

1-1 By: Thompson of Harris (Senate Sponsor - Zaffirini) H.B. No. 402  
1-2 (In the Senate - Received from the House April 16, 2019;  
1-3 April 17, 2019, read first time and referred to Committee on  
1-4 Business & Commerce; April 29, 2019, reported favorably by the  
1-5 following vote: Yeas 9, Nays 0; April 29, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>PNV</u>
1-7				
1-8	<u>Hancock</u>	<u>X</u>		
1-9	<u>Nichols</u>	<u>X</u>		
1-10	<u>Campbell</u>	<u>X</u>		
1-11	<u>Creighton</u>	<u>X</u>		
1-12	<u>Menéndez</u>	<u>X</u>		
1-13	<u>Paxton</u>	<u>X</u>		
1-14	<u>Schwertner</u>	<u>X</u>		
1-15	<u>Whitmire</u>	<u>X</u>		
1-16	<u>Zaffirini</u>	<u>X</u>		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the adoption of the Uniform Electronic Legal Material  
1-20 Act.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 2051, Government Code, is amended by  
1-23 adding Subchapter E to read as follows:

1-24 SUBCHAPTER E. UNIFORM ELECTRONIC LEGAL MATERIAL ACT

1-25 Sec. 2051.151. SHORT TITLE. This subchapter may be cited as  
1-26 the Uniform Electronic Legal Material Act.

1-27 Sec. 2051.152. DEFINITIONS. In this subchapter:

1-28 (1) "Electronic" means relating to technology having  
1-29 electrical, digital, magnetic, wireless, optical, electromagnetic,  
1-30 or similar capabilities.

1-31 (2) "Legal material" means, whether or not in effect:

1-32 (A) the constitution of this state;

1-33 (B) the general or special laws passed in a  
1-34 regular or special session of the Texas Legislature; and

1-35 (C) a state agency rule adopted in accordance  
1-36 with Chapter 2001.

1-37 (3) "Official publisher" means:

1-38 (A) for legal material described by Subdivision  
1-39 (2)(A), the Texas Legislative Council; and

1-40 (B) for legal material described by Subdivision  
1-41 (2)(B) or (C), the secretary of state.

1-42 (4) "Publish" means displaying, presenting, or  
1-43 releasing to the public, or causing to be displayed, presented, or  
1-44 released to the public, legal material by the official publisher.

1-45 (5) "Record" means information that is inscribed on a  
1-46 tangible medium or that is stored in an electronic or other medium  
1-47 and is retrievable in perceivable form.

1-48 Sec. 2051.153. APPLICABILITY. (a) This subchapter applies  
1-49 to all legal material in an electronic record that is:

1-50 (1) designated as official by the official publisher  
1-51 under Section 2051.154; and

1-52 (2) first published electronically by the official  
1-53 publisher on or after January 1, 2021.

1-54 (b) The official publisher is not required to publish legal  
1-55 material on or before the date on which the legal material takes  
1-56 effect.

1-57 Sec. 2051.154. LEGAL MATERIAL IN OFFICIAL ELECTRONIC  
1-58 RECORD. (a) If the official publisher publishes legal material  
1-59 only in an electronic record, the official publisher shall:

1-60 (1) designate the electronic record as official; and

1-61 (2) comply with Sections 2051.155, 2051.157, and

2-1 2051.158.

2-2 (b) If the official publisher publishes legal material in an  
 2-3 electronic record and also publishes the material in a record other  
 2-4 than an electronic record, the official publisher may designate the  
 2-5 electronic record as official if the official publisher complies  
 2-6 with Sections 2051.155, 2051.157, and 2051.158.

2-7 Sec. 2051.155. AUTHENTICATION OF OFFICIAL ELECTRONIC  
 2-8 RECORD. (a) If the official publisher designates an electronic  
 2-9 record as official in accordance with Section 2051.154, the  
 2-10 official publisher shall authenticate the record.

2-11 (b) The official publisher authenticates an electronic  
 2-12 record by providing a method with which a person viewing the  
 2-13 electronic record is able to determine that the electronic record  
 2-14 is unaltered from the official record published by the official  
 2-15 publisher.

2-16 Sec. 2051.156. EFFECT OF AUTHENTICATION. (a) Legal  
 2-17 material in an electronic record that is authenticated as provided  
 2-18 by Section 2051.155 is presumed to be an accurate copy of the legal  
 2-19 material.

2-20 (b) If another state has adopted a law that is substantially  
 2-21 similar to this subchapter, legal material in an electronic record  
 2-22 that is authenticated in that state is presumed to be an accurate  
 2-23 copy of the legal material.

2-24 (c) A party contesting the authenticity of legal material in  
 2-25 an electronic record authenticated as provided by Section 2051.155  
 2-26 has the burden of proving by a preponderance of the evidence that  
 2-27 the record is not authentic.

2-28 Sec. 2051.157. PRESERVATION AND SECURITY OF LEGAL MATERIAL  
 2-29 IN OFFICIAL ELECTRONIC RECORD. (a) The official publisher of legal  
 2-30 material in an electronic record designated as official in  
 2-31 accordance with Section 2051.154 shall provide for the preservation  
 2-32 and security of the record in an electronic form or in a form that is  
 2-33 not electronic.

2-34 (b) If legal material is preserved under Subsection (a) in  
 2-35 an electronic record, the official publisher shall:

2-36 (1) ensure the integrity of the record;  
 2-37 (2) provide for backup and disaster recovery of the  
 2-38 record; and  
 2-39 (3) ensure the continuing usability of the legal  
 2-40 material in the record.

