

IN THE SENATE

SENATE BILL NO. 1356

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT; AMENDING TITLE 60,
2 IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 3, TITLE 60, IDAHO CODE, TO
3 PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR APPLICA-
4 BILITY OF LAWS, TO PROVIDE FOR LEGAL MATERIAL IN AN OFFICIAL ELECTRONIC
5 RECORD, TO PROVIDE FOR AUTHENTICATION OF AN OFFICIAL ELECTRONIC RECORD,
6 TO ESTABLISH PROVISIONS RELATING TO THE EFFECT OF AUTHENTICATION, TO
7 ESTABLISH PROVISIONS RELATING TO THE PRESERVATION AND SECURITY OF LEGAL
8 MATERIAL IN AN OFFICIAL ELECTRONIC RECORD, TO PROVIDE FOR PUBLIC ACCESS
9 TO LEGAL MATERIALS, TO ESTABLISH PROVISIONS RELATING TO STANDARDS,
10 TO PROVIDE FOR THE UNIFORMITY OF APPLICATION AND CONSTRUCTION AND TO
11 PROVIDE FOR THE RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NA-
12 TIONAL COMMERCE ACT; AND PROVIDING AN EFFECTIVE DATE.
13

14 Be It Enacted by the Legislature of the State of Idaho:

15 SECTION 1. That Title 60, Idaho Code, be, and the same is hereby amended
16 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
17 ter 3, Title 60, Idaho Code, and to read as follows:

18 CHAPTER 3
19 UNIFORM ELECTRONIC LEGAL MATERIAL ACT

20 60-301. SHORT TITLE. This act may be cited as the "Uniform Electronic
21 Legal Material Act."

22 60-302. DEFINITIONS. In this act:

- 23 (1) "Electronic" means relating to technology having electrical, digi-
24 tal, magnetic, wireless, optical, electromagnetic or similar capabilities.
25 (2) "Legal material" means:
26 (a) The constitution of the state of Idaho;
27 (b) The general laws of the state of Idaho, also known as the session
28 laws;
29 (c) The Idaho code;
30 (d) The Idaho administrative code and the Idaho administrative bul-
31 letin;
32 (e) Reported decisions of the following state courts: the Idaho
33 supreme court and the court of appeals; or
34 (f) Idaho court rules.
35 (3) "Official publisher" means:
36 (a) For the constitution of the state of Idaho, the secretary of state;
37 (b) For the general laws of the state of Idaho, the secretary of state;
38 (c) For the Idaho code, the Idaho code commission;
39 (d) For a rule published in the Idaho administrative code, the adminis-
40 trative rules coordinator;

1 (e) For a rule published in the Idaho administrative bulletin, the ad-
2 ministrative rules coordinator;

3 (f) For a state court decision included under subsection (2) (e) of this
4 section, the clerk of the supreme court (ex officio reporter);

5 (g) For Idaho court rules, the Idaho code commission.

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

9 (5) "Record" means information that is inscribed on a tangible medium
10 or that is stored in an electronic or other medium and is retrievable in per-
11 ceivable form.

12 (6) "State" means a state of the United States, the District of Colum-
13 bia, Puerto Rico, the United States Virgin Islands, or any territory or insu-
14 lar possession subject to the jurisdiction of the United States.

15 60-303. APPLICABILITY. (1) This act applies to all legal material in
16 an electronic record that is designated as official under section 60-304,
17 Idaho Code, and first published electronically on or after July 1, 2015.

18 (2) This act applies to the following legal material in an official
19 electronic record that was first published before July 1, 2015:

20 (a) The Idaho administrative code for the years 2010, 2011, 2012, 2013
21 and 2014.

22 (b) The Idaho administrative bulletin for the years 2010, 2011, 2012,
23 2013 and 2014.

24 60-304. LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD. (1) If an offi-
25 cial publisher publishes legal material only in an electronic record, the
26 publisher shall:

27 (a) Designate the electronic record as official; and

28 (b) Comply with sections 60-305, 60-307 and 60-308, Idaho Code.

29 (2) An official publisher that publishes legal material in an elec-
30 tronic record and also publishes the material in a record other than an
31 electronic record may designate the electronic record as official if the
32 publisher complies with sections 60-305, 60-307 and 60-308, Idaho Code.

33 60-305. AUTHENTICATION OF OFFICIAL ELECTRONIC RECORD. An official
34 publisher of legal material in an electronic record that is designated as of-
35 ficial under section 60-304, Idaho Code, shall authenticate the record. To
36 authenticate an electronic record, the publisher shall provide a method for
37 a user to determine that the record received by the user from the publisher is
38 unaltered from the official record published by the publisher.

39 60-306. EFFECT OF AUTHENTICATION. (1) Legal material in an elec-
40 tronic record that is authenticated under section 60-305, Idaho Code, is
41 presumed to be an accurate copy of the legal material.

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

1 (3) A party contesting the authentication of legal material in an elec-
2 tronic record authenticated under section 60-305, Idaho Code, has the burden
3 of proving by a preponderance of the evidence that the record is not authen-
4 tic.

5 60-307. PRESERVATION AND SECURITY OF LEGAL MATERIAL IN OFFICIAL ELEC-
6 TRONIC RECORD. (1) An official publisher of legal material in an elec-
7 tronic record that is or was designated as official under section 60-304,
8 Idaho Code, shall provide for the preservation and security of the record in
9 an electronic form or a form that is not electronic.

10 (2) If legal material is preserved under subsection (1) of this section
11 in an electronic record, the official publisher shall:

- 12 (a) Ensure the integrity of the record;
13 (b) Provide for backup and disaster recovery of the record; and
14 (c) Ensure the continuing usability of the material.

15 60-308. PUBLIC ACCESS TO LEGAL MATERIAL IN OFFICIAL ELECTRONIC
16 RECORD. An official publisher of legal material in an electronic record
17 that is required to be preserved under section 60-307, Idaho Code, shall
18 ensure that the material is reasonably available for use by the public on a
19 permanent basis.

20 60-309. STANDARDS. In implementing this act, an official publisher
21 of legal material in an electronic record shall consider:

- 22 (1) Standards and practices of other jurisdictions;
23 (2) The most recent standards regarding authentication of, preserva-
24 tion and security of, and public access to, legal material in an electronic
25 record and other electronic records, as promulgated by national standard-
26 setting bodies;
27 (3) The needs of users of legal material in an electronic record;
28 (4) The views of governmental officials and entities and other inter-
29 ested persons; and
30 (5) To the extent practicable, methods and technologies for the authen-
31 tication of, preservation and security of, and public access to, legal mate-
32 rial that are compatible with the methods and technologies used by other of-
33 ficial publishers in this state and in other states that have adopted a law
34 substantially similar to this act.

35 60-310. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and
36 construing this uniform act, consideration must be given to the need to pro-
37 mote uniformity of the law with respect to its subject matter among states
38 that enact it.

39 60-311. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COM-
40 MERCE ACT. This act modifies, limits and supersedes the electronic signa-
41 tures in global and national commerce act, 15 U.S.C. 7001 et seq., but does
42 not modify, limit or supersede section 101(c) of that act, 15 U.S.C. 7001(c),
43 or authorize electronic delivery of any of the notices described in section
44 103(b) of that act, 15 U.S.C. 7003(b).

1 SECTION 2. This act shall be in full force and effect on and after July
2 1, 2015.