

# SENATE BILL No. 979

July 13, 1988, Introduced by Senators SEDERBURG and DE GROW and referred to the Committee on Government Operations.

A bill to provide for the establishment of the state archives; to prescribe its powers and duties; to govern the availability of certain confidential records; to provide for the reproduction and certification of archival records; to provide for the establishment of designated archival depositories; to prescribe penalties; and to repeal certain acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "Michigan archives act".

3       Sec. 2. As used in this act:

4       (a) "Agency" means a county, township, city, village, dis-  
5 trict, authority or municipal officer, state department, bureau,  
6 division, board or commission, an elected, appointed or  
7 constitutional officer, or any other unit or body, however

1 designated, of the executive, legislative, or judicial branches  
2 of state government, or any of its political subdivisions or  
3 other separate units of government created or established by law,  
4 and any other person, partnership, corporation, or business  
5 entity acting on behalf of a governmental unit. Agency does not  
6 include an individual member of the legislature.

7 (b) "Archival value" means records that have been selected  
8 by the state archives as having enduring worth because they docu-  
9 ment the growth and development of Michigan from the earliest  
10 time, including the territorial period, or because they evidence  
11 the creation, organization, development, operation, function, and  
12 effects of Michigan agencies, or because they contain significant  
13 information about persons, things, problems, and conditions dealt  
14 with by agencies.

15 (c) "Department" means the department of state.

16 (d) "General records schedule" means a retention and dis-  
17 posal schedule governing the disposition of a specified recurring  
18 record series which is common to more than 1 agency.

19 (e) "Public record" means a record made or received pursuant  
20 to law or under color of law or in connection with an activity  
21 relating to or having an effect upon the transaction of business  
22 by an agency, and that is kept by an agency on any basis other  
23 than loan as evidence of its organization, function, policy,  
24 decisions, operation, or other activity, or its informational  
25 value.

26 (f) "Record" means a document, paper, book, letter, or  
27 writing, including documents, papers, books, letters, or writings

1 prepared by handwriting, typewriting, printing, photostating, or  
2 photocopying; a photograph, film, map, magnetic or paper tape,  
3 microform, magnetic or punch card, disc, drum, sound or video  
4 recording, electronic data processing material, or other record-  
5 ing medium, and includes individual letters, words, pictures,  
6 sounds, impulses or symbols, or combination thereof, regardless  
7 of physical form or characteristics. If applicable, record also  
8 means record series.

9 (g) "Record series" means a discrete file unit or documents  
10 arranged in a systematic manner or maintained as a discrete  
11 filing category because the records in the series relate to a  
12 particular subject or function, result from the same activity, or  
13 have a particular form, or because of some other relationship  
14 arising out of their creation, receipt, or use.

15 (h) "Retention and disposal schedule" means a records list-  
16 ing made pursuant to procedures set forth in the executive office  
17 public records act, describing all public records of an agency,  
18 specifying those public records to be preserved due to their  
19 archival value, and authorizing, on a continuing basis, the  
20 retention and ultimate disposition of 1 or more specified record  
21 series.

22 (i) "State archives" means the agency created in  
23 section 3(2) to select, preserve, and make available to the  
24 public all public records having archival value.

25 Sec. 3. (1) The department is hereby designated as the  
26 official archival agency of Michigan.

1 (2) There is created within the department, subject to the  
2 direction and control of the secretary of state, the Michigan  
3 state archives. The Michigan state archives shall operate and be  
4 maintained as a records depository to ensure the permanent pre-  
5 servation of state and local public records having archival  
6 value.

7 (3) The state archives and archival programs shall be admin-  
8 istered by a qualified civil servant who the secretary of state  
9 shall designate as the state archivist.

10 Sec. 4. In administering the state archives, the secretary  
11 of state may do all of the following:

12 (a) Select and accept from an agency those public records  
13 that are not in current use but have archival value.

14 (b) Provide for the preservation, arrangement, description,  
15 storage, indexing, and use of all accepted public records.

16 (c) Inventory, on a periodic basis, the records of local  
17 agencies and the trial courts of this state; examine the condi-  
18 tion of local public records, and, subject to the availability of  
19 funding and staff, provide advice and assistance to local govern-  
20 mental officials and agencies concerning the maintenance, preser-  
21 vation, and disposal of the public records in their custody; and  
22 provide training for records maintenance personnel.

23 (d) Review each proposed retention and disposal schedule  
24 submitted by a state or local agency, ascertain whether any  
25 listed record or record series possesses archival value, direct  
26 that each record and record series possessing archival value be  
27 scheduled for transfer to the state archives at the end of its

1 administrative, fiscal, or legal usefulness, disapprove schedules  
2 that fail to list each agency record or record series or propos-  
3 ing the destruction of a record series possessing archival value,  
4 and approve each schedule meeting all requirements of law.

5 (e) Develop or assist in developing general records sched-  
6 ules pertaining to the public records customarily maintained by  
7 local governmental agencies and trial courts.

8 (f) Make available for public inspection and copying any  
9 public record which is not privileged or required by law to be  
10 confidential, if the record is not likely to be damaged by such  
11 availability.

12 (g) Conduct a program to store master negative microfilm and  
13 microforms of archival quality.

14 (h) Maintain a program of information, assistance, coordina-  
15 tion, and guidance for government officials, educational institu-  
16 tions, libraries, the scholarly community, and the general public  
17 concerning archival practices in general and the state archives  
18 and its uses.

19 (i) Initiate legal action to recover public records that  
20 have been removed from state custody but possess archival value.

21 (j) Produce microform and paper publications and sell those  
22 publications at a price established by the secretary of state.

23 (k) Designate archival depositories of local public records  
24 pursuant to section 9.

