

SUBSTITUTE FOR
HOUSE BILL NO. 4779

A bill to amend 1986 PA 268, entitled
"Legislative council act,"
(MCL 4.1101 to 4.1901) by amending the title, as amended by 1988 PA
100, and by adding chapter 1A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to create the legislative council; to prescribe its
membership, powers, and duties; to create a legislative service
bureau to provide staff services to the legislature and the
council; to provide for operation of legislative parking
facilities; to create funds; to provide for the expenditure of
appropriated funds by legislative council agencies; **TO PROVIDE FOR**
THE DESIGNATION AND AUTHENTICATION OF CERTAIN ELECTRONIC LEGAL

1 **RECORDS AS OFFICIAL;** to authorize the sale of access to certain
2 computerized data bases; to establish fees; to create the Michigan
3 commission on uniform state laws; to create a law revision
4 commission; to create a senate fiscal agency and a house fiscal
5 agency; to create a Michigan capitol committee; to create a
6 commission on intergovernmental relations; to prescribe the powers
7 and duties of certain state agencies and departments; to repeal
8 certain acts and parts of acts; and to repeal certain parts of this
9 act on specific dates.

10 **CHAPTER 1A.**

11 **UNIFORM ELECTRONIC LEGAL MATERIAL.**

12 **SEC. 121. AS USED IN THIS CHAPTER:**

13 (A) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING
14 ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC,
15 OR SIMILAR CAPABILITIES.

16 (B) "LEGAL MATERIAL" MEANS ANY OF THE FOLLOWING:

17 (i) THE STATE CONSTITUTION OF 1963.

18 (ii) THE PUBLIC ACTS OF THIS STATE.

19 (iii) THE MICHIGAN COMPILED LAWS.

20 (iv) A RULE PROMULGATED PURSUANT TO THE ADMINISTRATIVE
21 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

22 (v) MATERIALS RELATED TO AND CREATED BY THE COURTS IN THIS
23 STATE AS PROVIDED FOR IN A COOPERATIVE AGREEMENT ENTERED INTO UNDER
24 SECTION 129.

25 (C) "OFFICIAL PUBLISHER" MEANS:

26 (i) FOR THE STATE CONSTITUTION OF 1963, THE LEGISLATIVE
27 SERVICE BUREAU.

1 (ii) FOR THE PUBLIC ACTS OF THIS STATE, THE LEGISLATIVE
2 SERVICE BUREAU.

3 (iii) FOR THE MICHIGAN COMPILED LAWS, THE LEGISLATIVE SERVICE
4 BUREAU.

5 (iv) FOR A RULE PROMULGATED PURSUANT TO THE ADMINISTRATIVE
6 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, THE
7 OFFICE OF PERFORMANCE AND TRANSFORMATION.

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

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

18 SEC. 122. THIS CHAPTER APPLIES TO ALL LEGAL MATERIAL IN AN
19 ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER SECTION 123
20 AND FIRST PUBLISHED ELECTRONICALLY ON OR AFTER THE EFFECTIVE DATE
21 OF THE AMENDATORY ACT THAT ADDED THIS CHAPTER.

22 SEC. 123. (1) IF AN OFFICIAL PUBLISHER PUBLISHES LEGAL
23 MATERIAL ONLY IN AN ELECTRONIC RECORD, THE PUBLISHER SHALL DO BOTH
24 OF THE FOLLOWING:

25 (A) DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL.

26 (B) COMPLY WITH SECTIONS 124, 126, AND 127.

27 (2) AN OFFICIAL PUBLISHER THAT PUBLISHES LEGAL MATERIAL IN AN

1 ELECTRONIC RECORD AND ALSO PUBLISHES THE MATERIAL IN A RECORD OTHER
2 THAN AN ELECTRONIC RECORD MAY DESIGNATE THE ELECTRONIC RECORD AS
3 OFFICIAL IF THE PUBLISHER COMPLIES WITH SECTIONS 124, 126, AND 127.

4 SEC. 124. AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN
5 ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER SECTION 123
6 SHALL AUTHENTICATE THE RECORD. TO AUTHENTICATE AN ELECTRONIC
7 RECORD, THE PUBLISHER SHALL PROVIDE A METHOD FOR A USER TO
8 DETERMINE THAT THE RECORD RECEIVED BY THE USER FROM THE PUBLISHER
9 IS UNALTERED FROM THE OFFICIAL RECORD PUBLISHED BY THE PUBLISHER.

10 SEC. 125. (1) LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS
11 AUTHENTICATED UNDER SECTION 124 IS PRESUMED TO BE AN ACCURATE COPY
12 OF THE LEGAL MATERIAL.

