

SNELLA

S.B. 418

March 19, 2012

Senator Eric D. Coleman
Co-Chair, Judiciary Committee
Legislative Office Building Room 2500
Hartford, CT 06106

Representative Gerald M. Fox
Co-Chair, Judiciary Committee
Legislative Office Building Room 2502
Hartford, CT 06106

Senator John A. Kissel
Ranking Member, Judiciary Committee
Legislative Office Building Room 3400
Hartford, CT 06106

Rep. John Hetherington
Ranking Member, Judiciary Committee
Legislative Office Building Room 4200
Hartford, CT 06106

Dear Chairman Coleman, Chairman Kissel, Ranking Member Fox and Ranking Member Hetherington:

I am Jonathan C. Stock, formerly Supervising Law Librarian for the Connecticut Judicial Branch Law Libraries at Stamford and Danbury. It has been a singular honor to have served our Connecticut Court Law Library System for 33 years; and now, speaking as the Government Relations Chair for the Southern New England Law Librarians Association (SNELLA), I would like to thank you for the opportunity to support Raised Bill No. 418, *An Act Adopting the Uniform Electronic Legal Material Act and the Uniform Certificate of Title for Vessels Act*. SNELLA strongly urges the Committee to approve the *Uniform Electronic Legal Material Act* (UELMA), which will provide Connecticut with a technology-neutral, outcomes-based approach to insure that online state legal material deemed official will be preserved and made permanently available to the public in unaltered form.

SNELLA was founded in 1978 and is a chapter of the American Association of Law Libraries (AALL). We are a non-profit organization of law library personnel largely from Connecticut, serving the information needs of the legal community and the public at academic, firm, state, and judicial law libraries across the state. In 2010, SNELLA surveyed the wealth of online legal information in Connecticut for AALL's National Inventory of Primary Legal Information; and we were shocked to find the lack of legal resources being authenticated by the state. This survey confirmed an issue that AALL first drew attention to in its landmark 2007 *State-by-State Report on Authentication of Online Legal Resources*: that more and more states are distributing more information online, or eliminating their print legal resources in favor of online only--without assuring authentication, preservation and permanent public access for these documents.

We commend the Connecticut General Assembly for being at the forefront of considering the authentication of legal information: first in its creation of the Paperless Task Force, then with the adoption of Public Act 11-150, Sec. 28 which mandated that the State Librarian--in conjunction with other key officials--establish standards for electronic authentication and preservation. We are very pleased that the Connecticut State Librarian's *Recommendations of the State Librarian*

for Establishing Standards and Guidelines for the Preservation and Authentication of Electronic Documents includes a recommendation that “the State Librarian shall encourage the adoption of the Uniform Electronic Legal Material Act (UELMA) in Connecticut.”

Therefore, SNELLA strongly urges you to support Raised Bill No. 418, *An Act Adopting the Uniform Electronic Legal Material Act and the Uniform Certificate of Title for Vessels Act*. This Bill covers a range of key materials including the Constitution of the State of Connecticut; the General Statutes of the State of Connecticut; the Regulations of Connecticut State Agencies; and the reported decisions of the Supreme Court, the Appellate Court and the Superior Court. It will ensure that anyone--whether a judge, legislator, lawyer or member of the public--will be able to verify the trustworthiness of the state legal material available to them online.

Thank you very much for your consideration of this important matter.

Sincerely,

A handwritten signature in cursive script that reads "Jonathan C. Stock".

Jonathan C. Stock
Government Relations Chair
Southern New England Law Librarians Association



American Association of Law Libraries

MAXIMIZING THE POWER OF THE LAW LIBRARY COMMUNITY SINCE 1906

Uniform Electronic Legal Material Act
Summary and Frequently Asked Questions
(March 2012)

The Uniform Electronic Legal Material Act (UELMA) is a uniform law that addresses many of the concerns posed by the publication of state primary legal material online. UELMA provides a technology-neutral, outcomes-based approach to ensuring that online state legal material deemed official will be preserved and will be permanently available to the public in unaltered form. It furthers state policies of accountability and transparency in providing legal information to the public.

Why is UELMA necessary?

Increasingly, state governments are publishing primary legal material such as state statutes, regulations, and court opinions online. Online publication is often accompanied by the decision to stop providing print copies of the legal material. Although online publication has facilitated public access, it has also raised a number of concerns about ensuring that the electronic material will be preserved in unaltered form and will be available permanently. UELMA provides a framework for providing the official legal material online with the same level of trustworthiness traditionally provided by print publication.

What legal material is covered by the act?

The act applies to electronic legal material that has been designated official. Four categories of basic state legal material are specifically named in the act, including the state constitution, state session laws, codified laws, and agency regulations which have the effect of law. The state has discretion to include any other publications it desires.

What does UELMA require?

The act requires that if legal material is published only in electronic form, it must be designated official. Electronic legal material that has been designated official must be:

- *Capable of being authenticated* (the state must provide the user with a method to determine that the legal material is unaltered);
- *Preserved* (the state may choose to preserve either in electronic or print form);
and
- *Permanently accessible* to the public.

