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**Statement of Catherine M. Biondo, on behalf of the Law Librarians of New England,  
to the Joint Committee on the Judiciary in Support of H. 64 and H. 3294 – Enacting the  
Uniform Electronic Legal Material Act**

**Public Hearing - September 17, 2019**

Chair Eldridge, Vice Chair Chang-Diaz, Chair Cronin, Vice Chair Day, and Members of the Joint Committee:

My name is Catherine Biondo, and I am a research librarian at the Harvard Law School Library and a licensed attorney. I am here today as the Immediate Past President of Law Librarians of New England (LLNE) to testify in support of H. 3294 and H. 64, the Uniform Electronic Legal Material Act (UELMA).

LLNE is an organization of over 250 members representing academic libraries, federal and state courts and agencies, county and public law libraries, corporate legal departments, publishers, vendors and private law firms in the six New England states. We are a chapter of the American Association of Law Libraries (AALL).

LLNE strongly encourages the Committee to approve UELMA. Access to government information is essential for a well-functioning democracy. As library and information professionals, we are called upon daily to ensure that those we serve – everyone from attorneys and judges, to pro se litigants and citizen researchers – not only can get to the legal material they need, but can trust that it is accurate and reliable.

More information is being delivered online and people expect access to information anytime and from anywhere. Governments are looking to deliver legal material online and potentially reduce costs by eliminating the print format. Doing so, however, raises the concern that any online legal material that is *designated as official* has the same level of authority and reliability as the current official print version. If online legal material is not authenticated (meaning verified as completed and unaltered), researchers – be they members of the bar or members of the public – may not be able to rely on legal information; courts may not accept cites to online authority; and publishers of legal scholarship may not accept electronic citations.

UELMA will provide Massachusetts with a framework to ensure that online state legal material – once it is *deemed official* – will be preserved and made permanently available to the public in unaltered form.

UELMA covers a range of key materials including the Constitution of the Commonwealth of Massachusetts, the Session Laws, the Massachusetts General Laws, state agency rules or decisions that have the effect of law, other material published in the Massachusetts Register or the Code of Massachusetts Regulations and the reported decisions and rules of the Supreme

Judicial Court, the Appeals Court and the Massachusetts Trial Court.

UELMA has now been enacted in 22 states, with over half reporting no or minimal fiscal impact. UELMA sets forth principles and leaves it up to states to determine how best to ensure that its official legal material is reliable in the online environment. UELMA does not mandate any particular technology to make this happen, leaving states to choose the best fit for their needs.

UELMA is supported nationally by the Uniform Law Commission, the American Association of Law Libraries and the American Bar Association; and locally, not only by LLNE but by the Massachusetts Library Association.

By adopting UELMA, Massachusetts will demonstrate how it values accountability and transparency in providing legal information to the public. It will establish itself as a leader among states that have recognized that official, electronic legal material must be authenticated, preserved and made permanently available to all ... *if* we are to uphold the principle of access to justice for all.

I, and LLNE, urge the Committee to report favorably on H. 3294 and H.64. Thank you very much for the opportunity to speak to you today.



American Association of  
Law Libraries



## Uniform Electronic Legal Material Act Bill (H. 3294 and H. 64)

### What Is the Problem Being Addressed?

Access to government information is essential for a well-functioning democracy. As citizens, attorneys, judges, and pro se litigants increasingly turn to the Internet to access information, it is critical that legal material located on government websites be trustworthy and reliable. However, as evidenced by the American Association of Law Libraries' *State-by-State Report on Authentication of Online Legal Resources*, while more states are putting their primary legal material online, most have not addressed preservation, permanent public access or digital authentication of their resources.

### What Is the Solution?

The *Uniform Electronic Legal Material Act (UELMA)*, approved by the Uniform Law Commission (ULC) in 2011, will ensure that online state legal material deemed official will be preserved and will be permanently available to the public in unaltered form. *UELMA* does not prescribe specific technologies so that states can determine their preferred system. It has been introduced in Massachusetts as House Bill No. 3294 as well as House Bill. No. 64. Both bills have been referred to the Joint Committee on the Judiciary.

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

1. *Authenticated*, by providing a method to determine that it is unaltered;
2. *Preserved*, either in electronic or print form; and
3. *Accessible*, for use by the public on a permanent basis.

### What Legal Materials Are Covered by UELMA and H. 3294 and H. 64?

The act applies to electronic legal materials that have been designated official. Four categories of basic state legal material are specifically named in the proposed bill, including the state constitution, state session laws, codified laws, judicial opinions and agency regulations which have the effect of law.

### Who Supports UELMA?

The Uniform Law Commission, the American Association of Law Libraries (AALL) and the American Bar Association all support *UELMA*. Many other stakeholders -- including the U.S. Government Publishing Office, the National Archives and Records Administration, the Society of American Archivists, the National Center for State Courts, and the Association of Reporters of Judicial Decisions -- were observers to the ULC drafting committee. The Council of State Governments also approved *UELMA* as "Suggested State Legislation." *UELMA* has been enacted in Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Idaho, Illinois, Iowa, Maryland, Michigan, Minnesota, Nevada, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Utah, Washington and West Virginia. It has been introduced this session in Massachusetts.

### Why Should Massachusetts Take Action?

By adopting *UELMA*, Massachusetts will establish itself as a leader among states that have recognized that electronic legal material must be trustworthy and accessible. At this point, all of the primary law covered in the bill is available in analog form in Massachusetts, but their online equivalents provided by the government do not meet the standards for authentication, preservation and accessibility. Enactment of *UELMA* will put a set of principles in place if a body in the future decides to publish in only online form or designate their online materials for use of the public as official.