2-41 Sec. 2051.158. PUBLIC ACCESS. The official publisher of  
 2-42 legal material in an electronic record that is required to be  
 2-43 preserved under Section 2051.157 shall ensure that the material is  
 2-44 reasonably available for use by the public on a permanent basis.

2-45 Sec. 2051.159. STANDARDS. In implementing this subchapter,  
 2-46 the official publisher of legal material in an electronic record  
 2-47 shall consider:

2-48 (1) the standards and practices of other  
 2-49 jurisdictions;

2-50 (2) the most recent standards regarding  
 2-51 authentication, preservation, and security of and public access to  
 2-52 legal material in an electronic record and other electronic  
 2-53 records, as adopted by national standard-setting bodies;

2-54 (3) the needs of users of legal material in electronic  
 2-55 records;

2-56 (4) the views of governmental officials and entities  
 2-57 and other interested persons; and

2-58 (5) to the extent practicable, the methods and  
 2-59 technologies for the authentication, preservation, and security of  
 2-60 and public access to legal material that are compatible with the  
 2-61 methods and technologies used by official publishers in other  
 2-62 states that have adopted a law that is substantially similar to this  
 2-63 subchapter.

2-64 Sec. 2051.160. UNIFORMITY OF APPLICATION AND CONSTRUCTION.  
 2-65 In applying and construing this subchapter, consideration must be  
 2-66 given to the need to promote uniformity of the law with respect to  
 2-67 the subject matter of this subchapter among states that enact a law  
 2-68 similar to this subchapter.

2-69 Sec. 2051.161. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL

3-1 AND NATIONAL COMMERCE ACT. This subchapter modifies, limits, and  
3-2 supersedes the federal Electronic Signatures in Global and National  
3-3 Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify,  
3-4 limit, or supersede Section 101(c) of that Act (15 U.S.C. Section  
3-5 7001(c)) or authorize electronic delivery of any of the notices  
3-6 described in Section 103(b) of that Act (15 U.S.C. Section  
3-7 7003(b)).

3-8 SECTION 2. (a) An official publisher in the executive  
3-9 branch of state government shall comply with the applicable  
3-10 provisions of Subchapter E, Chapter 2051, Government Code, as added  
3-11 by this Act, in accordance with an implementation plan developed  
3-12 under Subsection (b) of this section.

3-13 (b) The Texas State Library and Archives Commission and an  
3-14 official publisher in the executive branch of state government are  
3-15 jointly responsible for developing an implementation plan for the  
3-16 applicable provisions of Subchapter E, Chapter 2051, Government  
3-17 Code, as added by this Act. The implementation plan must:

3-18 (1) for each applicable type of legal material defined  
3-19 by Subchapter E, Chapter 2051, Government Code, as added by this  
3-20 Act, advise as to the method by which the legal material may be  
3-21 authenticated, preserved, and made available on a permanent basis;  
3-22 and

3-23 (2) establish a timeline for the official publisher to  
3-24 comply with Sections 2051.154, 2051.155, 2051.157, and 2051.158,  
3-25 Government Code, as added by this Act.

3-26 (c) The implementation plan developed under Subsection (b)  
3-27 of this section may provide for compliance by an official publisher  
3-28 in the executive branch of state government with Sections 2051.154,  
3-29 2051.155, 2051.157, and 2051.158, Government Code, as added by this  
3-30 Act, to be phased in over a period of time.

3-31 (d) The Texas State Library and Archives Commission shall  
3-32 provide the implementation plan developed under Subsection (b) of  
3-33 this section to the legislature not later than September 1, 2020.

3-34 SECTION 3. (a) An official publisher in the legislative  
3-35 branch of state government shall comply with the applicable  
3-36 provisions of Subchapter E, Chapter 2051, Government Code, as added  
3-37 by this Act, in accordance with an implementation plan developed  
3-38 under Subsection (b) of this section.

3-39 (b) An official publisher in the legislative branch of state  
3-40 government, in consultation with the lieutenant governor, the  
3-41 speaker of the house of representatives, the Senate Committee on  
3-42 Administration, and the House Committee on Administration, shall  
3-43 develop an implementation plan for the applicable provisions of  
3-44 Subchapter E, Chapter 2051, Government Code, as added by this Act.  
3-45 The implementation plan must:

3-46 (1) for each applicable type of legal material defined  
3-47 by Subchapter E, Chapter 2051, Government Code, as added by this  
3-48 Act, recommend the method by which the legal material may be  
3-49 authenticated, preserved, and made available on a permanent basis;  
3-50 and

3-51 (2) establish a timeline for the official publisher to  
3-52 comply with Sections 2051.154, 2051.155, 2051.157, and 2051.158,  
3-53 Government Code, as added by this Act.

3-54 (c) The implementation plan developed under Subsection (b)  
3-55 of this section may provide for compliance by an official publisher  
3-56 in the legislative branch of state government with Sections  
3-57 2051.154, 2051.155, 2051.157, and 2051.158, Government Code, as  
3-58 added by this Act, to be phased in over a period of time.

3-59 (d) An official publisher in the legislative branch of state  
3-60 government shall provide the implementation plan developed under  
3-61 Subsection (b) of this section to the lieutenant governor and  
3-62 speaker of the house of representatives not later than September 1,  
3-63 2020.

3-64 SECTION 4. This Act takes effect September 1, 2019.

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