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2 88th General Assembly
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4

A Bill

HOUSE BILL 1136

5 By: Representative Lovell
6

For An Act To Be Entitled

8 AN ACT TO ESTABLISH A SHERIFF'S OFFICE RECORDS
9 RETENTION SCHEDULE; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO ESTABLISH A SHERIFF'S OFFICE RECORDS
12 RETENTION SCHEDULE.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code Title 13, Chapter 4 is amended to create a
20 new Subchapter to read as follows:

21 Subchapter 4 - Sheriff's Office Record Retention Schedule

22 13-4-401. Retention required - Destruction.

23 (a)(1) A county sheriff's office shall maintain the records named in
24 this subchapter for the period of time provided for in this subchapter, after
25 which time the records may be destroyed.

26 (2)(A) In no case shall administrative records be destroyed
27 until at least one (1) year after an audit by the Division of Legislative
28 Audit or a private auditor is completed and approved.

29 (B) Any record over fifty (50) years old will not be
30 destroyed before written notice by the custodian of the records in question
31 has been furnished to the Arkansas History Commission, describing the scope
32 and nature of the records, at least sixty (60) days before the destruction of
33 the records.

34 (b) If a record is photographically or otherwise transferred to other
35 media of a permanent nature, the original document may be destroyed, except
36 that a handwritten record over fifty (50) years old shall not be destroyed.



1 (c) Before any record is destroyed, the custodian of the record shall
2 document the date and type of document.

3
4 13-4-402. Retention of records otherwise provided.

5 A record retained by a county sheriff's office for which a retention
6 period is otherwise provided for in the Arkansas Code of 1987 Annotated is
7 not subject to this subchapter, including, without limitation, records
8 described in:

9 (1) Section 12-12-104; and

10 (2) Section 16-10-211.

11
12 13-4-403. Criminal investigation documentation.

13 (a) In this section, "criminal investigation documentation" includes
14 without limitation:

15 (1) Incident or offense reports;

16 (2) Arrest warrant records;

17 (3) Search warrant records; and

18 (4) Investigative case files, including:

19 (A) Photographs;

20 (B) Lab reports; and

21 (C) Audiovisual media.

22 (b) Criminal investigation documentation shall be retained for the
23 following periods of time:

24 (1) If the documentation is associated with a Class Y or Class A
25 felony, it shall be retained indefinitely;

26 (2) If the documentation is associated with any other felony, it
27 shall be retained for ten (10) years;

28 (3) If the documentation is associated with a misdemeanor or
29 violation, it shall be retained for five (5) years; and

30 (4) If the documentation relates to a civil matter or any other
31 noncriminal matter, it shall be retained for three (3) years.

32 (c) Criminal investigation documentation may be disposed of by the
33 order of the county judge upon recommendation of the county sheriff after the
34 period of time dictated by subsection (b) of this section.

35
36 13-4-404. Jail booking records.

1 (a) In this section, "jail booking records" means records generated
 2 and kept during jail booking procedures and while a person is in custody and
 3 includes without limitation:

- 4 (1) Fingerprint cards;
- 5 (2) Booking photographs; and
- 6 (3) Jail detention logs.

7 (b) Jail booking records shall be kept for thirty (30) years, after
 8 which time they may be disposed of by order of the county judge upon
 9 recommendation of the county sheriff.

10
 11 13-4-405. Dispatch reports.

12 (a) In this section, "dispatch reports" means records generated and
 13 kept regarding:

- 14 (1) Incoming calls to the county sheriff's office involving
 15 reports or complaints from the general public;
- 16 (2) Complaint cards; and
- 17 (3) Radio traffic logs.

18 (b) Dispatch reports shall be kept for a period of seven (7) years,
 19 after which they may be disposed of by the order of the county judge upon
 20 recommendation of the county sheriff.

21
 22 13-4-406. Orders of protection.

23 Orders of protection issued by a circuit court under § 9-15-201 et seq.
 24 shall be retained for a period of ten (10) years after which time they may be
 25 disposed of by the order of the county judge upon recommendation of the
 26 county sheriff.

