

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1021

Short Title: Computerized Evidence Amendments.

(Public)

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Sponsors: Senator Clodfelter.

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Referred to: Judiciary I.

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April 15, 1999

A BILL TO BE ENTITLED

1 AN ACT CONCERNING THE ADMISSIBILITY INTO EVIDENCE OF PUBLIC OR  
2 PRIVATE RECORDS MAINTAINED ON PERMANENT, NONERASABLE,  
3 MACHINE-READABLE MEDIA AND RELATING TO THE MAINTENANCE  
4 AND PRESERVATION OF PUBLIC RECORDS USING THOSE MEDIA.  
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 8-45.1 reads as rewritten:

8 **"§ 8-45.1. Photographic reproductions admissible; destruction of originals.**

9 (a) If any business, institution, member of a profession or calling, or any  
10 department or agency of government, in the regular course of business or activity has  
11 kept or recorded any memorandum, writing, entry, print, representation, X ray or  
12 combination thereof, of any act, transaction, occurrence or event, and in the regular  
13 course of business has caused any or all of the same to be recorded, copied or reproduced  
14 by any photographic, photostatic, microfilm, microcard, miniature photographic, or other  
15 process which accurately reproduces or forms a durable medium for so reproducing the  
16 original, the original may be destroyed in the regular course of business unless held in a  
17 custodial or fiduciary capacity or unless its preservation is required by law. Such  
18 reproduction, when satisfactorily identified, is as admissible in evidence as the original  
19 itself in any judicial or administrative proceeding whether the original is in existence or  
20 not and an enlargement or facsimile of such reproduction is likewise admissible in

1 evidence if the original reproduction is in existence and available for inspection under  
2 direction of court. The introduction of a reproduced record, enlargement or facsimile,  
3 does not preclude admission of the original.

4 (b) The provisions of subsection (a) of this section shall apply to records stored on  
5 any form of permanent, computer-readable media, such as a CD-ROM, if the medium is  
6 not subject to erasure or alteration. The provisions shall not apply to magnetic tape, CD-  
7 R, or CD-RW."

8 Section 2. G.S. 8-45.3 reads as rewritten:

9 **"§ 8-45.3. Photographic reproduction of records of Department of Revenue.**

10 (a) The State Department of Revenue is hereby specifically authorized to have  
11 photographed, photocopied, or microphotocopied all records of the Department,  
12 including tax returns required by law to be made to the Department, and said  
13 photographs, photocopies, or microphotocopies, when certified by the Department as true  
14 and correct photographs, photocopies, or microphotocopies, shall be as admissible in  
15 evidence in all actions, proceedings and matters as the originals thereof would have been.

16 (b) The provisions of subsection (a) of this section shall apply to records stored on  
17 any form of permanent, computer-readable media, such as a CD-ROM, if the medium is  
18 not subject to erasure or alteration. The provisions shall not apply to magnetic tape, CD-  
19 R, or CD-RW."

20 Section 3. G.S. 8-34 reads as rewritten:

21 **"§ 8-34. Copies of official writings.**

22 (a) Copies of all official bonds, writings, papers, or documents, recorded or filed  
23 as records in any court, or public office, or lodged in the office of the Governor,  
24 Treasurer, Auditor, Secretary of State, Attorney General, Adjutant General, or the State  
25 Department of Cultural Resources, shall be as competent evidence as the originals, when  
26 certified by the keeper of such records or writings under the seal of ~~his~~ the keeper's office  
27 when there is such seal, or under ~~his~~ the keeper's hand when there is no such seal, unless  
28 the court shall order the production of the original. Copies of the records of the board of  
29 county commissioners shall be evidence when certified by the clerk of the board under  
30 ~~his~~ the clerk's hand and seal of the county.

31 (b) The provisions of subsection (a) of this section shall apply to records stored on  
32 any form of permanent, computer-readable media, such as a CD-ROM, if the medium is  
33 not subject to erasure or alteration. The provisions shall not apply to magnetic tape, CD-  
34 R, or CD-RW."

35 Section 4. G.S. 153A-436 reads as rewritten:

36 **"§ 153A-436. Photographic reproduction of county records.**

37 (a) A county may provide for the reproduction, by photocopy, photograph,  
38 microphotograph, or any other method of reproduction that gives legible and permanent  
39 copies, of instruments, documents, and other papers filed with the register of deeds and of  
40 any other county records. The county shall keep each reproduction of an instrument,  
41 document, paper, or other record in a fire-resistant file, vault, or similar container. If a  
42 duplicate reproduction is made to provide a security-copy, the county shall keep the

1 duplicate in a fire-resistant file, vault, or similar container separate from that housing the  
2 principal reproduction.

3 If a county has provided for reproducing records, any custodian of public records of  
4 the county may cause to be reproduced any of the records under, or coming under, his  
5 custody.

6 (b) If a county has provided for reproducing some or all county records, the  
7 custodian of any instrument, document, paper, or other record may permit it to be  
8 removed from its regular repository for up to 24 hours in order to be reproduced. An  
9 instrument, document, paper or other record may be removed from the county in order to  
10 be reproduced. The board of commissioners may permit an instrument, document, paper,  
11 or other record to be removed for longer than 24 hours if a longer period is necessary to  
12 complete the process of reproduction.

13 (c) The original of any instrument, document, or other paper received by the  
14 register of deeds and reproduced pursuant to this Article shall be filed, maintained, and  
15 disposed of in accordance with G.S. 161-17 and G.S. 121-5. The original of any other  
16 county record that is reproduced pursuant to this Article may be kept by the county or  
17 disposed of pursuant to G.S. 121-5.

18 (d) If an instrument, document, or other paper received by the register of deeds is  
19 reproduced pursuant to this Article, the recording of the reproduction is a sufficient  
20 recording for all purposes.

21 (e) A reproduction, made pursuant to this Article, of an instrument, document,  
22 paper, or other record is as admissible in evidence in any judicial or administrative  
23 proceeding as the original itself, whether the original is extant or not. An enlargement or  
24 other facsimile of the reproduction is also admissible in evidence if the original  
25 reproduction is extant and available for inspection under the direction of the court or  
26 administrative agency.

27 (f) The provisions of this section shall apply to records stored on any form of  
28 permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to  
29 erasure or alteration. The provisions shall not apply to magnetic tape, CD-R, or CD-  
30 RW."

31 Section 5. G.S. 160A-490 reads as rewritten:  
32 **"§ 160A-490. Photographic reproduction of records.**

33 (a) General Statutes 153A-436 shall apply to cities. When a county officer is  
34 designated by title in that Article, the designation shall be construed to mean the  
35 appropriate city officer, and the city council shall perform powers and duties conferred  
36 and imposed on the board of county commissioners.

37 (b) The provisions of subsection (a) of this section shall apply to records stored on  
38 any form of permanent, computer-readable media, such as a CD-ROM, if the medium is  
39 not subject to erasure or alteration. The provisions shall not apply to magnetic tape, CD-  
40 R, or CD-RW."

41 Section 6. This act becomes effective December 1, 1999, with Sections 1, 2,  
42 and 3 applying to proceedings in the courts of this State pending on or after that date.