

2A:6-45 and 2A:6-46

LEGISLATIVE HISTORY CHECKLIST

(Courts--Reduce Time For Preserving Original Papers).

HJSA 2A:6-45 and 2A:6-46; 2A:11-48; 2A:11-53

LAWS OF 1977 CHAPTER 274

Bill No. S183

Sponsor(s) Russo

Date Introduced Pre-filed

Committee: Assembly Judiciary, Law, Public Safety & Defense

Senate Judiciary

Amended during passage Yesx No

Date of Passage: Assembly Oct. 3, 1977

Senate April 26, 1976

Date of approval October 30, 1977

Following statements are attached if available:

Sponsor statement Yesx No

Committee Statement: Assembly Yesx No

Senate Yes Nox

Fiscal Note Yesx No

Veto Message Yesx No

Message on signing Yesx No

Following were printed:

Reports Yes Nox

Hearings Yesx No

See attached:

- 974.901 Judicial Conference Proceedings, 1975.
- C86 Report of the Committee on County District Courts. Report - p.4 Discussion - p.117 & 118 Appendix A - proposed 2A:6-45 and 2A:6-46

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SENATE, No. 183

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Senator RUSSO

AN ACT concerning the destruction of pleadings, judgments and other papers on file with certain courts in certain cases, and amending sections 2A:6-45, 2A:6-46, 2A:11-48 and 2A:11-53 of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2A:6-45 is amended to read as follows:

2 2A:6-45. Whenever any papers have been on file for more than
3 **[25]** 15 years in any district court or county district court or for
4 more than **[25]** 15 years in the aggregate in any district court and
5 county district court, and have become obsolete, the judge and in
6 courts having branch parts, the presiding judge, of the court in
7 which such papers are on file may direct the clerk of the court to
8 cause such obsolete papers to be removed and disposed of.

1 2. N. J. S. 2A:6-46 is amended to read as follows:

2 2A:6-46. The clerk of any county district court may, when so
3 ordered by the judge and in courts having branch parts, the
4 presiding judge, of said court, dispose of all papers filed in all
5 landlord and tenant cases wherein judgment has been or shall have
6 been entered, in said court, for a period of at least **[6]** 2 years,
7 together with the jackets containing the same.

1 3. N. J. S. 2A:11-48 is amended to read as follows:

2 2A:11-48. When in any cause in the Superior Court or the
3 Supreme Court, any County Court, surrogate's court or district
4 court, final judgment has been entered, and the time for appeal or
5 review has expired and no appeal or proceedings to review the same
6 has been taken, or if taken, the appeals and proceedings to review
7 the same have been finally determined, or when in any cause in
8 such courts, although final judgment has not been entered, no
9 papers have been filed for at least **[7]** 3 years, or when in any

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill
is not enacted and is intended to be omitted in the law.

10 cause in the former court of chancery, the former prerogative
 11 court, the former Supreme Court, or the former court of errors and
 12 appeals any final judgment, order or decree has been entered,
 13 or any interlocutory judgment, order or decree has been entered
 14 and no papers have been filed for at least **[7]** 3 years, the Clerk
 15 of the Supreme Court, and the Clerk of the Superior Court, respec-
 16 tively, or the surrogate or clerk of the court in which said judgment
 17 was entered may, subject to the direction of the administrative
 18 director with the approval of the Chief Justice, or the assignment
 19 judge of the county in the case of the records of county, surrogate's
 20 or district courts, record in duplicate the pleadings, judgment,
 21 decree and other papers, including original wills and inventories,
 22 filed with the court by the use of any photostatic, photographic or
 23 micrographic process whatever, including any photographic process
 24 which will produce compact records on films in reduced size (com-
 25 monly known as microfilm), which in the judgment of the Chief
 26 Justice or said assignment judge, as the case may be, will insure
 27 an efficient recording system and provide, under proper supervision,
 28 for ready access to the record of the same, in any cause so recorded.
 29 Any party to any action may, at his own expense, require the record-
 30 ing, in the same manner, of any other documents in any cause,
 31 otherwise not required to be recorded. Provision shall be made
 32 for storing the duplicates in separate places.

