

DRAFT  
FOR DISCUSSION ONLY

# ELECTRONIC LEGAL MATERIAL ACT

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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*Includes changes from February 2011 Drafting Committee Meeting*

*Without Prefatory Note or Comments*

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March 15, 2011

## **DRAFTING COMMITTEE FOR ELECTRONIC LEGAL MATERIAL ACT**

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in drafting this Act consists of the following individuals:

MICHELE L. TIMMONS, Office of the Revisor of Statutes, 700 State Office Bldg., 100 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155, *Chair*

JERRY L. BASSETT, Legislative Reference Service, 613 Alabama State House, 11 S. Union St., Montgomery, AL 36130

DAVID D. BIKLEN, 153 N. Beacon St., Hartford, CT 06105

DIANE F. BOYER-VINE, Office of Legislative Counsel, State Capitol, Room 3021, Sacramento, CA 95814-4996

STEPHEN Y. CHOW, 125 Summer St., Boston, MA 02110-1624

VINCENT C. DeLIBERATO, Jr., Main Capitol Bldg., Room 641, Harrisburg, PA 17120-0033

GENE H. HENNIG, 500 IDS Center, 80 S. 8<sup>th</sup> St., Minneapolis, MN 55402-3796

STEVEN L. WILLBORN, University of Nebraska College of Law, Ross McCollum Hall, 42 & Fair St., P.O. Box 830902, Lincoln, NE 68583-0902

BARBARA A. BINTLIFF, University of Texas School of Law, 727 E. Dean Keeton St., Austin, TX 78705, *Reporter*

### **EX OFFICIO**

ROBERT A. STEIN, University of Minnesota Law School, 229 19th Avenue S., Minneapolis, MN 55455, *President*

JACK DAVIES, 1201 Yale Pl., Unit 2004, Minneapolis, MN 55403-1961, *Division Chair*

### **AMERICAN BAR ASSOCIATION ADVISOR**

LUCY THOMSON, 915 N. Quaker Dr., Alexandria, VA 22302, *ABA Advisor*

PHYLLIS B. PICKETT, 401 Legislative Office Bldg., 300 N. Salisbury St., Raleigh, NC 27603, *ABA Section Advisor*

### **EXECUTIVE DIRECTOR**

JOHN A. SEBERT, 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602, *Executive Director*

Copies of this Act may be obtained from:  
NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS  
111 N. Wabash Ave., Suite 1010  
Chicago, Illinois 60602  
312/450-6600  
[www.uniformlaws.org](http://www.uniformlaws.org)

# ELECTRONIC LEGAL MATERIAL ACT

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[NOTE: Changes to the table of contents are made by ULC staff. The table of contents are not susceptible to editing, and changes, therefore, are not made by reporters.]

1 **ELECTRONIC LEGAL MATERIAL ACT**  
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3 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Electronic Legal Material  
4 Act.

5 **SECTION 2. DEFINITIONS.** In this [act]:

6 (1) “Electronic” means relating to technology having electrical, digital, magnetic,  
7 wireless, optical, electromagnetic, or similar capabilities.

8 (2) “Legal material” means:

9 (A) the [Constitution of this state];

10 (B) [legislative enactments] enacted by the [Legislature];

11 (C) [name of state code]; [and]

12 (D) a rule adopted by a state agency which has the effect of law[;] [and]

13 [(E) a decision of a state administrative agency which has precedential effect][;]

14 [and]

15 [(F) a judicial decision of a state court which has precedential effect][;] [and]

16 [(G) state court rules]].

17 (3) “Official publisher” means:

18 (A) for [the Constitution of this state], the [insert appropriate agency or official];

19 (B) for [legislative enactments] enacted by the [Legislature], the [insert  
20 appropriate agency or official];

21 (C) for [name of state code], the [insert appropriate agency or official]; [and]

22 (D) for a rule published in the [insert name of administrative code], the [insert  
23 appropriate agency or official][;] [and]

24 [(E) for any rule not published in the [insert name of administrative code], the

1 state agency adopting the rule][;] [and]

2 [(F) for a state administrative agency decision which has precedential effect, the

3 [insert appropriate agency or official]][;] [and]

4 [(G) for a state court judicial decision which has precedential effect, the [insert

5 appropriate agency or official]][;] [and]

6 [(H) for state court rules, the [insert appropriate agency or official].

7 (4) “Publish” means to display, present, or release to the public.

8 (5) “Record” means information that is inscribed on a tangible medium or that is stored in

9 an electronic or other medium and is retrievable in perceivable form.

10 (6) “State” means a state of the United States, the District of Columbia, Puerto

11 Rico, the United States Virgin Islands, or any territory or insular possession subject to the

12 jurisdiction of the United States.

13 **SECTION 3. APPLICABILITY.** This [act] applies to all legal material in an  
14 electronic record that is designated as official under Section 4 and first published on or after the  
15 effective date of the [act].

16 **SECTION 4. LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD.**

17 (a) If an official publisher publishes legal material only in an electronic record, the

18 publisher shall:

19 (1) designate the electronic record as official; and

20 (2) meet the requirements of Sections 5, 7, and 8.

21 (b) If an official publisher publishes legal material in a record other than an electronic

22 record, the publisher may designate an electronic record as official if the requirements of

23 Sections 5, 7, and 8 are met.

1           **SECTION 5. AUTHENTICATION OF ELECTRONIC RECORD.** An official  
2 publisher of legal material in an electronic record that is designated as official under Section 4  
3 shall authenticate the record by providing a method for users to determine that the record is  
4 unaltered from the one published by the publisher.

5           **SECTION 6. EFFECT OF AUTHENTICATION.**

6           (a) Legal material in an electronic record that is authenticated under Section 5 is  
7 presumed to be an accurate copy of the legal material.

8           (b) The presumption under (a) applies to legal material in an electronic record designated  
9 as official by another state that has adopted this [act].

10          **SECTION 7. PRESERVATION OF LEGAL MATERIAL IN ELECTRONIC**  
11 **RECORD.**

12          (a) An official publisher of legal material in an electronic record shall provide for the  
13 preservation, electronically or non-electronically, of a record that is or was designated as official  
14 under Section 4.

15          (b) If legal material is preserved in an electronic record, the official publisher shall:

16               (1) ensure the integrity of the record;

17               (2) provide for back-up and disaster recovery of the record; and

18               (3) ensure the continuing usability of the material.

19          **SECTION 8. PUBLIC ACCESS TO LEGAL MATERIAL IN OFFICIAL**  
20 **ELECTRONIC RECORD.** An official publisher of legal material in an electronic record that  
21 is required to be preserved under Section 7 shall ensure that the material is reasonably available  
22 on a permanent basis for use by the public.

1           **SECTION 9. STANDARDS.** In implementing this [act], an official publisher of legal  
2 material shall consider:

3           (1) standards and practices of other jurisdictions;

4           (2) the most recent standards regarding preservation of, authentication of, and public  
5 access to legal material in an electronic record and other electronic records, as promulgated by  
6 national standard-setting bodies;

7           (3) the needs of users of legal material in an electronic record; and

8           (4) the views of governmental officials and entities and other interested persons.

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

12           **SECTION 11. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**  
13 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the federal  
14 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq.,  
15 but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or  
16 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15  
17 U.S.C. Section 7003(b).

18           **SECTION 12. EFFECTIVE DATE.** This act is effective on \_\_\_\_\_.