



The Judiciary, State of Hawai'i

Testimony to the House Committee on Judiciary

Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice Chair

Friday, January 25, 2013, 2:00 pm
State Capitol, Conference Room 325

by
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Bill No. and Title: House Bill 18, Relating to THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT (UELMA)

Purpose: Establishes authentication and other requirements for selected legal materials if they are published exclusively in electronic form, but does not require electronic publication.

Judiciary's Position:

The Judiciary supports HB 18.

This bill is prompted by the Uniform Law Commission, which passed UELMA in 2011. It is supported by the American Bar Association and the American Association of Law Libraries. Several states have enacted and/or introduced UELMA, including California and Colorado. Supporters of UELMA have found that the Act promotes efficiency, increases and ensures access to electronic legal materials, and provides a mechanism to ensure legal materials are preserved should their print counterparts be eliminated. UELMA also supports and enhances the public's increasing dependence on online documents for legal research and writing.

As the public becomes increasingly more reliant upon online access to legal research and documentation, it is important that electronic legal material be permanent, reliable, and authentic, especially where legal materials are created digitally and/or published only in electronic format. This bill ensures these objectives. Additional objectives this bill will achieve are as follows:



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- The availability of government information online facilitates transparency and accountability, provides widespread access to essential information, and encourages citizen participation. The Uniform Electronic Legal Material Act (UELMA) addresses the need to effectively provide and manage electronic government information in a manner that guarantees trustworthiness and continued access.
- UELMA provides for authentication, preservation, and accessibility of official electronic state legal material. The Act sets forth provisions that may be efficiently followed and will achieve the stated purposes of the act. Adoption of UELMA will assist state governments in guaranteeing the free flow of trustworthy legal information.
- UELMA requires official publishers to consider the most recent standards for the preservation of, authentication of, and access to electronic legal material. UELMA recognizes that technology will continue to change and improve, and supports collaboration among jurisdictions in choosing and implementing new technologies.
- UELMA does not affect any relationships between an official state publisher and a commercial publisher, leaving those relationships to contract law. Copyright laws are unaffected by the act. The act does not affect the rules of evidence; judges will continue to be able to make decisions about the admissibility of electronic evidence in their courtrooms.
- UELMA does not require specific technologies, leaving the choice of technology for authentication and preservation up to the states. Giving states the flexibility to choose any technology that meets the required outcomes allows each state to choose the best and most cost-effective method for that state.
- Adoption of UELMA will harmonize standards for acceptance of electronic legal material across jurisdictional boundaries. If Hawai'i enacts UELMA, the presumption that Hawai'i's authenticated electronic legal material is accurate applies in every other state that has enacted UELMA. If another state enacts UELMA, and authenticates its electronic legal material, that state's authenticated legal material is presumed to be an accurate copy for use in Hawai'i.

Thank you for the opportunity to testify on HB18.