13 (2) IF ANOTHER STATE HAS ADOPTED A LAW SUBSTANTIALLY SIMILAR
14 TO THIS CHAPTER, LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS
15 DESIGNATED AS OFFICIAL AND AUTHENTICATED BY THE OFFICIAL PUBLISHER
16 IN THAT STATE IS PRESUMED TO BE AN ACCURATE COPY OF THE LEGAL
17 MATERIAL.

18 (3) A PARTY CONTESTING THE AUTHENTICATION OF LEGAL MATERIAL IN
19 AN ELECTRONIC RECORD AUTHENTICATED UNDER SECTION 124 HAS THE BURDEN
20 OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE RECORD IS
21 NOT AUTHENTIC.

22 SEC. 126. (1) AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN
23 ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER SECTION 123
24 SHALL PROVIDE FOR THE PRESERVATION AND SECURITY OF THE RECORD IN AN
25 ELECTRONIC FORM OR A FORM THAT IS NOT ELECTRONIC.

26 (2) IF LEGAL MATERIAL IS PRESERVED UNDER SUBSECTION (1) IN AN
27 ELECTRONIC RECORD, THE OFFICIAL PUBLISHER SHALL DO ALL OF THE

1 FOLLOWING:

2 (A) ENSURE THE INTEGRITY OF THE RECORD.

3 (B) PROVIDE FOR BACKUP AND DISASTER RECOVERY OF THE RECORD.

4 (C) ENSURE THE CONTINUING USABILITY OF THE MATERIAL.

5 SEC. 127. AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN
6 ELECTRONIC RECORD THAT IS REQUIRED TO BE PRESERVED UNDER SECTION
7 126 SHALL ENSURE THAT THE MATERIAL IS REASONABLY AVAILABLE FOR USE
8 BY THE PUBLIC ON A PERMANENT BASIS.

9 SEC. 128. IN IMPLEMENTING THIS CHAPTER, AN OFFICIAL PUBLISHER
10 OF LEGAL MATERIAL IN AN ELECTRONIC RECORD SHALL CONSIDER ALL OF THE
11 FOLLOWING:

12 (A) STANDARDS AND PRACTICES OF OTHER JURISDICTIONS.

13 (B) THE MOST RECENT STANDARDS REGARDING AUTHENTICATION OF,
14 PRESERVATION AND SECURITY OF, AND PUBLIC ACCESS TO, LEGAL MATERIAL
15 IN AN ELECTRONIC RECORD AND OTHER ELECTRONIC RECORDS, AS
16 PROMULGATED BY NATIONAL STANDARD-SETTING BODIES.

17 (C) THE NEEDS OF USERS OF LEGAL MATERIAL IN AN ELECTRONIC
18 RECORD.

19 (D) THE VIEWS OF GOVERNMENTAL OFFICIALS AND ENTITIES AND OTHER
20 INTERESTED PERSONS.

21 (E) TO THE EXTENT PRACTICABLE, METHODS AND TECHNOLOGIES FOR
22 THE AUTHENTICATION OF, PRESERVATION AND SECURITY OF, AND PUBLIC
23 ACCESS TO, LEGAL MATERIAL THAT ARE COMPATIBLE WITH THE METHODS AND
24 TECHNOLOGIES USED BY OTHER OFFICIAL PUBLISHERS IN THIS STATE AND IN
25 OTHER STATES THAT HAVE ADOPTED A LAW SUBSTANTIALLY SIMILAR TO THIS
26 CHAPTER.

27 SEC. 129. THE COUNCIL ADMINISTRATOR MAY ENTER INTO A

1 COOPERATIVE AGREEMENT WITH THE SUPREME COURT ADMINISTRATOR'S OFFICE
2 REGARDING THE AUTHENTICATION, PRESERVATION, AND PUBLICATION OF
3 MATERIALS RELATED TO AND CREATED BY THE COURTS IN THIS STATE.

4 SEC. 130. IN APPLYING AND CONSTRUING THIS CHAPTER, STATES THAT
5 ENACT A STATUTE ON UNIFORM ELECTRONIC LEGAL MATERIAL AS PROVIDED
6 FOR IN THIS CHAPTER SHALL CONSIDER THE NEED TO PROMOTE UNIFORMITY
7 OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER.

8 SEC. 131. THIS CHAPTER MODIFIES, LIMITS, AND SUPERSEDES THE
9 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 USC
10 SECTIONS 7001 TO 7031, BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE 15
11 USC 7001(C) OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES
12 DESCRIBED IN 15 USC 7003(B) .