1 4. N. J. S. 2A:11-53 is amended to read as follows:

2 2A:11-53. Seven years after final judgment has been entered
 3 in causes in the Superior Court or the Supreme Court or any such
 4 County Court or district court and the time for appeal or review
 5 has expired when no appeal or proceeding to review the same has
 6 been taken, or if an appeal or proceedings to review the same has
 7 been taken **[7]** 3 years after such appeals and proceedings to
 8 review the same have been finally determined or when no final
 9 judgment or decree has been entered, but no papers have been filed
 10 for at least **[7]** 3 years in causes in the Superior Court or the
 11 Supreme Court, or any such county, surrogate's or district court
 12 or when in causes in the former court of chancery, the former
 13 prerogative court, the former Supreme Court, or the former court
 14 of errors and appeals any interlocutory or final judgment, order
 15 or decree has been entered and no papers have been filed for at
 16 least **[7]** 3 years, the Chief Justice, or said assignment judge in
 17 the case of county, surrogate's and district court records, may
 18 cause to be given 10 days' written notice to the Division of the
 19 State Library, Archives and History, in the State Department of

20 Education, if his intention to destroy or otherwise dispose of the
21 papers in the causes from which the photographs or microphoto-
22 graphs have been taken as provided in N. J. S. 2A:11-48. So many
23 of such papers in a cause as are not in writing requested by the
24 Division of the State Library, Archives and History, may be
25 destroyed or otherwise disposed of in such manner, as the Chief
26 Justice or said assignment judge, shall deem proper.

1 5. This act shall take effect immediately.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 183

STATE OF NEW JERSEY

DATED: MARCH 29, 1976

This bill would reduce the time periods for which various courts are required to preserve the original papers filed with the courts. Specifically, the reductions would be as follows:

For obsolete papers in a district or county district court	25 to 15 years
For all papers in landlord and tenant cases in county district courts	6 to 3 years
For placing of records from inactive cases in all courts and from former courts in a photographic recording system	7 to 3 years
For destruction of original records in all courts for inactive cases or cases from former courts where they have been made part of a photographic recording system .	7 to 3 years

FROM THE OFFICE OF THE GOVERNOR

OCTOBER 31, 1977

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

ANNE BURNS

Governor Brendan Byrne has signed into law the following bills:

S-183 - sponsored by Senator John F. Russo, D-Ocean, which reduces the amount of time which courts must preserve original papers filed with the courts.

Under this legislation, district court and county district court case files would be kept for 15 rather than 25 years and landlord and tenant cases would be kept for 2 years rather than 6 years.

The bill also permits the microfilming of inactive case records and the destruction of the original records of all courts after three years rather than seven.

S-1315 - sponsored by Senator Carmen Orechio, D-Essex, which creates an unclassified Civil Service title -- State Investigator -- in the Division of Criminal Justice.

The Division has employed persons in this capacity for some time without statutory recognitions. Because of this deficiency, State Investigators are not entitled to certain Civil Service benefits such as formal grievance procedures, administrative leave or accrual of sick leave. The legislation will correct this deficiency.

S-1727 - sponsored by Senator James Dugan, D-Hudson, which provides volunteer members of the National Ski Patrol with immunity from civil liability. Prior to this legislation, the statute provided immunity for members of volunteer first aid, rescue or emergency squads.

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The minority qualified their position only to the extent that it was their further recommendation that should the jurisdiction be increased, consideration must then be given to an increase in both attorney's fees and Constable's fees, which presently are set at 2% of the excess of any judgment over \$500.

Modification of District Court Record Retention Schedule and pertinent Statutes.

The Committee recommends that the attached proposed modification of the present District Court Retention of Records Schedule be adopted and that corrective legislation to correlate with the proposed schedule be recommended to the Legislature.

The present statutes, N.J.S.A. 2A:6-45 and 46, which control the record retention schedule, were enacted in 1946 and 1948 at the inception of the present county district court.

During the past 30 years retention and storage of these records has become extremely burdensome to the local counties, especially in the urban areas.

The alternative of retaining the present retention schedule and mandating microfilm after 7 years pursuant to N.J.S.A. 2A:11-53 was rejected. The Committee feels that the expense of requiring all counties to initiate microfilm projects necessitating purchase of equipment and additional personnel is unduly burdensome since a poll of the various counties revealed that said records are rarely if ever utilized.

Consequently, the Committee recommends the adoption of amendatory legislation and the proposed modification of the record retention schedule which are attached in Appendix A.

As that volume of litigation increases, tempers--mine does at times--get short, and some days you really, I don't think, are doing the job you would like to do. And it is a very unsatisfying situation.

But nevertheless, the law has passed, and I presume we are stuck with it.

