

SB1941



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1941

Introduced 2/15/2013, by Sen. John G. Mulroe

SYNOPSIS AS INTRODUCED:

New Act

Creates the Uniform Electronic Legal Material Act to provide for the utilization of legal material in an electronic record. Applies to all legal material designated as official under the Act and published after its effective date. Defines legal material and other terms. Includes court reports, statutes, session laws, rules, and agency decisions. Provides for an official publisher for the material, including the Supreme Court and the Secretary of State. Provides for authentication of official electronic records and for their preservation. Establishes standards for implementing the Act.

LRB098 08538 JLS 38650 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Uniform Electronic Legal Material Act.

6 Section 2. Definitions.

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

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

11 (A) the Illinois Constitution;

12 (B) the Laws of Illinois;

13 (C) the Illinois Compiled Statutes;

14 (D) the Illinois Administrative Code;

15 (E) the following categories of State administrative
16 agency decisions: final administrative decisions;

17 (F) reported decisions of the following State courts:
18 Illinois Supreme Court and Illinois Appellate Court;

19 (G) Illinois Supreme Court Rules; or

20 (H) Illinois Court of Claims.

21 (3) "Official publisher" means:

22 (A) for the Illinois Constitution, the Secretary of
23 State;

- 1 (B) for the Laws of Illinois, the Secretary of State;
- 2 (C) for Illinois Compiled Statutes, the Secretary of
3 State;
- 4 (D) for a rule published in the Illinois Administrative
5 Code, the Secretary of State;
- 6 (E) for a rule not published in the Illinois
7 Administrative Code, the State agency adopting the rule;
- 8 (F) for a State agency decision included under
9 paragraph (2) (E), the State Agency issuing the decision;
- 10 (G) for a State court decision included under paragraph
11 (2) (F), the Illinois Supreme Court, Reporter of Decisions;
- 12 (H) for State court rules, the Illinois Supreme Court;
- 13 or
- 14 (I) for Decisions of the Court of Claims, the Secretary
15 of State.
- 16 (4) "Publish" means to display, present, or release to the
17 public, or cause to be displayed, presented, or released to the
18 public, by the official publisher.
- 19 (5) "Record" means information that is inscribed on a
20 tangible medium or that is stored in an electronic or other
21 medium and is retrievable in perceivable form.
- 22 (6) "State" means a state of the United States, the
23 District of Columbia, Puerto Rico, the United States Virgin
24 Islands, or any territory or insular possession subject to the
25 jurisdiction of the United States.

1 Section 3. Applicability. This Act applies to all legal
2 material in an electronic record that is designated as official
3 under Section 4 of this Act and first published electronically
4 on or after the effective date of this Act.

5 Section 4. Legal material in official electronic record.

6 (a) If an official publisher publishes legal material only
7 in an electronic record, the publisher shall:

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

9 (2) comply with Sections 5, 7, and 8 of this Act.

10 (b) An official publisher that publishes legal material in
11 an electronic record and also publishes the material in a
12 record other than an electronic record may designate the
13 electronic record as official if the publisher complies with
14 Sections 5, 7, and 8 of this Act.

15 Section 5. Authentication of official electronic record.
16 An official publisher of legal material in an electronic record
17 that is designated as official under Section 4 of this Act
18 shall authenticate the record. To authenticate an electronic
19 record, the publisher shall provide a method for a user to
20 determine that the record received by the user from the
21 publisher is unaltered from the official record published by
22 the publisher.

23 Section 6. Effect of authentication.

1 (a) Legal material in an electronic record that is
2 authenticated under Section 5 of this Act is presumed to be an
3 accurate copy of the legal material.

4 (b) If another state has adopted a law substantially
5 similar to this Act, legal material in an electronic record
6 that is designated as official and authenticated by the
7 official publisher in that state is presumed to be an accurate
8 copy of the legal material.

9 (c) A party contesting the authentication of legal material
10 in an electronic record authenticated under Section 5 of this
11 Act has the burden of proving by a preponderance of the
12 evidence that the record is not authentic.

13 Section 7. Preservation and security of legal material in
14 official electronic record.

15 (a) An official publisher of legal material in an
16 electronic record that is or was designated as official under
17 Section 4 of this Act shall provide for the preservation and
18 security of the record in an electronic form or a form that is
19 not electronic.

20 (b) If legal material is preserved under subsection (a) in
21 an electronic record, the official publisher shall:

22 (1) ensure the integrity of the record;

23 (2) provide for backup and disaster recovery of the
24 record; and

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

1 Section 8. Public access to legal material in official
2 electronic record. An official publisher of legal material in
3 an electronic record that is required to be preserved under
4 Section 7 of this Act shall ensure that the material is
5 reasonably available for use by the public on a permanent
6 basis.

7 Section 9. Standards. In implementing this Act, an official
8 publisher of legal material in an electronic record shall
9 consider:

10 (1) standards and practices of other jurisdictions;

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

15 (3) the needs of users of legal material in an electronic
16 record;

17 (4) the views of governmental officials and entities and
18 other interested persons; and

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

1 Section 10. Uniformity of application and construction. In
2 applying and construing this uniform Act, consideration must be
3 given to the need to promote uniformity of the law with respect
4 to its subject matter among states that enact it.

5 Section 11. Relation To Electronic Signatures In Global And
6 National Commerce Act. This Act modifies, limits, and
7 supersedes the Electronic Signatures in Global and National
8 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not
9 modify, limit, or supersede Section 101(c) of that Act, 15
10 U.S.C. Section 7001(c), or authorize electronic delivery of any
11 of the notices described in Section 103(b) of that act, 15
12 U.S.C. Section 7003(b).