

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0148.01 Ed DeCecco x4216

HOUSE BILL 12-1209

HOUSE SPONSORSHIP

Gardner B.,

SENATE SPONSORSHIP

Carroll,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE "UNIFORM ELECTRONIC LEGAL MATERIAL ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill enacts the "Uniform Electronic Legal Material Act" (act) drafted by the national conference of commissioners on uniform state laws (commissioners). "Legal material" is defined to mean the constitution of this state, the session laws of Colorado, the Colorado Revised Statutes, and a state agency rule.

If legal material is only published electronically, the official publisher is required to designate the record as official, but if it is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

published in another format, the publisher may make such designation. In either case, if electronic legal material is designated as official, the publisher is required to meet requirements related to the authentication and preservation of the electronic record and the availability of the preserved electronic record.

Electronic legal material in an electronic record that is authenticated by the official publisher is presumed to be an accurate copy of the legal material. This presumption applies to electronic legal material from states that have adopted a law that is substantially similar to the act.

Section 2 of the bill requires the official comments issued by the commissioners to be published with the act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 71.5 to
3 title 24 as follows:

4 **ARTICLE 71.5**

5 **Uniform Electronic Legal Material Act**

6 **24-71.5-101. Short title.** THIS ARTICLE MAY BE CITED AS THE
7 "UNIFORM ELECTRONIC LEGAL MATERIAL ACT".

8 **24-71.5-102. Definitions.** IN THIS ARTICLE:

9 (1) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING
10 ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL,
11 ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

12 (2) "LEGAL MATERIAL" MEANS, WHETHER OR NOT IN EFFECT:

13 (a) THE CONSTITUTION OF THIS STATE;

14 (b) THE SESSION LAWS OF COLORADO;

15 (c) THE COLORADO REVISED STATUTES; AND

16 (d) A STATE AGENCY RULE PROMULGATED IN ACCORDANCE WITH
17 ARTICLE 4 OF THIS TITLE.

18 (3) "OFFICIAL PUBLISHER" MEANS:

19 (a) FOR THE CONSTITUTION OF THIS STATE, THE GENERAL

1 ASSEMBLY;

2 (b) FOR THE SESSION LAWS OF COLORADO, THE GENERAL
3 ASSEMBLY;

4 (c) FOR THE COLORADO REVISED STATUTES, THE GENERAL
5 ASSEMBLY; AND

6 (d) FOR A RULE PUBLISHED IN THE CODE OF COLORADO
7 REGULATIONS, THE SECRETARY OF STATE.

8 (4) "PUBLISH" MEANS TO DISPLAY, PRESENT, OR RELEASE TO THE
9 PUBLIC, OR CAUSE TO BE DISPLAYED, PRESENTED, OR RELEASED TO THE
10 PUBLIC, BY THE OFFICIAL PUBLISHER.

11 (5) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
12 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
13 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

14 (6) "STATE" MEANS A STATE OF THE UNITED STATES, THE
15 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
16 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE
17 JURISDICTION OF THE UNITED STATES.

18 **24-71.5-103. Applicability.** THIS ARTICLE APPLIES TO ALL LEGAL
19 MATERIAL IN AN ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL
20 UNDER SECTION 24-71.5-104 AND FIRST PUBLISHED ELECTRONICALLY ON
21 OR AFTER THE EFFECTIVE DATE OF THE ARTICLE.

22 **24-71.5-104. Legal material in official electronic record.** (1) IF
23 AN OFFICIAL PUBLISHER PUBLISHES LEGAL MATERIAL ONLY IN AN
24 ELECTRONIC RECORD, THE PUBLISHER SHALL:

25 (a) DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL; AND

26 (b) MEET THE REQUIREMENTS OF SECTIONS 24-71.5-105,
27 24-71.5-107, AND 24-71.5-108.

1 (2) AN OFFICIAL PUBLISHER THAT PUBLISHES LEGAL MATERIAL IN
2 A RECORD OTHER THAN AN ELECTRONIC RECORD MAY DESIGNATE AN
3 ELECTRONIC RECORD AS OFFICIAL IF THE REQUIREMENTS OF SECTIONS
4 24-71.5-105, 24-71.5-107, AND 24-71.5-108 ARE MET.

5 **24-71.5-105. Authentication of official electronic record.** AN
6 OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT
7 IS DESIGNATED AS OFFICIAL UNDER SECTION 24-71.5-104 SHALL
8 AUTHENTICATE THE RECORD. TO AUTHENTICATE AN ELECTRONIC RECORD,
9 THE PUBLISHER SHALL PROVIDE A METHOD FOR A USER TO DETERMINE
10 THAT THE RECORD RECEIVED BY THE USER FROM THE PUBLISHER IS
11 UNALTERED FROM THE OFFICIAL RECORD PUBLISHED BY THE PUBLISHER.

12 **24-71.5-106. Effect of authentication.** (1) LEGAL MATERIAL IN
13 AN ELECTRONIC RECORD THAT IS AUTHENTICATED UNDER SECTION
14 24-71.5-105 IS PRESUMED TO BE AN ACCURATE COPY OF THE LEGAL
15 MATERIAL.

