

Senate Bill No. 1075

Passed the Senate August 27, 2012

Secretary of the Senate

Passed the Assembly August 16, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Article 4 (commencing with Section 10290) to Chapter 1 of Part 2 of Division 2 of Title 2 of the Government Code, relating to the Uniform Electronic Legal Material Act.

LEGISLATIVE COUNSEL'S DIGEST

SB 1075, Committee on Rules. Uniform Electronic Legal Material Act.

Existing law establishes the Legislative Counsel Bureau and provides that the chief of the bureau is the Legislative Counsel. Existing law requires the Legislative Counsel, with the advice of the Assembly Committee on Rules and the Senate Committee on Rules, to make specified legislative materials, bills, codes, and statutes available to the public in electronic form.

This bill would enact the Uniform Electronic Legal Material Act, which would provide for the official designation, authentication, and preservation of certain legal material in electronic records by an official publisher. The bill would designate the Legislative Counsel Bureau as the official publisher for purposes of the act and would make the act operative on July 1, 2015.

The people of the State of California do enact as follows:

SECTION 1. Article 4 (commencing with Section 10290) is added to Chapter 1 of Part 2 of Division 2 of Title 2 of the Government Code, to read:

Article 4. Uniform Electronic Legal Material Act

10290. This article may be cited as the Uniform Electronic Legal Material Act.

10291. As used in this article:

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

(b) “Legal material” means all of the following, whether or not in effect:

- (1) The California Constitution.
- (2) The statutes of this state.
- (3) The California Codes.

(c) “Official publisher” for electronic legal material means the Legislative Counsel Bureau.

(d) “Publish” means to display, present, or release to the public, or cause to be displayed, presented, or released to the public, by the official publisher.

(e) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(f) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

10292. This article applies to all legal material in an electronic record that is designated as official under Section 10293 and first published electronically on or after July 1, 2015.

10293. (a) If an official publisher publishes legal material only in an electronic record, the publisher shall do all of the following:

- (1) Designate the electronic record as official.
- (2) Comply with Sections 10294, 10296, and 10297.

(b) An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the electronic record as official if the publisher complies with Sections 10294, 10296, and 10297.

10294. An official publisher of legal material in an electronic record that is designated as official under Section 10293 shall authenticate the record. To authenticate an electronic record, the publisher shall provide a method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the publisher.

10295. (a) Legal material in an electronic record that is authenticated under Section 10294 is presumed to be an accurate copy of the legal material.

(b) If another state has adopted a law substantially similar to this article, legal material in an electronic record that is designated

as official and authenticated by the official publisher in that state is presumed to be an accurate copy of the legal material.

(c) A party contesting the authentication of legal material in an electronic record authenticated under Section 10294 has the burden of proving by a preponderance of the evidence that the record is not authentic.

10296. (a) An official publisher of legal material in an electronic record that is or was designated as official under Section 10293 shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

(b) If legal material is preserved under subdivision (a) in an electronic record, the official publisher shall do all of the following:

- (1) Ensure the integrity of the record.
- (2) Provide for backup and disaster recovery of the record.
- (3) Ensure the continuing usability of the material.

10297. An official publisher of legal material in an electronic record that must be preserved under Section 10296 shall ensure that the material is reasonably available for use by the public on a permanent basis.

10298. In implementing this article, an official publisher of legal material in an electronic record shall consider all of the following:

- (a) Standards and practices of other jurisdictions.
- (b) The most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies.
- (c) The needs of users of legal material in an electronic record.
- (d) The views of governmental officials and entities and other interested persons.
- (e) To the extent practicable, the use of methods and technologies for the authentication of, preservation and security of, and public access to, legal material which are compatible with the methods and technologies used by other official publishers in this state and in other states that have adopted the Uniform Electronic Legal Material Act.

10299. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

10300. This article modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001 et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Sec. 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

SEC. 2. This act shall become operative on July 1, 2015.

Approved _____, 2012

Governor