

## 1 HOUSE BILL NO. 111

2 INTRODUCED BY S. FITZPATRICK

3 BY REQUEST OF THE LEGISLATIVE COUNCIL

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM ELECTRONIC LEGAL MATERIAL  
6 ACT; PROVIDING DEFINITIONS; PROVIDING FOR WHAT CONSTITUTES LEGAL MATERIAL IN THE  
7 OFFICIAL ELECTRONIC RECORD; PROVIDING FOR AUTHENTICATION OF THE OFFICIAL ELECTRONIC  
8 RECORD; PROVIDING FOR THE EFFECT OF AUTHENTICATION; REQUIRING PRESERVATION AND  
9 SECURITY OF LEGAL MATERIAL IN THE OFFICIAL ELECTRONIC RECORD; ENSURING PUBLIC ACCESS  
10 TO LEGAL MATERIAL IN THE OFFICIAL ELECTRONIC RECORD; PROVIDING STANDARDS; PROVIDING  
11 FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION; ESTABLISHING THE RELATIONSHIP OF  
12 THIS ACT WITH THE ELECTRONIC SIGNATURES IN THE GLOBAL AND NATIONAL COMMERCE ACT;  
13 AMENDING SECTION 1-11-103, MCA; AND PROVIDING AN EFFECTIVE DATE."  
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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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17 NEW SECTION. **Section 1. Short title.** [Sections 1 through 11] may be cited as the "Uniform  
18 Electronic Legal Material Act".  
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20 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 11], the following definitions  
21 apply:

22 (1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,  
23 electromagnetic, or similar capabilities.

24 (2) "Legal material" means, whether or not in effect:

25 (a) the Constitution of the State of Montana;

26 (b) the Laws of Montana, also known as the session laws; or

27 (c) the Montana Code Annotated.

28 (3) "Official publisher" means:

(a) for the Constitution of the State of Montana, the code commissioner provided for in 1-11-201 through 1-11-204 and 1-11-301 through 1-11-304;

(b) for the Laws of Montana, the legislative services division provided for in 5-11-201 through 5-11-214; and

(c) for the Montana Code Annotated, the code commissioner provided for in 1-11-201 through 1-11-204 and 1-11-301.

(4) "Publish" means to display, present, or release to the public, or cause to be displayed, presented, or released to the public, by the official publisher.

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

(6) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

**NEW SECTION. Section 3. Applicability.** [Sections 1 through 11] applies to all legal material in an electronic record that is designated as official under [section 4] and first published electronically on or after [the effective date of this act].

**NEW SECTION. Section 4. Legal material in official electronic record.** (1) If an official publisher publishes legal material only in an electronic record, the publisher shall:

(a) designate the electronic record as official; and

(b) comply with [sections 5, 7, and 8].

(2) An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the electronic record as official if the publisher complies with [sections 5, 7, and 8].

**NEW SECTION. Section 5. Authentication of official electronic record.** An official publisher of legal material in an electronic record that is designated as official under [section 4] shall authenticate the record. To authenticate an electronic record, the publisher shall provide a method for a user to determine that

1 the record received by the user from the publisher is unaltered from the official record published by the  
2 publisher.

3

4 NEW SECTION. Section 6. Effect of authentication. (1) Legal material in an electronic record that  
5 is authenticated under [section 5] is presumed to be an accurate copy of the legal material.

6 (2) If another state has adopted a law substantially similar to [sections 1 through 11], legal material  
7 in an electronic record that is designated as official and authenticated by the official publisher in that state is  
8 presumed to be an accurate copy of the legal material.

9 (3) A party contesting the authentication of legal material in an electronic record authenticated  
10 under [section 5] has the burden of proving by a preponderance of the evidence that the record is not authentic.

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12 NEW SECTION. Section 7. Preservation and security of legal material in official electronic  
13 **record.** (1) An official publisher of legal material in an electronic record that is or was designated as official  
14 under [section 4] shall provide for the preservation and security of the record in an electronic form or a form that  
15 is not electronic.

16 (2) If legal material is preserved under subsection (1) in an electronic record, the official publisher  
17 shall:

- 18 (a) ensure the integrity of the record;  
19 (b) provide for backup and disaster recovery of the record; and  
20 (c) ensure the continuing usability of the material.

