

SENATE BILL 275

P3

4r1919
CF HB 46

By: **Senator Kelley**

Introduced and read first time: January 17, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Maryland Uniform Electronic Legal Materials Act**

3 FOR the purpose of requiring an official publisher that publishes legal material in an
4 electronic record to designate the electronic record as official, under certain
5 circumstances, and authenticate the electronic record in a certain manner;
6 providing that certain legal material in an electronic record is presumed to be
7 an accurate copy of the legal material; providing that certain legal material of
8 another state in an electronic record is presumed to be an accurate copy of the
9 legal material under certain circumstances; providing that a party contesting
10 the authenticity of certain legal material in an electronic record has a certain
11 burden of proof; requiring an official publisher of certain legal material in an
12 electronic record to provide for the preservation and security of the record, take
13 certain actions regarding an electronic record preserved under a certain
14 provision of this Act, and ensure that the legal material is reasonably available
15 for use by the public on a permanent basis; requiring an official publisher to
16 consider certain factors in implementing this Act; requiring that certain factors
17 be considered in applying and constructing this Act; providing that this Act
18 modifies, limits, and supersedes a certain federal law except as provided in a
19 certain provision of this Act; establishing a certain short title; providing for the
20 application of this Act; defining certain terms; and generally relating to the
21 Maryland Uniform Electronic Legal Materials Act.

22 BY adding to

23 Article – State Government

24 Section 10–1401 through 10–1411 to be under the new subtitle “Subtitle 14.
25 Maryland Uniform Electronic Legal Materials Act”

26 Annotated Code of Maryland

27 (2009 Replacement Volume and 2013 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – State Government

SUBTITLE 14. MARYLAND UNIFORM ELECTRONIC LEGAL MATERIALS ACT.

10-1401.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ELECTRONIC” MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

(C) “ELECTRONIC RECORD” MEANS A RECORD CREATED, GENERATED, SENT, COMMUNICATED, RECEIVED, OR STORED BY ELECTRONIC MEANS.

(D) “LEGAL MATERIAL” MEANS, WHETHER OR NOT IN EFFECT, THE FOLLOWING:

(1) THE MARYLAND CONSTITUTION;

(2) THE SESSION LAWS;

(3) THE CODE OF MARYLAND;

(4) THE MARYLAND RULES;

(5) THE JOURNAL OF THE SENATE OF MARYLAND;

(6) THE JOURNAL OF THE HOUSE OF DELEGATES OF MARYLAND;

(7) A REPORTED DECISION OF:

(I) THE COURT OF APPEALS;

(II) THE COURT OF SPECIAL APPEALS;

(III) A CIRCUIT COURT; OR

(IV) A DISTRICT COURT;

(8) AN OPINION OR LETTER OF ADVICE ISSUED BY THE OFFICE OF THE ATTORNEY GENERAL;

1 **(9) A RULE OR REGULATION ADOPTED BY A UNIT OF STATE**
2 **GOVERNMENT; OR**

3 **(10) A FINAL DECISION IN A CONTESTED CASE ISSUED BY A UNIT**
4 **OF STATE GOVERNMENT.**

5 **(E) “OFFICIAL PUBLISHER” MEANS:**

6 **(1) FOR THE MARYLAND CONSTITUTION, THE DEPARTMENT OF**
7 **LEGISLATIVE SERVICES;**

8 **(2) FOR THE SESSION LAWS, THE DEPARTMENT OF LEGISLATIVE**
9 **SERVICES;**

10 **(3) FOR THE CODE OF MARYLAND, THE DEPARTMENT OF**
11 **LEGISLATIVE SERVICES;**

12 **(4) FOR THE MARYLAND RULES, THE COURT OF APPEALS;**

13 **(5) FOR THE JOURNAL OF THE SENATE OF MARYLAND, THE**
14 **DEPARTMENT OF LEGISLATIVE SERVICES;**

15 **(6) FOR THE JOURNAL OF THE HOUSE OF DELEGATES OF**
16 **MARYLAND, THE DEPARTMENT OF LEGISLATIVE SERVICES;**

17 **(7) FOR A REPORTED DECISION OF A COURT LISTED IN**
18 **SUBSECTION (B)(7) OF THIS SECTION, THE COURT OF APPEALS;**

19 **(8) FOR A RULE OR REGULATION PUBLISHED IN THE CODE OF**
20 **MARYLAND ADMINISTRATIVE REGULATIONS, THE DIVISION OF STATE**
21 **DOCUMENTS;**

