WEST VIRGINIA CODE CHAPTER 39 ARTICLE 6

WV Legislature

§39-6-1. Short title.

This article may be cited as the Uniform Electronic Legal Material Act.

WV Legislature

§39-6-2. Definitions.

In this article:

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

(2) “Legal material” means, whether or not in effect:

(A) The West Virginia Constitution;

(B) The Acts of the Legislature;

(C) The Code of West Virginia;

(D) All rules and other materials filed in the State Register; or

(E) The state administrative agency decisions made pursuant to articles four and five, chapter twenty-nine-a of this code.

(3) “Official publisher” means:

(A) For the Constitution of West Virginia, the State Legislature;

(B) For the Acts of the Legislature, the Clerk of the House of Delegates;

(C) For the Code of West Virginia, the State Legislature;

(D) For a rule published in the State Register, the Secretary of State; or

(E) For a state administrative agency decision, that state agency.

(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.

WV Legislature

§39-6-3. Applicability.

This article applies to all legal material in an electronic record that is designated as official under section four of this article and is first published electronically on or after the effective date of this article.

WV Legislature

§39-6-4. Legal material in official electronic record.

(a) If an official publisher publishes legal material only in an electronic record, the publisher shall:

(1) Designate the electronic record as official; and

(2) Comply with sections five, seven and eight of this article.

(b) 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 five, seven and eight of this article.

WV Legislature

§39-6-5. Authentication of official electronic record.

An official publisher of legal material in an electronic record that is designated as official under section four of this article shall authenticate the record. To authenticate an electronic record, the publisher shall provide a method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the publisher.

WV Legislature

§39-6-6. Effect of authentication.

(a) Legal material in an electronic record that is authenticated under section five of this article is presumed to be an accurate copy of the legal material.

(b) If another state has adopted a law substantially similar to this article, legal material in an electronic record that is designated as official and authenticated by the official publisher in that state is presumed to be an accurate copy of the legal material.

(c) A party contesting the authentication of legal material in an electronic record authenticated under section five of this article has the burden of proving by a preponderance of the evidence that the record is not authentic.

WV Legislature

§39-6-7. Preservation and security of legal material in official electronic record.

(a) An official publisher of legal material in an electronic record that is or was designated as official under section four shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

(b) If legal material is preserved under subsection (a) in an electronic record, the official publisher shall:

(1) Ensure the integrity of the record;

(2) Provide for backup and disaster recovery of the record; and

(3) Ensure the continuing usability of the material.

WV Legislature

§39-6-8. Public access to legal material in official electronic record.

An official publisher of legal material in an electronic record that is required to be preserved under section seven of this article shall ensure that the material is reasonably available for use by the public on a permanent basis at no cost.

WV Legislature

§39-6-9. Standards.

In implementing this article, an official publisher of legal material in an electronic record shall consider:

(1) Standards and practices of other jurisdictions;

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

(3) The needs of users of legal material in an electronic record;

(4) The views of governmental officials and entities and other interested persons; and

(5) To the extent practicable, methods and technologies for the authentication of, preservation and security of, and public access to, legal material which are compatible with the methods and technologies used by other official publishers in this state and in other states that have adopted a law substantially similar to this article.

WV Legislature

§39-6-10. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

WV Legislature

§39-6-11. Relation to Electronic Signatures in Global and National Commerce Act.

This article modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U. S. C. Section 7001, et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U. S. C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U. S. C. Section 7003(b).

WV Legislature