

By: Thompson of Harris

H.B. No. 1032

Substitute the following for H.B. No. 1032:

By: Smithee

C.S.H.B. No. 1032

A BILL TO BE ENTITLED

AN ACT

relating to the adoption of the Uniform Electronic Legal Material Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2051, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. UNIFORM ELECTRONIC LEGAL MATERIAL ACT

Sec. 2051.151. SHORT TITLE. This subchapter may be cited as the Uniform Electronic Legal Material Act.

Sec. 2051.152. DEFINITIONS. In this subchapter:

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

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

(A) the constitution of this state;

(B) the general or special laws passed in a regular or special session of the Texas Legislature; and

(C) a state agency rule adopted in accordance with Chapter 2001.

(3) "Official publisher" means:

(A) for legal material described by Subdivision (2)(A), the Texas Legislative Council; and

(B) for legal material described by Subdivision (2)(B) or (C), the secretary of state.

1 (4) "Publish" means displaying, presenting, or
2 releasing to the public, or causing to be displayed, presented, or
3 released to the public, legal material by the official publisher.

4 (5) "Record" means information that is inscribed on a
5 tangible medium or that is stored in an electronic or other medium
6 and is retrievable in perceivable form.

7 (6) "State" means a state of the United States, the
8 District of Columbia, Puerto Rico, the United States Virgin
9 Islands, or any territory or insular possession subject to the
10 jurisdiction of the United States.

11 Sec. 2051.153. APPLICABILITY. (a) This subchapter applies
12 to all legal material in an electronic record that is:

13 (1) designated as official by the official publisher
14 under Section 2051.154; and

15 (2) first published electronically by the official
16 publisher on or after January 1, 2019.

17 (b) The official publisher is not required to publish legal
18 material on or before the date on which the legal material takes
19 effect.

20 Sec. 2051.154. LEGAL MATERIAL IN OFFICIAL ELECTRONIC
21 RECORD. (a) If the official publisher publishes legal material
22 only in an electronic record, the official publisher shall:

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

24 (2) comply with Sections 2051.155, 2051.157, and
25 2051.158.

26 (b) If the official publisher publishes legal material in an
27 electronic record and also publishes the material in a record other

1 than an electronic record, the official publisher may designate the
2 electronic record as official if the official publisher complies
3 with Sections 2051.155, 2051.157, and 2051.158.

4 Sec. 2051.155. AUTHENTICATION OF OFFICIAL ELECTRONIC
5 RECORD. (a) If the official publisher designates an electronic
6 record as official in accordance with Section 2051.154, the
7 official publisher shall authenticate the record.

8 (b) The official publisher authenticates an electronic
9 record by providing a method with which a person viewing the
10 electronic record is able to determine that the electronic record
11 is unaltered from the official record published by the official
12 publisher.

13 Sec. 2051.156. EFFECT OF AUTHENTICATION. (a) Legal
14 material in an electronic record that is authenticated as provided
15 by Section 2051.155 is presumed to be an accurate copy of the legal
16 material.

17 (b) If another state has adopted a law that is substantially
18 similar to this subchapter, legal material in an electronic record
19 that is authenticated in that state is presumed to be an accurate
20 copy of the legal material.

21 (c) A party contesting the authenticity of legal material in
22 an electronic record authenticated as provided by Section 2051.155
23 has the burden of proving by a preponderance of the evidence that
24 the record is not authentic.

25 Sec. 2051.157. PRESERVATION AND SECURITY OF LEGAL MATERIAL
26 IN OFFICIAL ELECTRONIC RECORD. (a) The official publisher of legal
27 material in an electronic record designated as official in

1 accordance with Section 2051.154 shall provide for the preservation
2 and security of the record in an electronic form or in a form that is
3 not electronic.

4 (b) If legal material is preserved under Subsection (a) in
5 an electronic record, the official publisher shall:

6 (1) ensure the integrity of the record;

7 (2) provide for backup and disaster recovery of the
8 record; and

9 (3) ensure the continuing usability of the legal
10 material in the record.

11 Sec. 2051.158. PUBLIC ACCESS. The official publisher of
12 legal material in an electronic record that is required to be
13 preserved under Section 2051.157 shall ensure that the material is
14 reasonably available for use by the public on a permanent basis.