21

22 NEW SECTION. Section 8. Public access to legal material in official electronic record. An  
23 official publisher of legal material in an electronic record that is required to be preserved under [section 7] shall  
24 ensure that the material is reasonably available for use by the public on a permanent basis.

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26 NEW SECTION. Section 9. Standards. In implementing [sections 1 through 11], an official publisher  
27 of legal material in an electronic record shall consider:

- 28 (1) standards and practices of other jurisdictions;

1           (2)     the most recent standards regarding authentication of, preservation and security of, and public  
2     access to legal material in an electronic record and other electronic records, as promulgated by national  
3     standard-setting bodies;  
4           (3)     the needs of users of legal material in an electronic record;  
5           (4)     the views of governmental officials and entities and other interested persons; and  
6           (5)     to the extent practicable, methods and technologies for the authentication of, preservation and  
7     security of, and public access to legal material that are compatible with the methods and technologies used by  
8     other official publishers in this state and in other states that have adopted a law substantially similar to [sections  
9     1 through 11].

10  
11           NEW SECTION. **Section 10. Uniformity of application and construction.** In applying and  
12     construing this uniform act, consideration must be given to the need to promote uniformity of the law with  
13     respect to its subject matter among states that enact it.

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15           NEW SECTION. **Section 11. Relation to Electronic Signatures in Global and National**  
16     **Commerce Act.** [Sections 1 through 11] modifies, limits, and supersedes the Electronic Signatures in Global  
17     and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section  
18     101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in  
19     Section 103(b) of that act, 15 U.S.C. Section 7003(b).

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21           **Section 12.** Section 1-11-103, MCA, is amended to read:

22           **"1-11-103. Effect of Montana Code Annotated -- official version.** (1) The Montana Code Annotated  
23     is a reenactment of the Revised Codes of Montana, 1947, and the supplements thereto.

24           (2)     The enactment of the Montana Code Annotated may not:  
25           (a)     revive a law repealed or superseded before the effective date of the Montana Code Annotated;  
26           (b)     affect an act done, right accrued, or obligation incurred or imposed by law prior to the effective  
27     date of the Montana Code Annotated;  
28           (c)     affect any action, suit, or proceeding pending on the effective date of the Montana Code

1 Annotated;

2 (d) repeal statutes of a nongeneral, nonpermanent nature, such as severability, construction,  
3 validating, repealing, or similar statutes, omitted from the Montana Code Annotated.

4 (3) The Montana Code Annotated must be given effect as a continuation of the Revised Codes of  
5 Montana and not as a new enactment. A defect in title of any act set out in prior laws and reenacted by the  
6 Montana Code Annotated is cured by the enactment of the Montana Code Annotated.

7 (4) No implication or presumption of legislative construction is to be drawn from the classification  
8 or arrangement of the Montana Code Annotated.

9 (5) Unless specifically and expressly adopted as part of the law by the legislature, annotations,  
10 code commissioner notes, catchlines, or other editorial material included in the Montana Code Annotated may  
11 not be construed as part of the legislative text but are only for the purpose of convenience, orderly  
12 arrangement, and information.

13 (6) After enactment, the Montana Code Annotated, including all subsequent replacement volumes,  
14 is prima facie the official laws of Montana. In case of any inconsistency in meaning arising through omission or  
15 otherwise between the provisions of the Montana Code Annotated and the corresponding portion of the official  
16 enrolled bill on file with the secretary of state, effect must be given to the official enrolled bill.

17 (7) The Montana Code Annotated, prepared in accordance with part 3, or [sections 1 through 11],  
18 is the official version of the statutes of Montana. The official version of the statutes is the only publication of the  
19 statutes that may be used in public documents. This subsection is not intended to interfere with the supreme  
20 court's authority to adopt rules of evidence pursuant to Article VII, section 2, of the Montana constitution."  
21

22 NEW SECTION. Section 13. Codification instruction. [Sections 1 through 11] are intended to be  
23 codified as an integral part of Title 1, and the provisions of Title 1 apply to [sections 1 through 11].  
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25 NEW SECTION. Section 14. Effective date. [This act] is effective October 1, 2025.

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