If a state preserves legal material electronically, it must provide for back-up and recovery and it must ensure the integrity and continued usability of the material.

Who must implement the requirements of the act?

For each type of official legal material, the state must name the government agency or government official responsible for publishing the material as the “official publisher,” a designation that may vary from state to state and from agency to agency. The designated official

publisher has the responsibility to authenticate, preserve, and provide permanent public access to the legal material.

What is meant by the term “authentication”?

Authentication is a process that gives the user of legal material an assurance of trustworthiness for that legal material. According to a study by the American Association of Law Libraries (AALL), “An authentic text is one whose content has been verified by a government entity to be complete and unaltered when compared to the previous version approved or published by the content originator.” American Association of Law Libraries, **STATE-BY-STATE REPORT ON AUTHENTICATION OF ONLINE LEGAL RESOURCES 8 (2007)**,

http://www.aallnet.org/Documents/Government-Relations/authen_rprt/authenfinalreport.pdf

UELMA mandates that the official publisher of electronic legal information give the user of the information a way in which to authenticate the information; that is, to ensure that the information is unaltered.

What is the effect of authentication?

If electronic legal material is authenticated, it is presumed to be an accurate copy of the legal material. UELMA gives authenticated electronic legal material a presumption of accuracy similar to the presumption of accuracy given to print legal material. If your state enacts UELMA, the presumption that your 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, it is presumed to be an accurate copy for use in your state. Adoption of UELMA will harmonize standards for acceptance of electronic legal material across jurisdictional boundaries.

When does the act apply?

The act applies prospectively, to official electronic legal material that is first published on or after the effective date of the act. Each state or territory has the flexibility to choose an effective date that works best for that jurisdiction. After the effective date, if an enacting state publishes official legal material online that was not previously published in electronic form, UELMA requirements apply to the newly-published official electronic material.

Are there issues not addressed by UELMA?

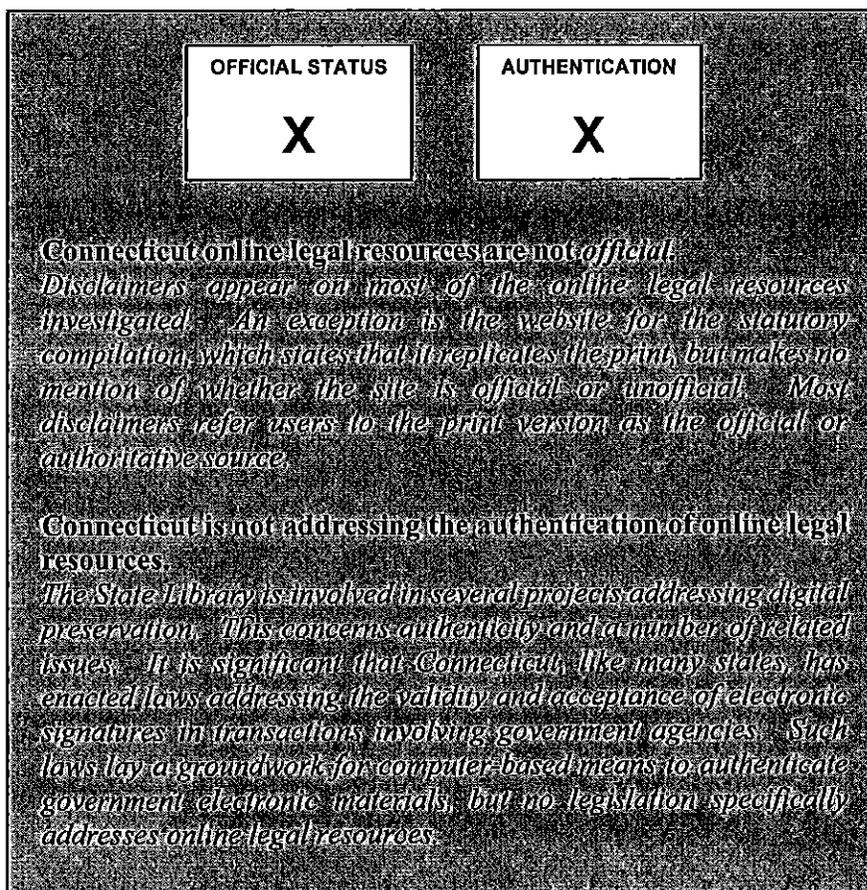
Yes. For instance, the act has no effect upon relationships between an official state publisher and a commercial vendor who produces the legal material, leaving such relationships to contract law. The claim of copyright in state publications is a local matter unaffected by the act. The act has no effect upon the rules of evidence; judges decide whether electronic legal material is admissible in their courtrooms.

What does the act require regarding technology standards for electronic legal material?

