

# < PRELIMINARY DRAFT for ELG Meeting Feb. 3-4, 2014 >

## HOUSE JOINT RESOLUTION 2: ELECTRONIC RECORDS MANAGEMENT STATUTORY FINDINGS AND POSSIBLE RECOMMENDATIONS

ERM Element	Statute	Issue	Possible Recommendation
<b>Record Identification</b>	<p><b>2-6-101. Definitions.</b> (1) Writings are of two kinds:</p> <ul style="list-style-type: none"><li>(a) public; and</li><li>(b) private.</li></ul> <p>(2) Public writings are:</p> <ul style="list-style-type: none"><li>(a) the written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of this state, of the United States, of a sister state, or of a foreign country, except records that are constitutionally protected from disclosure;</li><li>(b) public records, kept in this state, of private writings, including electronic mail, except as provided in 22-1-1103 and 22-3-807 and except for records that are constitutionally protected from disclosure.</li></ul> <p>(3) Public writings are divided into four classes:</p> <ul style="list-style-type: none"><li>(a) laws;</li><li>(b) judicial records;</li><li>(c) other official documents;</li><li>(d) public records, kept in this state, of private writings, including electronic mail.</li></ul> <p>(4) All other writings are private.</p>	<p><b>A.</b> The definition of "public writings" is confusing and almost circular with the definition of "public records".</p> <p><b>B.</b> The meaning of "private writing" is confusing, not clear, and hard for a layperson to understand.</p> <p><b>C.</b> The Public Records chapter and other parts of the Code contain many definitions related to records that are vague, confusing, and possibly not broad enough to cover technologies available and in use today.</p>	

## **Categories of Issues Identified – HJR 2 Statutory Review**

- Definitions
- Governance Structure
- Administrative Rules and Rulemaking Authority
- Essential Records
- Duties and Focus of State and Local Government Records Committees
- Agency Responsibilities and Agency Records Custodians
- Preservation of Records
- Public Access
- Records Management as Agency Mission/Critical Function