

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4779

A bill to amend 1986 PA 268, entitled
"Legislative council act,"
(MCL 4.1101 to 4.1901) by adding chapter 1A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 1A.

2 UNIFORM ELECTRONIC LEGAL MATERIAL.

3 SEC. 121. AS USED IN THIS CHAPTER:

4 (A) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING
5 ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC,
6 OR SIMILAR CAPABILITIES.

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

8 (i) THE STATE CONSTITUTION OF 1963.

9 (ii) THE PUBLIC ACTS OF THIS STATE.

1 (iii) THE MICHIGAN COMPILED LAWS.

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

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

7 (C) "OFFICIAL PUBLISHER" MEANS:

8 (i) FOR THE STATE CONSTITUTION OF 1963, THE LEGISLATIVE
9 SERVICE BUREAU.

10 (ii) FOR THE PUBLIC ACTS OF THIS STATE, THE LEGISLATIVE
11 SERVICE BUREAU.

12 (iii) FOR THE MICHIGAN COMPILED LAWS, THE LEGISLATIVE SERVICE
13 BUREAU.

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

17 (D) "PUBLISH" MEANS TO DISPLAY, PRESENT, OR RELEASE TO THE
18 PUBLIC, OR CAUSE TO BE DISPLAYED, PRESENTED, OR RELEASED TO THE
19 PUBLIC, BY THE OFFICIAL PUBLISHER.

20 (E) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE
21 MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS
22 RETRIEVABLE IN PERCEIVABLE FORM.

23 (F) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT
24 OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY
25 TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE
26 UNITED STATES.

27 SEC. 122. THIS CHAPTER APPLIES TO ALL LEGAL MATERIAL IN AN

1 ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER SECTION 123
2 AND FIRST PUBLISHED ELECTRONICALLY ON OR AFTER THE EFFECTIVE DATE
3 OF THE AMENDATORY ACT THAT ADDED THIS CHAPTER.

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

7 (A) DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL.

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

9 (2) AN OFFICIAL PUBLISHER THAT PUBLISHES LEGAL MATERIAL IN AN
10 ELECTRONIC RECORD AND ALSO PUBLISHES THE MATERIAL IN A RECORD OTHER
11 THAN AN ELECTRONIC RECORD MAY DESIGNATE THE ELECTRONIC RECORD AS
12 OFFICIAL IF THE PUBLISHER COMPLIES WITH SECTIONS 124, 126, AND 127.

13 SEC. 124. AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN
14 ELECTRONIC RECORD THAT IS DESIGNATED AS OFFICIAL UNDER SECTION 123
15 SHALL AUTHENTICATE THE RECORD. TO AUTHENTICATE AN ELECTRONIC
16 RECORD, THE PUBLISHER SHALL PROVIDE A METHOD FOR A USER TO
17 DETERMINE THAT THE RECORD RECEIVED BY THE USER FROM THE PUBLISHER
18 IS UNALTERED FROM THE OFFICIAL RECORD PUBLISHED BY THE PUBLISHER.

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

22 (2) IF ANOTHER STATE HAS ADOPTED A LAW SUBSTANTIALLY SIMILAR
23 TO THIS CHAPTER, LEGAL MATERIAL IN AN ELECTRONIC RECORD THAT IS
24 DESIGNATED AS OFFICIAL AND AUTHENTICATED BY THE OFFICIAL PUBLISHER
25 IN THAT STATE IS PRESUMED TO BE AN ACCURATE COPY OF THE LEGAL
26 MATERIAL.

27 (3) A PARTY CONTESTING THE AUTHENTICATION OF LEGAL MATERIAL IN

1 AN ELECTRONIC RECORD AUTHENTICATED UNDER SECTION 124 HAS THE BURDEN
2 OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE RECORD IS
3 NOT AUTHENTIC.

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

8 (2) IF LEGAL MATERIAL IS PRESERVED UNDER SUBSECTION (1) IN AN
9 ELECTRONIC RECORD, THE OFFICIAL PUBLISHER SHALL DO ALL OF THE
10 FOLLOWING:

11 (A) ENSURE THE INTEGRITY OF THE RECORD.

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

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

14 SEC. 127. AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN
15 ELECTRONIC RECORD THAT IS REQUIRED TO BE PRESERVED UNDER SECTION
16 126 SHALL ENSURE THAT THE MATERIAL IS REASONABLY AVAILABLE FOR USE
17 BY THE PUBLIC ON A PERMANENT BASIS.

18 SEC. 128. IN IMPLEMENTING THIS CHAPTER, AN OFFICIAL PUBLISHER
19 OF LEGAL MATERIAL IN AN ELECTRONIC RECORD SHALL CONSIDER ALL OF THE
20 FOLLOWING:

21 (A) STANDARDS AND PRACTICES OF OTHER JURISDICTIONS.

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

26 (C) THE NEEDS OF USERS OF LEGAL MATERIAL IN AN ELECTRONIC
27 RECORD.

1 (D) THE VIEWS OF GOVERNMENTAL OFFICIALS AND ENTITIES AND OTHER
2 INTERESTED PERSONS.

3 (E) TO THE EXTENT PRACTICABLE, METHODS AND TECHNOLOGIES FOR
4 THE AUTHENTICATION OF, PRESERVATION AND SECURITY OF, AND PUBLIC
5 ACCESS TO, LEGAL MATERIAL THAT ARE COMPATIBLE WITH THE METHODS AND
6 TECHNOLOGIES USED BY OTHER OFFICIAL PUBLISHERS IN THIS STATE AND IN
7 OTHER STATES THAT HAVE ADOPTED A LAW SUBSTANTIALLY SIMILAR TO THIS
8 CHAPTER.

9 SEC. 129. THE COUNCIL ADMINISTRATOR MAY ENTER INTO A
10 COOPERATIVE AGREEMENT WITH THE SUPREME COURT ADMINISTRATOR'S OFFICE
11 REGARDING THE AUTHENTICATION, PRESERVATION, AND PUBLICATION OF
12 MATERIALS RELATED TO AND CREATED BY THE COURTS IN THIS STATE.

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

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