

House Bill 2944
UNIFORM ELECTRONIC LEGAL MATERIAL ACT
Rep. John Davis

Uniform Law Commission Website:

<http://www.uniformlaws.org/Act.aspx?title=Electronic%20Legal%20Material%20Act>

Current Status Nationally

Enactments: California, Colorado, Minnesota, North Dakota
2013 Introductions: Connecticut, Hawaii, Illinois, Massachusetts, Missouri, Nevada,
Oregon, Pennsylvania, Rhode Island

Uniform Law Commission Summary

Increasingly, state governments are publishing laws, statutes, agency rules, and court rules and decisions online. In some states, important state-level legal material is no longer published in books, but is only available online. While electronic publication of legal material has facilitated public access to the material, it has also raised concerns. Is the legal material official, authentic, government data that has not been altered? For the long term, how will this electronic legal material be preserved? How will the public access the material 10, 50, or 100 years from now? The Uniform Electronic Legal Material Act (UELMA) provides states with an outcomes-based approach to the authentication and preservation of electronic legal material. The goals of the authentication and preservation program outlined in the Act are to enable end-users to verify the trustworthiness of the legal material they are using and to provide a framework for states to preserve legal material in perpetuity in a manner that allows for permanent access.

The Act requires that official electronic legal material be:

1. Authenticated, by providing a method to determine that it is unaltered;
2. Preserved, either in electronic or print form; and
3. Accessible, for use by the public on a permanent basis.

If electronic legal material is authenticated, it is presumed to be an accurate copy of the legal material. If your state enacts UELMA, the presumption that your authenticated electronic legal material is accurate applies in every other state that has enacted UELMA. If another state enacts UELMA, and authenticates its electronic legal material, its legal material is presumed to be an accurate copy for use in your state. Adoption of UELMA will harmonize standards for acceptance of electronic legal material across jurisdictional boundaries.

If a state preserves legal material electronically, it must provide for back-up and recovery, and ensure the integrity and continuing usability of the material. The act has no special requirements if a state chooses to preserve its legal material in print format, in recognition of the years of experience all states have in the preservation of print materials.

State policy and discretion allow each state to determine which categories of legal information will be included in the act's coverage. For each category of legal information, an official publisher is named. The act requires that the official publisher be responsible for implementing the terms of the act, regardless of where or by whom the legal material is actually printed or distributed. For the purposes of the act, only a state agency, officer, or employee can be the official publisher, although state policy may allow a commercial entity to produce an official version of the state's legal material. The UELMA does not interfere with the contractual relationship between a state and a commercial publisher with which the state contracts for the production of its legal material.

The UELMA does not require specific technologies, leaving the choice of technology for authentication and preservation up to the states. Giving states the flexibility to choose any technology that meets the required outcomes allows each state to choose the best and most cost-effective method for that state. In addition, this flexible, outcomes-based approach anticipates that technologies will change over time; the act does not tie a state to any specific technology at any time.

The UELMA is intended to be complementary to the Uniform Commercial Code (UCC, which covers sales and many commercial transactions), the Uniform Real Property Electronic Recording Act (URPERA, which provides for electronic recording of real property instruments), and the Uniform Electronic Transactions Act (UETA, which deals with electronic commerce).

HB2944

Section 1:

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

- (a) The Oregon Constitution;
- (b) Session laws published by the Legislative Counsel under ORS 171.236;
- (c) The Oregon Revised Statutes; or
- (d) Oregon Administrative Rules.

(3) "Official publisher" means:

- (a) For the Oregon Constitution, the Legislative Counsel;
- (b) For Oregon Laws, the Legislative Counsel;
- (c) For the Oregon Revised Statutes, the Legislative Counsel; or
- (d) For a rule published in the Oregon Administrative Rules, the Secretary of State.

Section 6:

An official publisher of legal material in an electronic record that is required to be preserved under section 5 of this 2013 Act shall ensure that the material is reasonably available for use by the public on a permanent basis.