

UNIFORM AUTHENTICATION OF ONLINE STATE LEGAL MATERIALS ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Authentication of Online State Legal Materials Act.

SECTION 2. DEFINITIONS. In this [act]:

- (1) “Document” means state-level legal material, including:
 - A. laws passed by the state legislature of this state at a particular legislative session,
 - B. codified laws of this state,
 - C. state administrative rules of this state that have the force and effect of law, and,
 - D. judicial decisions of this state that have precedential value.
- (2) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (3) “Electronic document” means a document created, generated, sent, communicated, or stored by electronic means.
- (4) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (5) “Official Publisher” means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of a state government with the responsibility to publish a document, or a person

designated under contract with the responsible agency or instrumentality of state government to publish a document.

(6) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(7) [Other definitions to be added]

SECTION 3. APPLICABILITY.

This [act] applies to an electronic document that is published only on the internet, or is published on the internet and is designated official. .

SECTION 4. AUTHENTICATION OF ELECTRONIC DOCUMENTS.

The official publisher of an electronic document subject to this [act] must authenticate it. At a minimum, authentication must include:

- (1) documentation that the computer system used to create and store the document contains security measures designed to minimize corruption of or tampering with the document, and establishes a chain of custody for the document,
- (2) protection of the transmission of the document from the computer system in which it was created to the web site on which it is displayed, with an appropriate indicator of web site authentication, and

- (3) assurance that the document displayed on the web site is the document it purports to be and is complete, with an appropriate indicator of document authentication.

SECTION 5. PRIMA FACIE EVIDENCE.

If the publication of an electronic document meets the requirements in section 4 the electronic document is prima facie evidence that it is the complete document that it purports to be.

SECTION 6. PRESERVATION AND PERMANENT ACCESS.

The official publisher of an electronic document subject to this [act] must establish a plan both for preservation of the document and for permanent public access to the document. At a minimum, the plan must include:

- (1) documentation of the data format used in the original document creation,
- (2) periodic archiving of the data, in paper or electronic form or both, and
- (3) periodic updating of the document in new electronic formats, as necessary to provide long-term public access to the document.

SECTION 7. UNIFORMITY OF STANDARDS.

- (a) This [act] must be applied and construed to promote uniformity of the law with respect to its subject matter among the states that enact it.

(b) In implementing the requirements of this [act], the official publisher must consider:

- (1) standards and practices of other jurisdictions,
- (2) any standards on authentication and preservation of documents adopted by national standard-setting bodies, and
- (3) the needs of electronic document users.

SECTION 8. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the federal signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify, limit or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

[Note: Not sure we need this language; need to consult with Pat Fry]

SECTION 9. EFFECTIVE DATE. This [act] takes effect [date].

Alternative Version:

SECTION 3. APPLICABILITY.

This [act] applies to an electronic document that is published on the internet.

SECTION 4. OFFICIAL VERSION.

- (a) If the electronic document is the only version of the document readily accessible to the public, it must be designated official and meet the requirements of sections 5 and 7.
- (b) If the official publisher continues to provide a print version of the electronic document, the official publisher may designate the electronic version as official, and must then meet the requirements of sections 5 and 7.
- (c) If the official publisher continues to provide a print version of the electronic document, and designates only the print version as official, the electronic version must at a minimum be clearly identified as unofficial upon entry to the web site.
[In addition, the web site must contain an explanation of an alternative procedure for the public to obtain a certified copy of the official version of the document.]

SECTION 5. AUTHENTICATION OF ELECTRONIC DOCUMENTS.

The official publisher of an electronic document which meets the criteria in section 4

- (a) or (b) must authenticate it....

...

SECTION 7. PRESERVATION AND PERMANENT ACCESS.

The official publisher of an electronic document which meets the criterial in section 4

(a) or (b) must establish a plan...