

HOUSE BILL No. 5653

May 12, 2016, Introduced by Rep. Kosowski and referred to the Committee on Judiciary.

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:

CHAPTER 1A

SEC. 120. THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
"UNIFORM ELECTRONIC LEGAL MATERIAL ACT".

SEC. 121. AS USED IN THIS CHAPTER:

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

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

(i) THE STATE CONSTITUTION OF 1963.

(ii) THE PUBLIC ACTS OF THIS STATE.

(iii) THE MICHIGAN COMPILED LAWS.

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

3 (C) "OFFICIAL PUBLISHER" MEANS:

4 (i) FOR THE STATE CONSTITUTION OF 1963, THE LEGISLATIVE
5 SERVICE BUREAU.

6 (ii) FOR THE PUBLIC ACTS OF THIS STATE, THE LEGISLATIVE
7 SERVICE BUREAU.

8 (iii) FOR THE MICHIGAN COMPILED LAWS, THE LEGISLATIVE SERVICE
9 BUREAU.

10 (iv) FOR A RULE PROMULGATED PURSUANT TO THE ADMINISTRATIVE
11 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, THE
12 OFFICE OF REGULATORY REINVENTION.

13 (D) "PUBLISH" MEANS TO DISPLAY, PRESENT, OR RELEASE TO THE
14 PUBLIC, OR CAUSE TO BE DISPLAYED, PRESENTED, OR RELEASED TO THE
15 PUBLIC, BY THE OFFICIAL PUBLISHER.

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

19 (F) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT
20 OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY
21 TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE
22 UNITED STATES.

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

27 SEC. 123. (1) IF AN OFFICIAL PUBLISHER PUBLISHES LEGAL

1 MATERIAL ONLY IN AN ELECTRONIC RECORD, THE PUBLISHER SHALL DO BOTH
2 OF THE FOLLOWING:

3 (A) DESIGNATE THE ELECTRONIC RECORD AS OFFICIAL.

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

5 (2) AN OFFICIAL PUBLISHER THAT PUBLISHES LEGAL MATERIAL IN AN
6 ELECTRONIC RECORD AND ALSO PUBLISHES THE MATERIAL IN A RECORD OTHER
7 THAN AN ELECTRONIC RECORD MAY DESIGNATE THE ELECTRONIC RECORD AS
8 OFFICIAL IF THE PUBLISHER COMPLIES WITH SECTIONS 124, 126, AND 127.

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

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

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

23 (3) A PARTY CONTESTING THE AUTHENTICATION OF LEGAL MATERIAL IN
24 AN ELECTRONIC RECORD AUTHENTICATED UNDER SECTION 124 HAS THE BURDEN
25 OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE RECORD IS
26 NOT AUTHENTIC.

27 SEC. 126. (1) AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN

1 ELECTRONIC RECORD THAT IS OR WAS DESIGNATED AS OFFICIAL UNDER
2 SECTION 123 SHALL PROVIDE FOR THE PRESERVATION AND SECURITY OF THE
3 RECORD IN AN ELECTRONIC FORM OR A FORM THAT IS NOT ELECTRONIC.

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

7 (A) ENSURE THE INTEGRITY OF THE RECORD.

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

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

10 SEC. 127. AN OFFICIAL PUBLISHER OF LEGAL MATERIAL IN AN
11 ELECTRONIC RECORD THAT IS REQUIRED TO BE PRESERVED UNDER SECTION
12 126 SHALL ENSURE THAT THE MATERIAL IS REASONABLY AVAILABLE FOR USE
13 BY THE PUBLIC ON A PERMANENT BASIS.

14 SEC. 128. IN IMPLEMENTING THIS CHAPTER, AN OFFICIAL PUBLISHER
15 OF LEGAL MATERIAL IN AN ELECTRONIC RECORD SHALL CONSIDER ALL OF THE
16 FOLLOWING:

17 (A) STANDARDS AND PRACTICES OF OTHER JURISDICTIONS.

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

22 (C) THE NEEDS OF USERS OF LEGAL MATERIAL IN AN ELECTRONIC
23 RECORD.

24 (D) THE VIEWS OF GOVERNMENTAL OFFICIALS AND ENTITIES AND OTHER
25 INTERESTED PERSONS.

26 (E) TO THE EXTENT PRACTICABLE, METHODS AND TECHNOLOGIES FOR
27 THE AUTHENTICATION OF, PRESERVATION AND SECURITY OF, AND PUBLIC

1 ACCESS TO, LEGAL MATERIAL THAT ARE COMPATIBLE WITH THE METHODS AND
2 TECHNOLOGIES USED BY OTHER OFFICIAL PUBLISHERS IN THIS STATE AND IN
3 OTHER STATES THAT HAVE ADOPTED A LAW SUBSTANTIALLY SIMILAR TO THIS
4 CHAPTER.

5 SEC. 129. IN APPLYING AND CONSTRUING THIS CHAPTER, STATES THAT
6 ENACT IT SHALL CONSIDER THE NEED TO PROMOTE UNIFORMITY OF THE LAW
7 WITH RESPECT TO ITS SUBJECT MATTER.

8 SEC. 130. 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).