

SENATE BILL No. 321

April 13, 1989, Introduced by Senators FAUST and
O'BRIEN and referred to the Committee on
Government Operations.

A bill to amend sections 2137 and 9924a of Act No. 236 of
the Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,"
section 2137 as amended by Act No. 308 of the Public Acts of
1986, being sections 600.2137 and 600.9924a of the Michigan
Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2137 and 9924a of Act No. 236 of the
2 Public Acts of 1961, section 2137 as amended by Act No. 308 of
3 the Public Acts of 1986, being sections 600.2137 and 600.9924a of
4 the Michigan Compiled Laws, are amended to read as follows:
5 Sec. 2137. (1) If a public officer has photographed, micro-
6 photographed, or filmed all or any part of the court records kept
7 by him or her, in a manner and on film or paper that complies
8 with the minimum standards of quality approved for photographic

1 records by the microfilm laboratory of the department of
2 management and budget and published in the Michigan administra-
3 tive code, and the photographs, microphotographs, or films are
4 placed in conveniently accessible files and provisions made for
5 preserving, examining, and using the same, the officer may offer
6 the original records from which the photographs, microphoto-
7 graphs, or films have been made, or any ~~part thereof~~ OF THEIR
8 PARTS, to the ~~department of state~~ MICHIGAN HISTORICAL
9 COMMISSION for placement in the state archives. If the
10 ~~department of state~~ MICHIGAN HISTORICAL COMMISSION accepts the
11 offer within 30 days, the court shall transfer the records to
12 that ~~department~~ COMMISSION. If the ~~department of state~~
13 MICHIGAN HISTORICAL COMMISSION does not accept the offer within
14 30 days, the court may dispose of or destroy the records in
15 accordance with sections 285 and 287 of the management and budget
16 act, Act No. 431 of the Public Acts of 1984, being sections
17 18.1285 and 18.1287 of the Michigan Compiled Laws, and ~~section 5~~
18 ~~of Act No. 271 of the Public Acts of 1913, as amended, being sec-~~
19 ~~tion 399.5 of the Michigan Compiled Laws~~ THE MICHIGAN HISTORY
20 ACT. The record of a court shall not be disposed of or destroyed
21 until the record has been in the custody of the court for at
22 least 6 years.

23 (2) In all counties in which the county board of commission-
24 ers makes provisions for the microphotographing of records, the
25 judge of probate may cause the records of the probate court to be
26 microphotographed. The judge of probate shall cause a copy or a
27 duplicate film to be kept in a building outside of the probate

1 office and shall keep a copy available in the probate office with
2 suitable equipment for displaying the filmed record by projection
3 to not less than its original size or for preparing copies for
4 persons entitled to the same. The judge of probate then may
5 order any record destroyed. A microphotograph or photo copy of a
6 microphotograph shall be admissible as evidence THE SAME AS THE
7 ORIGINAL before a court, commission, or administrative body.
8 ~~the same as the original.~~ The original files of estate proceed-
9 ings shall not be destroyed until 6 years have elapsed from the
10 date of filing of the discharge of the fiduciary or 10 years have
11 elapsed from the filing of the last document, whichever date
12 occurs first.

13 (3) A court of record other than the district court may
14 order the destruction of court reporter or recorder notes, tapes,
15 and recordings 15 years after the date that the note, tape, or
16 recording was made for all felony cases and 10 years after the
17 date that the note, tape, or recording was made for all other
18 cases. The court may order the destruction of notes, tapes, and
19 recordings which have been transcribed and filed with the court 1
20 year after the date of the filing of the transcript. If a tran-
21 script of a trial or other proceeding in a court of record other
22 than the district court is ordered other than for filing in the
23 case file, the court reporter or recorder also shall prepare and
24 shall file a certified copy of the transcript in the case file at
25 the expense of the person ordering the transcript unless a copy
26 has been filed with the court or unless the chief judge of the
27 court orders otherwise in an order filed in the case file. As

1 used in this subsection, "felony case" does not include
2 proceedings in a case that occur before arraignment on informa-
3 tion or indictment, or in a case in which the defendant is not
4 convicted of a felony.

5 (4) Except as provided in subsection (3), a judicial circuit
6 of the circuit court may order the destruction of its files and
7 records in any case in which action has not been taken during the
8 25 years immediately preceding the order of destruction. The
9 following procedures shall apply prior to the issuance of an
10 order of destruction of circuit court files and records:

11 (a) The judgment or decree, if any, in each case shall be
12 microfilmed, or separated and retained, and made available for
13 public inspection.

14 (b) The circuit court shall offer the files and records
15 subject to the order of destruction to the Michigan historical
16 commission ~~established by Act No. 271 of the Public Acts of~~
17 ~~1913, as amended, being sections 399.1 to 399.9 of the Michigan~~
18 ~~Compiled Laws,~~ or an historical commission created pursuant to
19 Act No. 213 of the Public Acts of 1957, as amended, being sec-
20 tions 399.171 and 399.172 of the Michigan Compiled Laws. If the
21 historical commission accepts the offer within 30 days, the cir-
22 cuit court shall transfer the files and records to the historical
23 commission. If the historical commission does not accept the
24 offer within 30 days, the circuit court shall issue an order of
25 destruction.

26 (5) Photographs, microphotographs, or films of a record
27 photographed, microphotographed, or filmed, as provided by this

1 or any other law, shall have the same force and effect as the
2 originals ~~thereof~~ would have had, and shall be treated as orig-
3 inals for the purpose of their admissibility in evidence. Duly
4 certified or authenticated copies of the photographs, microphoto-
5 graphs, or films shall be admitted into evidence equally with the
6 original photographs, microphotographs, or films.

7 Sec. 9924a. The records, files, pleadings, process, papers,
8 dockets, journals, and indices of justices of the peace, justice
9 courts, municipal courts, police courts, and the recorders court
10 of the city of Cadillac abolished effective January 1, 1969, may
11 be destroyed on or after January 1, 1977, except that dockets,
12 journals, and indices of those courts and justices of the peace
13 may be disposed of only upon compliance with ~~section 5 of Act~~
14 ~~No. 271 of the Public Acts of 1931, as amended, being section~~
15 ~~399.5 of the Michigan Compiled Laws~~ THE MICHIGAN HISTORY ACT.
16 This section shall not apply to a document or record subpoenaed
17 by a court or otherwise ordered maintained and preserved for use
18 as evidence upon the order of a court of competent jurisdiction
19 before January 1, 1977. This section shall not bar or impair the
20 right of a defendant to move the district court successor to the
21 convicting court pursuant to Act No. 213 of the Public Acts of
22 1965, being sections 780.621 and 780.622 of the Michigan Compiled
23 Laws, for an order setting aside the conviction.

24 Section 2. This amendatory act shall not take effect unless
25 Senate Bill No. 312
26 of the 85th Legislature is enacted into law.