Rather than mandating a specific standard, the act requires official publishers to consider the most recent standards and best practices for preservation, authentication, and access to electronic legal material. By using an outcomes-based, technology-neutral approach, UELMA recognizes that technology will continue to evolve, and the act highlights the continuing need for publishers of official state legal material to take evolving standards into account. The act encourages collaboration and cooperation among states in developing standards and compatible systems.

Connecticut

by Anita Postyn, NYC Civil Court – Queens County



The state's online statutory compilation is available on the Connecticut General Assembly website (at <http://www.cga.ct.gov>). The Legislative Commissioner's Office, which compiles the print *General Statutes of Connecticut* and is also responsible for the website, represents that the online statutes are an electronic equivalent of the printed volumes. It does not indicate, however, whether the online statutes are official or unofficial.

The session laws are also available on the Connecticut General Assembly website, as well as a variety of related information, including the text of bills, session transcripts, and committee hearing transcripts (1988–current). Users can find out what resources are available by checking the legislative data availability table, which provides a list of available documents with dates of coverage.

A disclaimer for the session laws and related materials clearly states that the documents are not *official* and should not be quoted or cited. Users are referred to print *official* versions and instructed how to obtain them.

State agency regulations are generally not available online, although some regulations are published on individual agency websites. The Banking and Insurance Department websites, for example, have disclaimers stating that their compilations are not a substitute for the *official* sources. Other agency sites provide information as to the currency of materials available on their sites, but include no disclaimers. There is no online equivalent to the *Connecticut Law Journal*, the weekly print *official* legal periodical containing proposed and adopted regulations of state agencies, among other types of legal information.

Online access to Connecticut Supreme Court and Connecticut Appellate Court slip opinions (July 2000–current) is available on the judiciary's website (at <http://www.jud.ct.gov>) prior to their print *official* publication. The website states that the opinions are subject to modification and technical correction before they are published in the *official* reporters. In the event of discrepancies between the electronic version and the print appearing in the *Connecticut Law Journal* and, subsequently, in the state's *official* reporters, the latest print version is considered authoritative. A disclaimer also appears on the decision page itself.

Connecticut state government websites generally disclose the official or unofficial status of their content by placing disclaimers or other descriptive information right on their initial page or providing an appropriate link to a separate notice. Information on where to find the original version is provided on many sites. Currency information is also available. Those are significant plusses. None of the six online legal resources under investigation here is *authenticated*, however.

The Connecticut State Library (at <http://www.cslib.org>) has begun to address a number of issues related to the authenticity of digital resources. It is one of five libraries working with the University of Illinois at Urbana-Champaign and OCLC on the ECHO Depository Project. (at <http://www.ndiip.uiuc.edu>) sponsored by the Library of Congress' National Digital Information Infrastructure and Preservation Program (NDIIPP). The three-year ECHO Project seeks to develop new tools for selecting and capturing government information published on the Web and meet other pressing digital preservation needs.

The State Library's *Connecticut Digital Archive* (at <http://www.cslib.org/CTDigArch.htm>) is intended to preserve born-digital state government information. The *Connecticut Digital Library* (at <http://www.iconn.org>) is designed to facilitate citizen access to online resources.

Connecticut

2007 Report and 2009-10 Update by Anita Postyn, NYC Civil Court – Queens County

OFFICIAL STATUS	AUTHENTICATION
X No change since the 2007 report	X No change since the 2007 report

Connecticut online legal resources are not official. Disclaimers appear on most of the online legal resources investigated. An exception is the website for the statutory compilation, which states that it replicates the print, but makes no mention of whether the site is official or unofficial. Most disclaimers refer users to the print version as the official or authoritative source.

Connecticut is not addressing the authentication of online legal resources. The State Library is involved in several projects addressing digital preservation. This concerns authenticity and a number of related issues. It is significant that Connecticut, like many states, has enacted laws addressing the validity and acceptance of electronic signatures in transactions involving government agencies. Such laws lay a groundwork for computer-based means to authenticate government electronic materials, but no legislation specifically addresses online legal resources.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? The state has not eliminated any print publications in favor of online since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Connecticut has enacted legislation guaranteeing the public's permanent access to online government information (Public Act 07-227 eff. 7/1/07). To address the issue of guaranteeing the public permanent access to online government information, the Connecticut legislature had to distinguish publications created by print as opposed to those created electronically. The definition of state publications was changed to exclude language that publications be printed and changed to include tangible (print) form and intangible (electronic) form.

CONNECTICUT

Chap. 188, Sec. 11-9c of the *Connecticut General Statutes* <http://www.cga.ct.gov/2008/sup/chap188.htm> states that "The State Library shall administer and provide access to the public, on a permanent basis, to a collection of tangible state publications, and to a digital archive of intangible state publications, and a depository library system." and that the State Library "make available a permanent public archive of intangible state publications."

Have courts in your state adopted a medium neutral citation system since the 2007 report? Connecticut has not adopted a medium neutral citation system since the 2007 reports.

Have there been any other significant changes to the 2007 state summary? No other significant changes to report.