25 (l) Upon request, advise and assist members of the legisla-  
26 ture in the maintenance and disposition of their personal or  
27 political records of public interest.

1 (m) Promulgate rules pursuant to the administrative  
2 procedures act of 1969, Act No. 306 of the Public Acts of 1969,  
3 being sections 24.201 to 24.328 of the Michigan Compiled Laws, to  
4 prescribe registration procedures applicable to persons who use  
5 the state archives and designated archival depositories. The  
6 rules may require that persons who use the state archives and  
7 designated archival depositories disclose their name, business  
8 address, affiliation if applicable, type of use, and other infor-  
9 mation relevant to the operation and programs of the state  
10 archives or the security of the public records maintained at the  
11 state archives.

12 (n) Promulgate rules pursuant to Act No. 306 of the Public  
13 Acts of 1969 to regulate copying methods and storage standards  
14 for public records identified as having archival value.

15 (o) Promulgate rules pursuant to Act No. 306 of the Public  
16 Acts of 1969 to govern the operation of a designated archival  
17 depository for the public records of local government.

18 (p) Perform any other duty or activity necessary to fulfill  
19 the purposes of this act.

20 Sec. 5. (1) A public record transferred to the secretary of  
21 state by an agency which maintained the record on a confidential  
22 or privileged basis shall be kept confidential if a written  
23 agreement to that effect is executed concerning the transfer.  
24 The agreement shall be signed by the state archivist and a repre-  
25 sentative of the agency, shall specify the terms and conditions  
26 under which the record is to be transferred, and shall include a  
27 provision providing for the release of the record for research

1 purposes if the names of persons identified in the record are  
2 protected from disclosure.

3 (2) This section shall not apply to a public record that  
4 failed to qualify for an exemption from the disclosure require-  
5 ments of the freedom of information act, Act No. 442 of the  
6 Public Acts of 1976, being sections 15.231 to 15.246 of the  
7 Michigan Compiled Laws, prior to receipt by the secretary of  
8 state.

9 Sec. 6. A public record in the custody of the state  
10 archives shall not be destroyed prior to consultation with the  
11 agency that originally transferred the record to the state  
12 archives.

13 Sec. 7. The state archives shall, upon request, produce and  
14 furnish a copy of any public record maintained in the state  
15 archives upon payment of the copying fee prescribed in section 4  
16 of the freedom of information act. A copy, when certified by the  
17 secretary of state or the state archivist, has the same legal  
18 force and effect as if made by the agency from which the record  
19 was transferred. A fee of \$1.00 per page shall be charged for  
20 providing a certified copy of a public record. If a public  
21 record is provided in other than a page format, the secretary of  
22 state shall establish and charge a reasonable fee for the special  
23 reproduction service.

24 Sec. 8. (1) In addition to the other duties prescribed in  
25 this act, the secretary of state may accept from any nongovern-  
26 mental person or entity a record donated to the state archives if  
27 the record is determined to possess archival value. A written

1 agreement may be executed concerning the terms and conditions of  
2 acceptance, maintenance, and the availability of the record.

3       (2) A record obtained by the secretary of state under a  
4 written agreement specifying that the record is for retention in  
5 the state archives but is confidential shall be kept confidential  
6 and shall not be open to public inspection or copying for a  
7 period set forth in the agreement. The period set forth in the  
8 agreement shall be not longer than 20 years from the date of the  
9 agreement, or up until the death of the donor, whichever occurs  
10 first.

11       Sec. 9. (1) The secretary of state may designate an archi-  
12 val depository for public records produced or maintained by local  
13 government in a geographic area of the state where a public  
14 institution exists meeting the qualifications set forth in this  
15 section.

16       (2) To qualify as a designated archival depository, an  
17 institution shall meet all of the following qualifications:

18       (a) Maintain a fire resistant and waterproof records' stor-  
19 age area.

20       (b) Have the means of maintaining and documenting mainte-  
21 nance of a prescribed temperature and humidity in the records'  
22 storage area.

23       (c) Operate a security and alarm system.

24       (d) Have adequate space for the processing and storage of  
25 records, including a public access area.

26       (e) Use steel shelving.



1 (f) Be able to comply with all rules adopted by the  
2 secretary of state governing the operation of a designated  
3 archival depository for public records of local government.

4 (3) To receive designation as an archival depository for  
5 public records of local government, a public institution shall  
6 make application to the secretary of state on a form approved by  
7 the secretary of state. The applicant shall provide all informa-  
8 tion and documentation requested by the secretary of state.

9 (4) The secretary of state may revoke an archival depository  
10 designation if he or she determines that the depository no longer  
11 meets the qualifications set forth in subsection (2), or that the  
12 depository wishes to voluntarily relinquish its designation.  
13 Upon revocation, the archival depository shall transfer the  
14 public records in its custody to the state archives, or, upon  
15 direction from the secretary of state, to another designated  
16 depository.

17 Sec. 10. The secretary of state may accept a gift, grant,  
18 donation, devise, or endowment of money or personal or real prop-  
19 erty for use in fulfilling a power or duty prescribed in this  
20 act.

21 Sec. 11. The secretary of state may adopt rules pursuant to  
22 the administrative procedures act of 1969, Act No. 306 of the  
23 Public Acts of 1969, being sections 24.201 to 24.328 of the  
24 Michigan Compiled Laws, to implement the powers and duties pre-  
25 scribed in this act.

1       Sec. 12. Sections 4a and 5 of Act No. 271 of the Public  
2 Acts of 1913, being sections 399.4a and 399.5 of the Michigan  
3 Compiled Laws, are repealed.

4       Sec. 13. This act shall not take effect unless Senate Bill  
5 No. 728 of the  
6 84th Legislature is enacted into law.