

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

— ● —

# ENROLLED

HOUSE BILL No. 4121

(By ~~Mr.~~ Del. Berry + Roop )

— ● —

Passed March 10, 1990

In Effect ninety days from Passage

**ENROLLED**  
**H. B. 4121**

(By DELEGATES BERRY and ROOP)

[Passed March 10, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article four, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to preservation and destruction of papers filed in circuit courts; authorizing the establishment of a "Record Retention Schedule" for circuit court files; and authorizing storage of permanent record series by electronic as well as microphotographic means.

*Be it enacted by the Legislature of West Virginia:*

That section three, article four, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 4. GENERAL PROVISIONS RELATING TO CLERKS AND COURTS.**

**§51-4-3. Preservation and destruction of papers; microphotography and electronic storage.**

1 All papers lawfully returned to or filed in the clerk's  
2 office shall be preserved therein, subject to the condi-  
3 tions set out herein, until legally delivered out.

4 Notwithstanding any other provision of this code to  
5 the contrary, the clerk may destroy all documents,  
6 records, instruments, books, papers, depositions and  
7 transcripts in any action or proceeding in the circuit  
8 court or other court of record, or otherwise filed in his

9 office pursuant to law, provided that:

10 (a) Destruction is done in accordance with a "Record  
11 Retention Schedule" to be adopted, promulgated and  
12 amended, from time to time, by the Supreme Court of  
13 Appeals; and

14 (b) The clerk maintains for the use of the public a  
15 microphotographic film or electronic storage media  
16 record of all documents required to be permanently  
17 preserved under the "Record Retention Schedule,"  
18 together with an index and a mechanical or electronic  
19 device by which such microphotographic film or  
20 electronic storage media record may be conveniently  
21 examined. The clerk shall promptly seal and store at  
22 least one original of each microphotographic film or  
23 electronic storage media record in such manner and  
24 place as will reasonably assure its preservation indefi-  
25 nitely against loss, theft, defacement, intentional  
26 alteration, fire or other destruction. Any electronic  
27 method used must provide an exact copy of each  
28 document so stored and must be secure to the point that  
29 an attempt to alter a document is readily recognized.

30 A photographic reproduction or electronic media  
31 reproduction of any of the records described in this  
32 section, the negative or film or electronic record of  
33 which has been certified by the clerk in charge of such  
34 reproduction as being an exact replica of the original,  
35 shall be received in evidence in all courts, and in  
36 hearings before any officer, board or commission having  
37 jurisdiction or authority to conduct such hearings, in  
38 like manner as the original.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Frederick J. Perry*  
Chairman Senate Committee

*Bernard V. Kelly*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*David E. Malone*  
Clerk of the Senate

*Donald S. Hoop*  
Clerk of the House of Delegates

*Keth Sandette*  
President of the Senate

*Bob Call*  
Speaker of the House of Delegates

The within is approved this the *16th*  
day of *March*, 1990.

*Gaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/60

Time 3:30 pm

RECEIVED

1990 MAR 26 PM 3:05

OFFICE OF THE ATTORNEY GENERAL  
STATE OF TEXAS