The second item of our report has to do with raising the jurisdictional limits of the court from \$3,000 to \$5,000. There again, our Committee recommended against that, but not for the same reasons. One of the reasons was that we thought the passage of the \$5,000 would hasten the passage of the small claims. But we certainly miscalculated the tenor of the thoughts of the Legislature on that. Our reason for opposing the upping to \$5,000, I think it is just primarily just a personnel one. I gave you the figures there on the filings at least in Mercer County, and I am certain it is similar in other counties. By increasing the jurisdiction to \$5,000 I could suspect our volume would probably double. It certainly would remove a lot of those cases from the upper court calendar, but there in the district court we do have the personnel problem. We are not the high priority on the Freeholders' lists, and indeed my county and other counties are suffering for lack of personnel and really just the staffing. It is a fiscal problem in the county as well as the State. Just since I have been District Court Judge in Mercer, a little less than five years, the volume has been up 50%, and we have maybe one or two new girls placed on the payroll out of 10; just about a 20% increase in personnel and 50% in volume. And indeed, we are falling behind.

Those, at least, were the reasons we gave in our report. There was one other reason that we didn't want it to go to \$5,000, and that transfer of the cases from the upper court to us--and I can tell you here, but we couldn't put it in the report--we really don't think the guys in the upper court are carrying their weight, and it is a problem.

The next area, number three, has to do with the retention of files. Presently we are required by law to keep actually the jackets--and I guess this is the same in the upper court--for 25 years. And I think in small claims and tenancies we get rid of them in about six. We are recommending that retention of files time limit be reduced to 10 years for the regular district court cases and to three years for tenancies and small claims. This is not abandoning the files. But because our dockets have all the information, the amount of judgment, what action has been taken, and those, of course, would be permanent. These are the actual papers.

We have made some survey among the district court clerks, and really, the action on cases over 10 years old is

very remote. Even if you wanted to docket the judgment after the 10 years, we have enough information in the docket book, itself, to accommodate that.

The next item has to do with corporations appearing pro se in the Small Claims Division. A recent amendment about two years ago allowed corporate agents to come into small claims mostly on collection work. It is causing a problem in some counties. I think Essex, particularly, feels that they are being inundated with these collection cases. And the Administrative Director's Office has undertaken a little survey on small claims. And I didn't realize that Mercer was getting that many of them, but I think it turned out to be something like 50% of the plaintiffs were corporations appearing pro se. And as I say, I had not even recognized the increase in that, but we are getting it also.

Item number 5 has to do with constables and some fees. This is a local problem in district court. As you know, the constables there are really independent contractors. They are not like sheriff's officers on salary. And we have the responsibility to them to see that at least economically they are being properly remunerated for their work. And it is an effort to upgrade their earnings a little bit. And certainly there is unanimity among our communities for those modest increases.

Those first five items, by the way, I think refer to all statutory changes as they affect the district court. The next two through seven have to do with rule changes that are recommended.

The first with regard to jury cases in landlord-tenant actions. There was a rule that made reference to that. It was never used by anyone, and I don't think ever seriously thought that on summary dispossession that you would have a trial by jury. The proposed amendment there is to just correct that and make it consistent with other rules.

Number seven, it is kind of an interesting thing. It is very minimal. It has to do with service of the summons and complaint in landlord-tenant actions. Last year the Supreme Court amended that rule without the advice and consent of the District Court Committee, and to be perfectly frank with you, I think they botched it up. Nobody knew what it meant. And we are doing our best to bail them out with a slight wording change there.

Number eight and the following items are more or less just policy-type things directed towards uniformity among the district courts around the State. Number eight was a suggested revision of the summons form as forwarded to us by OEO out of Newark, I believe. It had much--and it is included in your appendices there. It had much language with

2A:6-45. Obsolete papers on file; removal and destruction

1 Whenever any papers have been on file for more than
2 [25] 10 years in any district court or county district
3 court or for more than [25] 10 years in the aggregate in
4 any district court and county district court, and have
5 become obsolete, the judge and in courts having branch
6 parts, the presiding judge, of the court in which such
7 papers are on file may direct the clerk of the court to
8 cause such obsolete papers to be removed and disposed of.

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2A:6-46. Obsolete affidavits filed in landlord and tenant cases; destruction

1 The clerk of any county district court may, when so
2 ordered by the judge and in courts having branch parts,
3 the presiding judge, of said court, dispose of all papers
4 filed in all landlord and tenant cases wherein judgment
5 has been or shall have been entered, in said court, for a
6 period of at least [six] three years, together with the
7 jackets containing the same.

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