

By: Thompson of Harris

H.B. No. 402

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

9 (1) designated as official by the official publisher
10 under Section 2051.154; and

11 (2) first published electronically by the official
12 publisher on or after January 1, 2021.

13 (b) The official publisher is not required to publish legal
14 material on or before the date on which the legal material takes
15 effect.

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

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

20 (2) comply with Sections 2051.155, 2051.157, and
21 2051.158.

22 (b) If the official publisher publishes legal material in an
23 electronic record and also publishes the material in a record other
24 than an electronic record, the official publisher may designate the
25 electronic record as official if the official publisher complies
26 with Sections 2051.155, 2051.157, and 2051.158.

27 Sec. 2051.155. AUTHENTICATION OF OFFICIAL ELECTRONIC

1 RECORD. (a) If the official publisher designates an electronic
2 record as official in accordance with Section 2051.154, the
3 official publisher shall authenticate the record.

4 (b) The official publisher authenticates an electronic
5 record by providing a method with which a person viewing the
6 electronic record is able to determine that the electronic record
7 is unaltered from the official record published by the official
8 publisher.

9 Sec. 2051.156. EFFECT OF AUTHENTICATION. (a) Legal
10 material in an electronic record that is authenticated as provided
11 by Section 2051.155 is presumed to be an accurate copy of the legal
12 material.

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

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

21 Sec. 2051.157. PRESERVATION AND SECURITY OF LEGAL MATERIAL
22 IN OFFICIAL ELECTRONIC RECORD. (a) The official publisher of legal
23 material in an electronic record designated as official in
24 accordance with Section 2051.154 shall provide for the preservation
25 and security of the record in an electronic form or in a form that is
26 not electronic.

27 (b) If legal material is preserved under Subsection (a) in

1 an electronic record, the official publisher shall:

2 (1) ensure the integrity of the record;

3 (2) provide for backup and disaster recovery of the
4 record; and

5 (3) ensure the continuing usability of the legal
6 material in the record.

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

11 Sec. 2051.159. STANDARDS. In implementing this subchapter,
12 the official publisher of legal material in an electronic record
13 shall consider:

14 (1) the standards and practices of other
15 jurisdictions;

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

20 (3) the needs of users of legal material in electronic
21 records;

22 (4) the views of governmental officials and entities
23 and other interested persons; and

24 (5) to the extent practicable, the methods and
25 technologies for the authentication, preservation, and security of
26 and public access to legal material that are compatible with the
27 methods and technologies used by official publishers in other

1 states that have adopted a law that is substantially similar to this
2 subchapter.

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

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

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

21 (b) The Texas State Library and Archives Commission and an
22 official publisher in the executive branch of state government are
23 jointly responsible for developing an implementation plan for the
24 applicable provisions of Subchapter E, Chapter 2051, Government
25 Code, as added by this Act. The implementation plan must:

26 (1) for each applicable type of legal material defined
27 by Subchapter E, Chapter 2051, Government Code, as added by this

1 Act, advise as to the method by which the legal material may be
2 authenticated, preserved, and made available on a permanent basis;
3 and

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

7 (c) The implementation plan developed under Subsection (b)
8 of this section may provide for compliance by an official publisher
9 in the executive branch of state government with Sections 2051.154,
10 2051.155, 2051.157, and 2051.158, Government Code, as added by this
11 Act, to be phased in over a period of time.

12 (d) The Texas State Library and Archives Commission shall
13 provide the implementation plan developed under Subsection (b) of
14 this section to the legislature not later than September 1, 2020.

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

20 (b) An official publisher in the legislative branch of state
21 government, in consultation with the lieutenant governor, the
22 speaker of the house of representatives, the Senate Committee on
23 Administration, and the House Committee on Administration, shall
24 develop an implementation plan for the applicable provisions of
25 Subchapter E, Chapter 2051, Government Code, as added by this Act.
26 The implementation plan must:

27 (1) for each applicable type of legal material defined

1 by Subchapter E, Chapter 2051, Government Code, as added by this
2 Act, recommend the method by which the legal material may be
3 authenticated, preserved, and made available on a permanent basis;
4 and

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

8 (c) The implementation plan developed under Subsection (b)
9 of this section may provide for compliance by an official publisher
10 in the legislative branch of state government with Sections
11 2051.154, 2051.155, 2051.157, and 2051.158, Government Code, as
12 added by this Act, to be phased in over a period of time.

13 (d) An official publisher in the legislative branch of state
14 government shall provide the implementation plan developed under
15 Subsection (b) of this section to the lieutenant governor and
16 speaker of the house of representatives not later than September 1,
17 2020.

18 SECTION 4. This Act takes effect September 1, 2019.