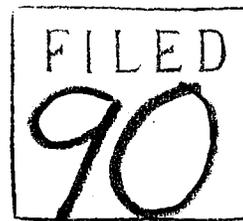


December 7, 1961



Mr. Charles D. Trigg
Comptroller and Budget Director
State Capitol
Jefferson City, Missouri

Dear Mr. Trigg:

This refers to your letter of October 19, 1961, and subsequent consultations by representatives of our offices, with respect to the microfilming of state records.

In your letter, you ask whether Section 109.130, RSMo 1959, applies to all state agencies. Sections 109.120, 109.130, and 109.140, RSMo 1959, were enacted at the same time and must be considered together.

Section 109.120 provides in part that "the head of any state * * * department, commission, bureau or board may cause any or all records kept by such official, department, commission, bureau, board * * * to be photographed, microphotographed, photostated or reproduced on film."

Section 109.130 provides in part as follows:

"Such photostatic copy, photograph, microphotograph or photographic film of the original records shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies."

In view of the broad language of Section 109.120 and the fact that Section 109.130 refers to copies made pursuant to Section 109.120, it appears to us that there could be no serious doubt about Section 109.130 being applicable to all state agencies.

You also inquire whether, under Section 109.130, it is permissible to substitute microfilm records for original records and to destroy the original records even though there are statutes requiring the retention of the original records for specific periods of time.

Provision for the destruction of records which have been microfilmed is made by Section 109.140, which reads as follows:

"Whenever such photostatic copies, photographs, microphotographs or reproductions on films shall be placed in conveniently accessible files and provisions made for preserving, examining and using same, the said head of a state department, commission, bureau or board, county office or department, city office or department may certify those facts to the governor, or to the county court or to the mayor of a municipality, respectively, according to their status as subdivisions of government, who shall have the power to authorize the disposal, archival storage or destruction of the records or papers from which such photographic copies were made."

This section obviously is intended to authorize the destruction of records which otherwise would be legally required to be retained. In this connection we enclose a copy of an opinion furnished by this office to Warren E. Hearnes on April 21, 1961, relating to the destruction of certain records in the office of the Secretary of State.

It does not necessarily follow, however, that Sections 109.130 and 109.140 authorize the destruction of original records where there are specific statutes expressly requiring that the "original" records be retained for a stated period of time. Insofar as Section 109.130 has any bearing on this matter, it should be noted that that section merely provides that a copy made pursuant thereto shall be deemed to be "an" original record.

We do not believe that we should undertake to answer

Mr. Charles D. Trigg

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your question with respect to the destruction of records where there are such specific statutes except after consideration of the particular statutes; and it is not our understanding that you desire us to undertake to do that at this time. In this connection, we may note that it appears to us that in at least some instances where there are such specific statutory provisions it would be undesirable, as a practical matter, to destroy the original records before the expiration of the stated periods of time, so that the question as to the legal authority to do so need not be answered.

We shall be glad to discuss with you at any time any further questions which you may have with respect to this subject.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

JCB lc

1 enclosure