27
 28 13-4-407. General law enforcement documentation.

29 The following documents, records, and reports, computerized or on
 30 paper, shall be retained for a period of five (5) years, after which time
 31 they may be disposed of by the order of the county judge upon recommendation
 32 of the county sheriff:

- 33 (1) Citations;
- 34 (2) Summons;
- 35 (3) Subpoenas;
- 36 (4) Writs of execution;

- 1 (5) Writs of garnishment;
- 2 (6) Writs of possession;
- 3 (7) Writs of replevin; and
- 4 (8) Other writs in the possession of the county sheriff.

5

6 13-4-408. Items in the possession of a county sheriff's office
 7 pursuant to a criminal investigation or court case - Misdemeanors.

8 (a) If an item is in the possession of a county sheriff's office
 9 pursuant to a misdemeanor criminal investigation or court case, it shall be
 10 retained for a period of thirty (30) days after:

11 (1) The investigation for which it is being held has closed; or

12 (2) If the investigation results in a criminal prosecution, the
 13 date of the final judgment if there is no appeal of the conviction to circuit
 14 court.

15 (b) A noncontraband item shall be returned to its owner.

16 (c) The county sheriff shall petition the district court for the
 17 disposal or destruction of contraband or an item that an owner has not
 18 claimed.

19

20 13-4-409. Items in the possession of a county sheriff's office
 21 pursuant to a criminal investigation or court case - Felonies.

22 (a) If an item is in the possession of a county sheriff's office
 23 pursuant to a felony criminal investigation, it shall be retained until the
 24 applicable statute of limitation for the most serious possible crime to which
 25 it could be connected has lapsed.

26 (b)(1) If an item is in the possession of a county sheriff's office
 27 pursuant to a felony court case, it shall be retained for a period of two
 28 (2) years after the date of the final judgment if there is no appeal of the
 29 conviction.

30 (2)(A) If there is an appeal of the conviction to an appellate
 31 court, the item shall be retained for three (3) years after the final
 32 judgment is entered and after the conclusion of any post-conviction
 33 litigation.

34 (B) Post-conviction litigation includes without
 35 limitation:

36 (i) Proceedings under Rule 37 of the Arkansas Rules

1 of Criminal Procedure;

2 (ii) State habeas corpus proceedings under § 16-112-
3 101 et seq.; and

4 (iii) Federal habeas corpus proceedings under 28
5 U.S.C. § 2254.

6 (c)(1) An item relating to the investigation of any of the following
7 crimes shall be retained for ninety-nine (99) years:

8 (A) Capital murder, § 5-10-101;

9 (B) Murder in the first degree, § 5-10-102;

10 (C) Murder in the second degree, § 5-10-103;

11 (D) Rape, § 5-14-103;

12 (E) Sexual assault in the first degree, § 5-14-124; and

13 (F) Arson, § 5-38-301.

14 (2) A deoxyribonucleic acid (DNA) sample or test result shall be
15 retained for fifty (50) years.

16 (d) After the time periods prescribed in this section have lapsed and
17 an item may be disposed of or destroyed, a noncontraband item shall be
18 returned to its owner.

19 (e) The county sheriff shall petition the circuit court for the
20 disposal or destruction of contraband or an item for which an owner has not
21 asserted a claim.

22
23 13-4-410. Items in the possession of a county sheriff's office not
24 pursuant to a criminal investigation or court case.

25 (a) Any item in the possession of a county sheriff's office that is
26 not associated with a criminal investigation or court case, such as a
27 misplaced or lost-and-found item, shall be retained for one (1) year or until
28 the rightful owner reclaims the item.

29 (b) At the end of the period of time prescribed by this section, the
30 county sheriff may request that the county judge authorize the disposal of
31 any such item through destruction, public sale, or transfer of ownership to
32 the county sheriff's office if the item would serve a needed public benefit.

33
34 13-4-411. Applicability – Constables.

35 This subchapter also applies to constables.

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