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## Civil Procedure; Disposal of Public Records

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## Civil Procedure; limitation of actions

N.R.S. §11.— (new); §11.190 (amended).

SB 520 (Committee on Judiciary); STATS 1981, Ch 501

Existing law provides several time limitations for bringing various types of actions.<sup>1</sup> Prior to the enactment of Chapter 501, however, there was no limitation specified for a malpractice action against an accountant, attorney, or veterinarian.<sup>2</sup> In an apparent attempt to relieve any ambiguity, Chapter 501 specifies that an action for malpractice against an accountant, attorney, or veterinarian, whether based upon breach of duty or contract, must be brought within four years from the time the plaintiff sustains damage and discovers, or through reasonable diligence should discover, facts material to the action.<sup>3</sup> This time limitation is tolled, however, if any error, act, or omission central to the action is known, or through reasonable effort should be known to the accountant, attorney, or veterinarian and is concealed by him or her.<sup>4</sup>

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1. See generally N.R.S. §§11.010-11.390 (limitation of actions).

2. See generally *id.*

3. See *id.* §11.— 1.

4. See *id.* §11.— 2.

## Civil Procedure; disposal of public records

N.R.S. §§239.050, 239.122 (repealed); §§239.—, 602.— (new);  
§§239.110, 239.123, 239.124, 408.215 (amended).

AB 3 (Banner), STATS 1981, Ch 120

AB 6 (Banner), STATS 1981, Ch 61

AB 495 (Committee on Government Affairs), STATS 1981, Ch 329

Chapter 329 clarifies and updates procedures for the reproduction and destruction of public records.<sup>1</sup> Prior law required that public records be photographed, microphotographed, or filmed by the appropriate department, commission, board, or officer before they could be

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1. Compare STATUTES OF NEVADA 1981, c. 329, §§1-5, at — (repealing N.R.S. §§239.050, 239.122; enacting N.R.S. §239.—; amending N.R.S. §§239.123, 239.124, 408.215) with STATUTES OF NEVADA 1979, c. 683, §84, at 1788 (amending N.R.S. §239.050). See also N.R.S. §239.— 1 (public records include documents, instruments, papers, books, and any other records or writings for which the custodian is responsible).

destroyed.<sup>2</sup> Chapter 329 permits any custodian of public records to destroy records only if the records have been microphotographed or entered into a computer system which permits retrieval and reproduction, unless destruction without reproduction is permitted by law.<sup>3</sup> Under Chapter 329, the custodian also must promptly store the reproductions so that they are reasonably safe from loss or damage and maintain them for use by authorized persons.<sup>4</sup> Additionally, Chapter 329 specifies that the reproductions will be considered the original.<sup>5</sup> The reproduction and destruction of local government records also must comply with these procedures.<sup>6</sup>

Existing law permits the county clerk or the clerk of the justice's court to destroy all documents, records, instruments, books, papers, depositions, or transcripts involved in proceedings in the district or justice's court.<sup>7</sup> Prior to the enactment of Chapter 61, this destruction could take place if five years had elapsed since the last paper in the proceeding had been filed.<sup>8</sup> Chapter 61 removes this five year requirement<sup>9</sup> and allows a clerk to destroy this material only if the following conditions are met: (1) subject to specified exceptions,<sup>10</sup> the records of the clerk do not show that the action or proceeding is pending on appeal or review in any court;<sup>11</sup> and (2) the clerk maintains a microphotographic print or copy of the destroyed record which is considered to be the original document.<sup>12</sup> Additionally, Chapter 61 now enables the clerks of the supreme court and municipal court to destroy documents of their respective courts.<sup>13</sup> The destruction of supreme and municipal court documents, however, is subject to the same requirements that apply to the destruction of documents in the district or justice's court.<sup>14</sup>

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2. STATUTES OF NEVADA 1979, c. 683, §84, at 1788.

3. See N.R.S. §239. — 1, 239.080, 239.125.

4. Compare N.R.S. §239. — 3(a), (b) with STATUTES OF NEVADA 1979, c. 683, §84, at 1788.

5. See N.R.S. §239. —.

6. See *id.* §239.124. See also STATUTES OF NEVADA 1981, c. 329, §5, at — (former provisions governing destruction of public records have been repealed).

7. See *id.* §239.110. But see *id.* §239.080 (no official state record may be disposed of prior to approval by the State Board of Examiners).

8. See STATUTES OF NEVADA 1979, c. 199, §1, at 297 (amending N.R.S. §239.110).

9. Compare N.R.S. §239.110 with STATUTES OF NEVADA 1979, c. 199, §1, at 297.

10. See N.R.S. §239.110 1(a) (transcripts of a preliminary hearing may be destroyed on written consent of the district attorney), §239.110 1(b) (minutes of the court and affidavits supporting marriage license applications and certificates of fictitious names of businesses).

11. See *id.* §239.110 1.

12. See *id.* §239.110 2.

13. See *id.* §239.110 1.

14. Compare N.R.S. §239.110 1 with STATUTES OF NEVADA 1979, c. 199, §1, at 297.