

**63A-12-105 Records are property of the state -- Disposition -- Penalties for intentional mutilation or destruction.**

- (1) All records created or maintained by a state governmental entity are the property of the state and shall not be mutilated, destroyed, or otherwise damaged or disposed of, in whole or part, except as provided in this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.
- (2)
  - (a) Except as provided in Subsection (2)(b), all records created or maintained by a political subdivision of the state are the property of the state and shall not be mutilated, destroyed, or otherwise damaged or disposed of, in whole or in part, except as provided in this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.
  - (b) Records which constitute a valuable intellectual property shall be the property of the political subdivision.
  - (c) The state archives may, upon request from a political subdivision, take custody of any record series of the political subdivision. A political subdivision which no longer wishes to maintain custody of a record which must be retained under the political subdivision's retention schedule or the state archive's retention schedule shall transfer it to the state archives for safekeeping and management.
- (3)
  - (a) It is unlawful for a person to intentionally mutilate, destroy, or to otherwise damage or dispose of the record copy of a record knowing that the mutilation, destruction, damage, or disposal is in contravention of:
    - (i) a governmental entity's properly adopted retention schedule; or
    - (ii) if no retention schedule has been properly adopted by the governmental entity, the model retention schedule, as provided in Section 63G-2-604.
  - (b) Violation of this Subsection (3) is a class B misdemeanor.
  - (c) An employee of a governmental entity that violates this Subsection (3) may be subject to disciplinary action as provided under Section 63G-2-804.

Amended by Chapter 44, 2009 General Session