

WSR 24-15-060

PERMANENT RULES

SECRETARY OF STATE

[Filed July 16, 2024, 2:25 p.m., effective August 16, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Clarify the custody of public records when located by agencies in temporary storage at the state records center. To state that it is not prohibited for agencies to transfer records between each other when needed to perform a governmental function.

Citation of Rules Affected by this Order: Amending WAC 434-615-020.

Statutory Authority for Adoption: RCW 40.14.020.

Adopted under notice filed as WSR 24-10-114 on May 1, 2024.

Changes Other than Editing from Proposed to Adopted Version: By removing the word "physical" as part of the custody requirement, it makes clear that local governments may use private record storage facilities and all agencies may use cloud storage providers. It also makes clear that one agency may transfer records to another agency in order to perform a governmental function.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 16, 2024.

Amanda Doyle  
Chief of Staff

OTS-5300.1

AMENDATORY SECTION (Amending WSR 93-04-001, filed 1/21/93, effective 2/21/93)

**WAC 434-615-020 Custody.** (1) Unless otherwise provided by law, public records must remain in the legal custody of the office in which they were originally filed, which shall be considered the office of record, or shall be destroyed or transferred pursuant to instructions from the state or local records committee as required by chapter 40.14 RCW. They shall not be placed in the legal (~~or physical~~) custody of any other person or agency, public or private, or released to individuals, except for disposition pursuant to law or unless otherwise expressly provided by law or by these regulations.

(2) Nothing in this rule shall be construed to prohibit an agency from transferring records to another agency whenever it is necessary

that the agency possess the records in order to perform a governmental function. Any agency that has received records that should by law have been filed with another agency may transfer those records to the proper agency, or return to the filer.