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SENATE BILL 5039

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State of Washington

65th Legislature

2017 Regular Session

By Senators Pedersen, O'Ban, Frockt, and Padden; by request of  
Uniform Law Commission

1 AN ACT Relating to the uniform electronic legal material act;  
2 adding a new chapter to Title 1 RCW; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and  
5 cited as the uniform electronic legal material act.

6 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
7 section apply throughout this chapter unless the context clearly  
8 requires otherwise.

9 (1) "Electronic" means relating to technology having electrical,  
10 digital, magnetic, wireless, optical, electromagnetic, or similar  
11 capabilities.

12 (2) "Legal material" means, whether or not in effect:

13 (a) The Washington state Constitution;

14 (b) The session laws of the state of Washington;

15 (c) The Revised Code of Washington;

16 (d) A state agency rule that has or had the effect of law;

17 (e) The Washington State Register; or

18 (f) The Washington Administrative Code.

19 (3) "Official publisher" means:

- 1 (a) For the Washington state Constitution, the secretary of  
2 state;
- 3 (b) For session laws of the state of Washington, the statute law  
4 committee;
- 5 (c) For the Revised Code of Washington, the statute law  
6 committee;
- 7 (d) For a rule published in the Washington State Register, the  
8 statute law committee;
- 9 (e) For a rule not published in the Washington State Register,  
10 the state agency adopting the rule;
- 11 (f) For the Washington State Register, the statute law committee;  
12 or
- 13 (g) For the Washington Administrative Code, the statute law  
14 committee.
- 15 (4) "Publish" means to display, present, or release to the  
16 public, or cause to be displayed, presented, or released to the  
17 public, by the official publisher.
- 18 (5) "Record" means information that is inscribed on a tangible  
19 medium or that is stored in an electronic or other medium and is  
20 retrievable in perceivable form.
- 21 (6) "State" means a state of the United States, the District of  
22 Columbia, Puerto Rico, the United States Virgin Islands, or any  
23 territory or insular possession subject to the jurisdiction of the  
24 United States.

25 NEW SECTION. **Sec. 3.** APPLICABILITY. (1) Except as provided in  
26 subsection (2) of this section, this chapter applies to all legal  
27 material in an electronic record that is designated as official under  
28 section 4 of this act and first published electronically on or after  
29 January 1, 2018.

30 (2) This chapter applies to issues of the Washington State  
31 Register in an official electronic record that were first published  
32 on or after May 7, 2008.

33 NEW SECTION. **Sec. 4.** LEGAL MATERIAL IN OFFICIAL ELECTRONIC  
34 RECORD. (1) If an official publisher publishes legal material only in  
35 an electronic record, the publisher shall:

- 36 (a) Designate the electronic record as official; and  
37 (b) Comply with sections 5, 7, and 8 of this act.

1 (2) An official publisher that publishes legal material in an  
2 electronic record and also publishes the material in a record other  
3 than an electronic record may designate the electronic record as  
4 official if the publisher complies with sections 5, 7, and 8 of this  
5 act.

6 NEW SECTION. **Sec. 5.** AUTHENTICATION OF OFFICIAL ELECTRONIC  
7 RECORD. An official publisher of legal material in an electronic  
8 record that is designated as official under section 4 of this act  
9 shall authenticate the record. To authenticate an electronic record,  
10 the publisher shall provide a method for a user to determine that the  
11 record received by the user from the publisher is unaltered from the  
12 official record published by the publisher.

13 NEW SECTION. **Sec. 6.** EFFECT OF AUTHENTICATION. (1) Legal  
14 material in an electronic record that is authenticated under section  
15 5 of this act is presumed to be an accurate copy of the legal  
16 material.

17 (2) If another state has adopted a law substantially similar to  
18 this chapter, legal material in an electronic record that is  
19 designated as official and authenticated by the official publisher in  
20 that state is presumed to be an accurate copy of the legal material.

21 (3) A party contesting the authentication of legal material in an  
22 electronic record authenticated under section 5 of this act has the  
23 burden of proving by a preponderance of the evidence that the record  
24 is not authentic.

25 NEW SECTION. **Sec. 7.** PRESERVATION AND SECURITY OF LEGAL  
26 MATERIAL IN OFFICIAL ELECTRONIC RECORD. (1) An official publisher of  
27 legal material in an electronic record that is or was designated as  
28 official under section 4 of this act shall provide for the  
29 preservation and security of the record in an electronic form or a  
30 form that is not electronic.

31 (2) If legal material is preserved under subsection (1) of this  
32 section in an electronic record, the official publisher shall:

- 33 (a) Ensure the integrity of the record;  
34 (b) Provide for backup and disaster recovery of the record; and  
35 (c) Ensure the continuing usability of the material.

1        NEW SECTION.        **Sec. 8.**        PUBLIC ACCESS TO LEGAL MATERIAL IN  
2 OFFICIAL ELECTRONIC RECORD. An official publisher of legal material  
3 in an electronic record that is required to be preserved under  
4 section 7 of this act shall ensure that the material is reasonably  
5 available for use by the public on a permanent basis.

6        NEW SECTION.        **Sec. 9.**        STANDARDS. In implementing this chapter,  
7 an official publisher of legal material in an electronic record shall  
8 consider:

9            (1) Standards and practices of other jurisdictions;

10          (2) The most recent standards regarding authentication of,  
11 preservation and security of, and public access to, legal material in  
12 an electronic record and other electronic records, as promulgated by  
13 national standard-setting bodies;

14          (3) The needs of users of legal material in an electronic record;

15          (4) The views of governmental officials and entities and other  
16 interested persons; and

17          (5) To the extent practicable, methods and technologies for the  
18 authentication of, preservation and security of, and public access  
19 to, legal material which are compatible with the methods and  
20 technologies used by other official publishers in this state and in  
21 other states that have adopted a law substantially similar to this  
22 chapter.

23        NEW SECTION.        **Sec. 10.**        UNIFORMITY OF APPLICATION AND  
24 CONSTRUCTION. In applying and construing this uniform act,  
25 consideration must be given to the need to promote uniformity of the  
26 law with respect to its subject matter among states that enact it.

27        NEW SECTION.        **Sec. 11.**        RELATION TO ELECTRONIC SIGNATURES IN  
28 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and  
29 supersedes the electronic signatures in global and national commerce  
30 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or  
31 supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or  
32 authorize electronic delivery of any of the notices described in  
33 Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

34        NEW SECTION.        **Sec. 12.**        COURTS EXCLUDED. This chapter does not  
35 apply to any court or agency of the judicial branch.

1        NEW SECTION.    **Sec. 13.**    EFFECTIVE DATE. This act takes effect  
2    January 1, 2018.

3        NEW SECTION.    **Sec. 14.**    Sections 1 through 13 of this act  
4    constitute a new chapter in Title 1 RCW.

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