15 Sec. 2051.159. STANDARDS. In implementing this subchapter,
16 the official publisher of legal material in an electronic record
17 shall consider:

18 (1) the standards and practices of other
19 jurisdictions;

20 (2) the most recent standards regarding
21 authentication, preservation, and security of and public access to
22 legal material in an electronic record and other electronic
23 records, as adopted by national standard-setting bodies;

24 (3) the needs of users of legal material in electronic
25 records;

26 (4) the views of governmental officials and entities
27 and other interested persons; and

1 (5) to the extent practicable, the methods and
2 technologies for the authentication, preservation, and security of
3 and public access to legal material that are compatible with the
4 methods and technologies used by official publishers in other
5 states that have adopted a law that is substantially similar to this
6 subchapter.

7 Sec. 2051.160. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
8 In applying and construing this subchapter, consideration must be
9 given to the need to promote uniformity of the law with respect to
10 the subject matter of this subchapter among the states that enact a
11 law similar to this subchapter.

12 Sec. 2051.161. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
13 AND NATIONAL COMMERCE ACT. This subchapter modifies, limits, and
14 supersedes the federal Electronic Signatures in Global and National
15 Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify,
16 limit, or supersede Section 101(c) of that Act (15 U.S.C. Section
17 7001(c)) or authorize electronic delivery of any of the notices
18 described in Section 103(b) of that Act (15 U.S.C. Section
19 7003(b)).

20 SECTION 2. (a) An official publisher in the executive
21 branch of state government shall comply with the applicable
22 provisions of Subchapter E, Chapter 2051, Government Code, as added
23 by this Act, in accordance with an implementation plan developed
24 under Subsection (b) of this section.

25 (b) The Records Management Interagency Coordinating Council
26 and an official publisher in the executive branch of state
27 government are jointly responsible for developing an

1 implementation plan for the applicable provisions of Subchapter E,
2 Chapter 2051, Government Code, as added by this Act. The
3 implementation plan must:

4 (1) for each applicable type of legal material defined
5 by Subchapter E, Chapter 2051, Government Code, as added by this
6 Act, advise as to the method by which the legal material may be
7 authenticated, preserved, and made available on a permanent basis;
8 and

9 (2) establish a timeline for the official publisher to
10 comply with Sections 2051.154, 2051.155, 2051.157, and 2051.158,
11 Government Code, as added by this Act.

12 (c) The implementation plan developed under Subsection (b)
13 of this section may provide for compliance by an official publisher
14 in the executive branch of state government with Sections 2051.154,
15 2051.155, 2051.157, and 2051.158, Government Code, as added by this
16 Act, to be phased in over a period of time.

17 (d) The Records Management Interagency Coordinating Council
18 shall provide the implementation plan developed under Subsection
19 (b) of this section to the legislature not later than September 1,
20 2018.

21 SECTION 3. (a) An official publisher in the legislative
22 branch of state government shall comply with the applicable
23 provisions of Subchapter E, Chapter 2051, Government Code, as added
24 by this Act, in accordance with an implementation plan developed
25 under Subsection (b) of this section.

26 (b) An official publisher in the legislative branch of state
27 government, in consultation with the lieutenant governor, the

1 speaker of the house of representatives, the Senate Committee on
2 Administration, and the House Committee on Administration, shall
3 develop an implementation plan for the applicable provisions of
4 Subchapter E, Chapter 2051, Government Code, as added by this Act.
5 The implementation plan must:

6 (1) for each applicable type of legal material defined
7 by Subchapter E, Chapter 2051, Government Code, as added by this
8 Act, recommend the method by which the legal material may be
9 authenticated, preserved, and made available on a permanent basis;
10 and

11 (2) establish a timeline for the official publisher to
12 comply with Sections 2051.154, 2051.155, 2051.157, and 2051.158,
13 Government Code, as added by this Act.

14 (c) The implementation plan developed under Subsection (b)
15 of this section may provide for compliance by an official publisher
16 in the legislative branch of state government with Sections
17 2051.154, 2051.155, 2051.157, and 2051.158, Government Code, as
18 added by this Act, to be phased in over a period of time.

19 (d) An official publisher in the legislative branch of state
20 government shall provide the implementation plan developed under
21 Subsection (b) of this section to the lieutenant governor and
22 speaker of the house of representatives not later than September 1,
23 2018.

24 SECTION 4. This Act takes effect September 1, 2017.