16 (2) IF ANOTHER STATE HAS ADOPTED AN ACT SUBSTANTIALLY
17 SIMILAR TO THIS ARTICLE, LEGAL MATERIAL IN AN ELECTRONIC RECORD
18 DESIGNATED AS OFFICIAL AND AUTHENTICATED BY THAT STATE IS
19 PRESUMED TO BE AN ACCURATE COPY OF THAT LEGAL MATERIAL.

20 (3) A PARTY CONTESTING THE AUTHENTICATION OF LEGAL
21 MATERIAL HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE
22 EVIDENCE THAT THE LEGAL MATERIAL IS NOT AUTHENTIC.

23 **24-71.5-107. Preservation of legal material in official**
24 **electronic record.** (1) AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN
25 ELECTRONIC RECORD THAT IS OR WAS DESIGNATED AS OFFICIAL UNDER
26 SECTION 24-71.5-104 SHALL PROVIDE FOR THE PRESERVATION AND
27 SECURITY OF THE RECORD IN AN ELECTRONIC FORM OR A FORM THAT IS

1 NOT ELECTRONIC.

2 (2) IF LEGAL MATERIAL IS PRESERVED IN AN ELECTRONIC RECORD,
3 THE OFFICIAL PUBLISHER SHALL:

4 (a) ENSURE THE INTEGRITY OF THE RECORD;

5 (b) PROVIDE FOR BACKUP AND DISASTER RECOVERY OF THE
6 RECORD; AND

7 (c) ENSURE THE CONTINUING USABILITY OF THE MATERIAL.

8 **24-71.5-108. Public access to legal material in official**
9 **electronic record.** AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN
10 ELECTRONIC RECORD THAT MUST BE PRESERVED UNDER SECTION
11 24-71.5-107 SHALL ENSURE THAT THE MATERIAL IS REASONABLY
12 AVAILABLE FOR USE BY THE PUBLIC ON A PERMANENT BASIS.

13 **24-71.5-109. Standards.** (1) IN IMPLEMENTING THIS ARTICLE, AN
14 OFFICIAL PUBLISHER OF LEGAL MATERIAL SHALL CONSIDER:

15 (a) STANDARDS AND PRACTICES OF OTHER JURISDICTIONS;

16 (b) THE MOST RECENT STANDARDS REGARDING AUTHENTICATION
17 OF, PRESERVATION AND SECURITY OF, AND PUBLIC ACCESS TO, LEGAL
18 MATERIAL IN AN ELECTRONIC RECORD AND OTHER ELECTRONIC RECORDS,
19 AS PROMULGATED BY NATIONAL STANDARD-SETTING BODIES;

20 (c) THE NEEDS OF USERS OF LEGAL MATERIAL IN AN ELECTRONIC
21 RECORD;

22 (d) THE VIEWS OF GOVERNMENTAL OFFICIALS AND ENTITIES AND
23 OTHER INTERESTED PERSONS; AND

24 (e) TO THE EXTENT PRACTICABLE, THE USE OF METHODS AND
25 TECHNOLOGIES FOR THE AUTHENTICATION OF, PRESERVATION AND
26 SECURITY OF, AND PUBLIC ACCESS TO, LEGAL MATERIAL THAT ARE IN
27 HARMONY AND COMPATIBLE WITH THE METHODS AND TECHNOLOGIES

1 USED BY OTHER OFFICIAL PUBLISHERS IN THIS STATE AND IN OTHER STATES
2 THAT HAVE ADOPTED THIS ARTICLE.

3 **24-71.5-110. Uniformity of application and construction.** IN
4 APPLYING AND CONSTRUING THIS ARTICLE, CONSIDERATION MUST BE
5 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
6 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

7 **24-71.5-111. Relation to electronic signatures in global and**
8 **national commerce act.** THIS ARTICLE MODIFIES, LIMITS, OR SUPERSEDES
9 THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE
10 ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR
11 SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001 (c), OR
12 AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN
13 SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

14 **24-71.5-112. Effective date.** THIS ARTICLE TAKES EFFECT ON
15 MARCH 31, 2014.

16 **SECTION 2.** In Colorado Revised Statutes, 2-5-102, **add** (12) as
17 follows:

18 **2-5-102. Inclusions - nonstatutory.** (12) THERE SHALL BE
19 INCLUDED IN THE PUBLICATION OF THE "UNIFORM ELECTRONIC LEGAL
20 MATERIAL ACT" AS NONSTATUTORY MATTER, FOLLOWING EACH AMENDED
21 OR ADDED SECTION, THE FULL TEXT OF THE OFFICIAL COMMENTS TO THAT
22 SECTION CONTAINED IN THE 2011 OFFICIAL TEXT OF THE "UNIFORM
23 ELECTRONIC LEGAL MATERIAL ACT" ISSUED BY THE NATIONAL
24 CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, WITH ANY
25 CHANGES IN THE OFFICIAL COMMENTS TO CORRESPOND TO COLORADO
26 CHANGES IN THE "UNIFORM ELECTRONIC LEGAL MATERIAL ACT". THE
27 COMMENTS SHALL BE PREPARED BY THE REVISOR OF STATUTES AND

1 APPROVED FOR PUBLICATION BY THE COMMITTEE ON LEGAL SERVICES.

2 **SECTION 3. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2012 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.