22 **(9) FOR A RULE OR REGULATION NOT PUBLISHED IN THE CODE**
23 **OF MARYLAND ADMINISTRATIVE REGULATIONS, THE UNIT OF STATE**
24 **GOVERNMENT THAT ADOPTED THE RULE OR REGULATION;**

25 **(10) FOR AN OPINION OR LETTER OF ADVICE ISSUED BY THE**
26 **OFFICE OF THE ATTORNEY GENERAL, THE OFFICE OF THE ATTORNEY**
27 **GENERAL; OR**

28 **(11) FOR A FINAL DECISION IN A CONTESTED CASE, THE UNIT OF**
29 **STATE GOVERNMENT THAT ISSUED THE DECISION.**

1 **(F) “PUBLISH” MEANS TO RELEASE TO THE PUBLIC, OR CAUSE TO BE**
2 **RELEASED TO THE PUBLIC, BY THE OFFICIAL PUBLISHER.**

3 **(G) “RECORD” MEANS INFORMATION THAT IS INSCRIBED ON A**
4 **TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER FORMAT**
5 **AND IS RETRIEVABLE IN PERCEIVABLE FORM.**

6 **(H) “UNIT” MEANS AN EXECUTIVE AGENCY, A DEPARTMENT, A BOARD, A**
7 **COMMISSION, OR ANY OTHER INSTRUMENTALITY OF THE STATE.**

8 **10-1402.**

9 **THIS SUBTITLE APPLIES TO ALL LEGAL MATERIAL IN AN ELECTRONIC**
10 **RECORD THAT IS:**

11 **(1) DESIGNATED AS OFFICIAL UNDER § 10-1403 OF THIS**
12 **SUBTITLE; AND**

13 **(2) FIRST PUBLISHED ELECTRONICALLY ON OR AFTER OCTOBER**
14 **1, 2014.**

15 **10-1403.**

16 **(A) IF AN OFFICIAL PUBLISHER PUBLISHES LEGAL MATERIAL ONLY IN**
17 **AN ELECTRONIC RECORD, THE OFFICIAL PUBLISHER SHALL:**

18 **(1) DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL; AND**

19 **(2) COMPLY WITH §§ 10-1404, 10-1406, AND 10-1407 OF THIS**
20 **SUBTITLE.**

21 **(B) AN OFFICIAL PUBLISHER THAT PUBLISHES LEGAL MATERIAL IN AN**
22 **ELECTRONIC RECORD AND IN A RECORD OTHER THAN AN ELECTRONIC RECORD**
23 **MAY DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL IF THE PUBLISHER**
24 **COMPLIES WITH §§ 10-1404, 10-1406, AND 10-1407 OF THIS SUBTITLE.**

25 **10-1404.**

26 **(A) AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC**
27 **RECORD THAT IS DESIGNATED AS OFFICIAL UNDER § 10-1403 OF THIS**
28 **SUBTITLE SHALL AUTHENTICATE THE ELECTRONIC RECORD.**

1 **(B) TO AUTHENTICATE AN ELECTRONIC RECORD UNDER SUBSECTION**
2 **(A) OF THIS SECTION, THE OFFICIAL PUBLISHER SHALL PROVIDE A METHOD**
3 **FOR A USER TO DETERMINE THAT THE ELECTRONIC RECORD RECEIVED BY THE**
4 **USER FROM THE OFFICIAL PUBLISHER IS UNALTERED FROM THE OFFICIAL**
5 **ELECTRONIC RECORD PUBLISHED BY THE OFFICIAL PUBLISHER.**

6 **10-1405.**

7 **(A) LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS**
8 **AUTHENTICATED UNDER § 10-1404 OF THIS SUBTITLE IS PRESUMED TO BE AN**
9 **ACCURATE COPY OF THE LEGAL MATERIAL.**

10 **(B) IF ANOTHER STATE HAS ADOPTED A LAW SUBSTANTIALLY SIMILAR**
11 **TO THIS SUBTITLE, LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS**
12 **DESIGNATED AS OFFICIAL AND AUTHENTICATED BY THE OFFICIAL PUBLISHER**
13 **IN THAT STATE IS PRESUMED TO BE AN ACCURATE COPY OF THE LEGAL**
14 **MATERIAL.**

