

CERTIFICATION OF ENROLLMENT

SENATE BILL 5039

65th Legislature
2017 Regular Session

Passed by the Senate February 28, 2017
Yeas 49 Nays 0

President of the Senate

Passed by the House April 10, 2017
Yeas 98 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5039** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5039

Passed Legislature - 2017 Regular Session

State of Washington

65th Legislature

2017 Regular Session

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

Read first time 01/11/17. Referred to Committee on Law & Justice.

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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