least one original~~
28 ~~negative of each microphotographic film in such manner and place~~
29 ~~as may reasonably ensure its preservation indefinitely against loss,~~
30 ~~theft, defacement or destruction.~~
31 ~~—4.] a court record only in accordance with a schedule for the~~
32 ~~retention and disposition of court records which is approved by the~~
33 ~~Supreme Court.~~
34 2. *The Clerk of the Supreme Court, a deputy clerk of the*
35 *Supreme Court, a county clerk, the clerk of a district court or a*
36 *deputy clerk of a district court who destroys a court record*
37 *pursuant to this section may do so only if an image of the court*
38 *record has been placed on microfilm or has been saved in an*
39 *electronic recordkeeping system which permits the retrieval of the*
40 *information contained in the court record and the reproduction of*
41 *the court record.*



1 3. *Except as otherwise prohibited by law, a deputy clerk of a*
2 *justice court or a clerk of a municipal court may destroy a court*
3 *record pursuant to a schedule for the retention and disposition of*
4 *court records established by the Supreme Court without placing*
5 *an image of the court record on microfilm or saving an image of*
6 *the court record in an electronic recordkeeping system.*

7 4. *A reproduction of an image of a court record that has been*
8 *placed on microfilm or saved pursuant to this section shall be*
9 *deemed to be the original court record, regardless of whether the*
10 *original exists.*

11 5. *A microfilmed image of a court record or an image of a*
12 *court record saved in an electronic recordkeeping system pursuant*
13 *to this section must be durable, accurate, complete and clear.*

14 6. *If, pursuant to this section, an image of a court record is*
15 *placed on microfilm or is saved in an electronic recordkeeping*
16 *system, the clerk who does so shall promptly store at least one copy*
17 *of the microfilm or any tape, disc or other medium used for the*
18 *storage of the saved image in a manner and place:*

19 (a) *So as to protect it reasonably from loss or damage; and*

20 (b) *As prescribed by the Supreme Court.*

21 7. The Supreme Court may provide by rule for the destruction,
22 without prior microfilming, of such other documents of the several
23 courts of this State as are held in the offices of the clerks but which:

24 (a) No longer serve any legal, financial or administrative
25 purpose; and

26 (b) Do not have any historical value.

27 ~~5.~~ 8. The Court Administrator may request the Division to
28 advise and assist the Supreme Court in its establishment of the rules
29 ~~4.~~ *or of a schedule for the retention and disposition of court*
30 *records.*

31 9. *As used in this section, "court record" means any*
32 *document, device or item, regardless of physical form or*
33 *characteristic, that:*

34 (a) *Is created by, received by or comes under the jurisdiction of*
35 *the Supreme Court or a district court, justice court or municipal*
36 *court; and*

37 (b) *Documents the organization, functions, policies, decisions,*
38 *procedures, operations or any other activities of the Supreme*
39 *Court, district court, justice court or municipal court.*

40 **Sec. 2.** (Deleted by amendment.)

41 **Sec. 3.** (Deleted by amendment.)

42 **Sec. 4.** (Deleted by amendment.)

43 **Sec. 5.** This act becomes effective on July 1, 2011.