15 **(C) A PARTY CONTESTING THE AUTHENTICATION OF LEGAL MATERIAL**
16 **IN AN ELECTRONIC RECORD AUTHENTICATED UNDER § 10-1404 OF THIS**
17 **SUBTITLE HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE**
18 **EVIDENCE THAT THE RECORD IS NOT AUTHENTIC.**

19 **10-1406.**

20 **(A) AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC**
21 **RECORD THAT IS OR WAS DESIGNATED AS OFFICIAL UNDER § 10-1403 OF THIS**
22 **SUBTITLE SHALL PROVIDE FOR THE PRESERVATION AND SECURITY OF THE**
23 **RECORD IN AN ELECTRONIC FORM OR A FORM THAT IS NOT ELECTRONIC.**

24 **(B) IF LEGAL MATERIAL IS PRESERVED UNDER SUBSECTION (A) OF THIS**
25 **SECTION IN AN ELECTRONIC RECORD, THE OFFICIAL PUBLISHER SHALL:**

26 **(1) ENSURE THE INTEGRITY OF THE RECORD;**

27 **(2) PROVIDE FOR BACKUP AND DISASTER RECOVERY OF THE**
28 **RECORD; AND**

29 **(3) ENSURE THE CONTINUING USABILITY OF THE MATERIAL.**

30 **10-1407.**

1 AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC
2 RECORD THAT IS OR WAS DESIGNATED AS OFFICIAL UNDER § 10-1403 OF THIS
3 SUBTITLE SHALL ENSURE THAT THE LEGAL MATERIAL IS REASONABLY
4 AVAILABLE FOR USE BY THE PUBLIC ON A PERMANENT BASIS.

5 **10-1408.**

6 IN IMPLEMENTING THIS SUBTITLE, AN OFFICIAL PUBLISHER OF LEGAL
7 MATERIAL IN AN ELECTRONIC RECORD SHALL CONSIDER:

8 (1) STANDARDS AND PRACTICES OF OTHER JURISDICTIONS;

9 (2) THE MOST RECENT STANDARDS REGARDING THE
10 AUTHENTICATION OF, PRESERVATION AND SECURITY OF, AND PUBLIC ACCESS
11 TO LEGAL MATERIAL IN AN ELECTRONIC RECORD AND OTHER ELECTRONIC
12 RECORDS, AS ADOPTED BY NATIONAL STANDARD-SETTING BODIES;

13 (3) THE NEEDS OF USERS OF LEGAL MATERIAL IN AN
14 ELECTRONIC RECORD;

15 (4) THE VIEW OF GOVERNMENTAL OFFICIALS AND ENTITIES AND
16 OTHER INTERESTED PERSONS; AND

17 (5) TO THE EXTENT PRACTICABLE, METHODS AND
18 TECHNOLOGIES FOR THE AUTHENTICATION OF, PRESERVATION AND SECURITY
19 OF, AND PUBLIC ACCESS TO LEGAL MATERIAL THAT ARE COMPATIBLE WITH
20 METHODS AND TECHNOLOGIES USED BY OTHER OFFICIAL PUBLISHERS IN THE
21 STATE AND IN OTHER STATES THAT HAVE ADOPTED A LAW SUBSTANTIALLY
22 SIMILAR TO THIS SUBTITLE.

23 **10-1409.**

24 IN APPLYING AND CONSTRUING THIS SUBTITLE, CONSIDERATION SHALL
25 BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
26 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT LAWS SUBSTANTIALLY
27 SIMILAR TO THIS SUBTITLE.

28 **10-1410.**

29 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS
30 SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC
31 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

1 **(B) THIS SUBTITLE DOES NOT:**

2 **(1) MODIFY, LIMIT, OR SUPERSEDE 15 U.S.C. § 7001(C); OR**

3 **(2) AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES**
4 **DESCRIBED IN 15 U.S.C. § 7003(B).**

5 **10-1411.**

6 **THIS SUBTITLE MAY BE CITED AS THE MARYLAND UNIFORM ELECTRONIC**
7 **LEGAL MATERIALS ACT.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2014.