

## **H.546 (An act relating to racial justice statistics)**

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### **H.546: RECOMMENDATION**

The proposed new statute, 3 V.S.A. § 5013 (Data Governance) will result in fundamental changes to the organization, oversight, and conduct of state government as they relate to the matter of public records and the management of public records and information, which pursuant to the Vermont Public Records Act, includes data produced or acquired in the course of public agency business (1 V.S.A. § 317).

The Vermont State Archives and Records Administration, a division of the Office of the Secretary of State, did observe the Committee receiving misinformation on the Vermont Public Records Act during the bill's walk-through on Tuesday, January 11, 2022; therefore, this opportunity to provide background on the current organization, oversight, and conduct of state government as they relate to the matter of public records and management of public records and information, including data, is appreciated.

Should the Committee decide to continue with 3 V.S.A. § 5013 (Data Governance) as introduced, we recommend referring the bill to the Senate and House Government Operations Committees due to the fundamental changes the bill is proposing as they relate to the matter of public records and the management of public records and information, including data.

### **BACKGROUND**

The Vermont State Archives and Records Administration (VSARA) was established by Act 98 of 2008 to create a single point of authority for the management of public records and information by local and state public agencies. VSARA was formed by consolidating the statutory mandates of the Public Records Advisory Board, Division of Public Records in the Department of Buildings and General Services, and the Division of State Archives in the Secretary of State's Office, all of which were also dissolved by Act 98 of 2008.

#### ***Relevant Resources:***

- [1 V.S.A. § 317a](#) (Management of Public Records)

- [3 V.S.A. § 117](#) (Secretary of State: Vermont State Archives and Records Administration)
- [3 V.S.A. § 218](#) (Administrative Departments: Agency and department records management program)
- [State Archivist Job Specification](#) (Job Code 070500; Classified)
- Related legislative reports, including the *Preliminary Strategic Plan for Executive Branch Records* by the Secretary of Administration and the State Archivist (2006). [sos.vermont.gov/vsara/about/reports/](https://sos.vermont.gov/vsara/about/reports/)

## GOVERNANCE AND STANDARDS

The Vermont State Archives and Records Administration (VSARA) is charged with administering the Statewide Records and Information Management (RIM) Program for all Vermont public agencies in accordance with Generally Accepted Recordkeeping Principles and other industry standards and best practices. The Statewide RIM Program, which calls for the sound and effective management of public records and information, regardless of format, by all public agencies, is cross-referenced in the Vermont Public Records Act (PRA) in 1 V.S.A. § 317a.

If not familiar with Generally Accepted Recordkeeping Principles, they are listed in the table below. There is also an industry standard for measuring the proficiencies or “maturity” of a public agency in each Principle on a scale of “1” (sub-standard) to “5” (transformative). These measurements provide great insight into an agency’s capabilities for fulfilling requirements under the PRA as well as the state’s broader records and information management laws.

Accountability	Transparency	Integrity	Protection
Compliance	Availability	Retention	Disposition

### ***Relevant Resources:***

- VSARA’s Records Management website for public agencies: [sos.vermont.gov/vsara/manage](https://sos.vermont.gov/vsara/manage)

- Vermont Functional Classification System (VCLAS): [sos.vermont.gov/vsara/manage/information-governance/standards/vclas](https://sos.vermont.gov/vsara/manage/information-governance/standards/vclas)
- [House Government Operations Committee: H.585 \(An Act Related to Records Management\) Testimony](#) (January 17, 2018).
- [Senate Government Operations Committee: Public Records Discussion Testimony](#) (January 16, 2020).
- [Senate Government Operations Committee: Agency Records Management Programs Testimony](#) (January 20, 2020)

## VERMONT PUBLIC RECORDS ACT

The Vermont Public Records Act or PRA (1 V.S.A. §§ 315-320) has its origin in Act 231 of 1976 (H.276), the State of Vermont first comprehensive public records law. Since its initial passage, the PRA has focused on six core elements, although one element – management – was originally kept separate, in Title 22, despite routinely being amended within some of the same legislative acts pertaining to public records.

It was not until the passage of Act 96 of 2008 that management was added to the PRA and it was through Act 100 of 2018 that cross-references between the PRA and the state’s records management laws were more clearly drawn. Today, the six core elements of the PRA are:

1. Policy ([1 V.S.A. § 315](#))
2. Access ([1 V.S.A. § 316](#))
3. Exemptions ([1 V.S.A. § 317](#))
4. Management ([1 V.S.A. § 317a](#))
5. Procedure ([1 V.S.A. §§ 318-318a](#))
6. Enforcement ([1 V.S.A. §§ 319-320](#))

### ***Relevant Resources:***

- VSARA’s Legal Definitions website: [sos.vermont.gov/vsara/manage/information-governance/compliance/legal-definitions](https://sos.vermont.gov/vsara/manage/information-governance/compliance/legal-definitions)
- VSARA’s *Continuing Issues Series* on the Vermont Public Records Act: [sos.vermont.gov/vsara/learn/public-records-act](https://sos.vermont.gov/vsara/learn/public-records-act)