

2019 -- H 6089

LC002583

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- COURTS -- INACTIVE RECORDS

Introduced By: Representatives Millea, McKiernan, McEntee, Craven, and Almeida

Date Introduced: May 09, 2019

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 8-14-2 of the General Laws in Chapter 8-14 entitled "Inactive
2 Records" is hereby amended to read as follows:

3 **8-14-2. Attorney records.**

4 (a) An attorney licensed to practice law in this state shall retain all client files in
5 accordance with the provisions specified in this section. Client files shall consist of the following
6 physical and electronically stored material:

7 (1) All papers, documents, and other materials, whether in physical or electronic form,
8 that the client supplied to the attorney;

9 (2) All correspondence relating to the matter, whether in physical or electronic form;

10 (3) All pleadings and other papers filed with or by the court or served by or upon any
11 party relevant to the client's claims or defenses;

12 (4) All investigatory or discovery documents, including, but not limited to, medical
13 records, photographs, tapes, disks, investigative reports, expert reports, depositions, and
14 demonstrative evidence;

15 (5) All intrinsically valuable documents of the client to include, but not limited to, wills,
16 deeds, securities, negotiable instruments, estate planning documents and official corporate
17 records; and

18 (6) Copies of the attorney's work product.

19 Client file material shall not include documents not normally preserved in the client's

1 files by an attorney following customary practices by attorneys practicing law in the state.

2 (b) An attorney shall make the client's file available to a client or former client within a
3 reasonable time following the client's or former client's request for his or her file; provided,
4 however, that:

5 (1) The attorney may at the attorney's own expense retain copies of documents turned
6 over to the client;

7 (2) The client may be required to pay:

8 (i) Any copying charges for copying the material described in subsections (a)(3) and
9 (a)(6) of this section, consistent with the attorney's actual copying cost, unless the client has
10 already paid for such material; and

11 (ii) The attorney's actual cost for the delivery of the file;

12 (3) The attorney is not required to turn over to the client investigatory or discovery
13 documents for which the client is obligated to pay under the fee agreement but has not paid; and

14 (4) Unless the attorney and the client have entered into a contingent fee agreement, the
15 attorney is only required to turn over copies of the attorney's work product for which the client
16 has paid.

17 Notwithstanding anything in this section to the contrary, an attorney may not refuse, on
18 grounds of nonpayment, to make available materials in the client's file when retention would
19 unfairly prejudice the client.

20 (c) Except for materials governed by subsections (d), (e) and (f) of this section, an
21 attorney shall take reasonable measures to retain a client's file in a matter until at least seven (7)
22 years have elapsed after completion of the matter or termination of the representation in the
23 matter unless:

24 (1) The attorney has transferred the file or items to the client or successor attorney, or as
25 otherwise directed by the client; or

26 (2) The client agrees in writing to an alternative arrangement for the file's retention or
27 destruction; provided, however, that files relating to the representation of a minor shall be
28 retained until at least seven (7) years after the minor reaches the age of majority. If the client has
29 not requested the file within seven (7) years after completion or termination of the representation
30 or within seven (7) years after a minor reaches the age of majority, the file may be destroyed
31 except as provided in subsections (d), (e), and (f) of this section.

32 (d) Intrinsically valuable documents that constitute trust property of the client shall be
33 delivered to the client. All other intrinsically valuable documents shall be appropriately
34 safeguarded and delivered in accordance with subsection (b) of this section, or retained until such

1 time as the documents no longer possess intrinsic value. If the client cannot be located after a
2 diligent attempt by the attorney, the attorney shall securely retain such documents or, where
3 applicable, deliver such items to an appropriate governmental repository.

4 (e) An attorney shall not destroy a client's file if the attorney knows or reasonably should
5 know that:

6 (1) A lawsuit or other legal claim related to the client matter is pending or anticipated;

7 (2) A criminal or other governmental investigation related to the client matter is pending
8 or anticipated; or

9 (3) A disciplinary investigation or proceeding related to the client matter or a claim
10 before the disciplinary board of the supreme court is pending or anticipated.

11 (f) Criminal defense attorneys and defense attorneys in delinquency cases shall retain a
12 client's files as follows:

13 (1) For the life of the client if the matter resulted in a conviction and a sentence of life
14 imprisonment with or without the possibility of parole; and

15 (2) In all other criminal or delinquency matters, for ten (10) years after the latest of the
16 completion of the representation, the conclusion of all direct appeals, or the running of an
17 incarcerated defendant's maximum period of incarceration, but in no event longer than the life of
18 the client.

19 (g) An attorney shall take reasonable measures to ensure that the destruction of all or any
20 portion of a client file shall be carried out in a manner consistent with all applicable
21 confidentiality obligations.

22 (h) After a period of seven (7) years or more has lapsed since the disposition of a civil
23 case or matter, an attorney may destroy his or her records relative to the case, except as otherwise
24 provided in this section.

25 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO COURTS AND CIVIL PROCEDURE -- COURTS -- INACTIVE RECORDS

- 1 This act would provide requirements for attorney client's records and file retention.
- 2 This act would take effect upon passage.

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