Past experience has shown that decisions about publication of the law in Massachusetts can sometimes have unanticipated consequences for businesses/institutions and people who need legal information and the libraries that serve them. When the Massachusetts Register was repurposed in 1987 to be the updating pages for the CMR, while this helped the CMR be kept more up-to-date, it also made it considerably more difficult and expensive to determine what regulations were in effect at any particular time in the past.

The enactment of Stat. 2012, ch.165 has severely limited production of print copies of some public documents, leaving law libraries unable to acquire print copies while the electronic copy on the web has not been deemed official and authenticated. Enacting *UELMA* will put a framework in place to prevent disruption to the permanent public access to Massachusetts authenticable legal information by a concerned citizenry.

For more information, contact Marnie Warner, LLNE Government Relations Member, [marnie.warner@gmail.com](mailto:marnie.warner@gmail.com) or (617) 436-5927  
AALL Contact: Emily Feltren, Director of Government Relations, [efeltren@aall.org](mailto:efeltren@aall.org) or (202) 942-4233

## UNIFORM ELECTRONIC LEGAL MATERIAL ACT – ENACTMENTS

AUGUST 2019

STATE	BILL NUMBER	COVERED LEGAL MATERIALS	FISCAL IMPACT	ENACTED	EFFECTIVE
Arizona	SB 1414	<ul style="list-style-type: none"> <li>• Constitution of Arizona</li> <li>• Arizona session laws</li> <li>• Arizona Revised Statutes</li> </ul>	No fiscal impact	5/17/2016	8/8/2016
California	SB 1075	<ul style="list-style-type: none"> <li>• California Constitution</li> <li>• California Statutes</li> <li>• California Codes</li> </ul>	<p>\$135,000 to \$165,000 (General Fund) for set up, authentication, archiving, and onsite storage.</p> <p>Annual ongoing costs in the range of \$40,000 to \$70,000.</p>	9/13/2012	7/1/2015
Colorado	HB 1209	<ul style="list-style-type: none"> <li>• Colorado Constitution</li> <li>• Session Laws of Colorado</li> <li>• Colorado Revised Statutes</li> <li>• State agency rules with effect of law</li> </ul>	\$198,912	4/26/2012	3/31/2014

Connecticut	SB 235	<ul style="list-style-type: none"> <li>• Constitution of Connecticut</li> <li>• General Statutes of Connecticut</li> <li>• Regulations of Connecticut state agencies</li> <li>• Reported decisions of Connecticut Supreme Court, Connecticut Appellate Court, and Connecticut Superior Court</li> </ul>	No fiscal impact	5/17/2013	10/1/2014
Delaware	HB 403	<ul style="list-style-type: none"> <li>• Constitution of Delaware</li> <li>• Laws of Delaware</li> <li>• Delaware Code</li> <li>• Regulations published in the Delaware Administrative Code</li> </ul>	No fiscal impact	7/23/2014	10/21/2014
District of Columbia	21-0890	<ul style="list-style-type: none"> <li>• Acts and resolutions of the Council</li> <li>• District of Columbia Official Code</li> <li>• District of Columbia Municipal Regulations</li> <li>• Other legal materials designated by the Mayor by rule</li> <li>• Other legal materials designated by the Council by resolution</li> </ul>	No fiscal impact	4/2/2017	7/1/2017
Hawaii	SB 32 / HB 18	<ul style="list-style-type: none"> <li>• Hawaii Constitution</li> <li>• Hawaii Session Laws</li> <li>• Hawaii Revised Statutes</li> <li>• State agency rules with effect of law</li> <li>• Reported decisions of Supreme Court of State of Hawaii and Intermediate Appellate Court of Hawaii</li> <li>• State court rules</li> </ul>	No fiscal impact	4/16/2013	7/1/2013

Idaho	S1356	<ul style="list-style-type: none"> <li>• Idaho Constitution</li> <li>• Idaho Session Laws</li> <li>• Idaho Code</li> <li>• Idaho Administrative Code and Administrative Bulletin</li> <li>• Reported decisions of Idaho Supreme Court and Idaho Court of Appeals</li> <li>• Idaho court rules</li> </ul>	No fiscal impact	3/26/2014	7/1/2015
Illinois	SB 1941	<ul style="list-style-type: none"> <li>• Illinois Constitution</li> <li>• Laws of Illinois</li> <li>• Illinois Compiled Statutes</li> <li>• Illinois Administrative Code</li> <li>• Final administrative decisions</li> <li>• Reported decisions of Illinois Supreme Court, Illinois Appellate Court, and Illinois Court of Claims</li> <li>• Illinois Supreme Court rules</li> </ul>	No fiscal impact	8/26/2014	1/1/2015
Iowa	HF 743	<ul style="list-style-type: none"> <li>• The Constitution of the State of Iowa</li> <li>• The Iowa Acts</li> <li>• The Iowa Code</li> <li>• The Iowa Administrative Bulletin</li> <li>• The Iowa Administrative Code</li> </ul>	None	5/8/2019	7/1/2019

Maryland	SB137/HB165	<ul style="list-style-type: none"> <li>• Maryland Constitution</li> <li>• Session Laws</li> <li>• Code of Maryland</li> <li>• Maryland Rules</li> <li>• Journal of the Senate of Maryland</li> <li>• Journal of the House of Delegates of Maryland</li> <li>• A Reported Decision of <ul style="list-style-type: none"> <li>• The Court of Appeals; or</li> <li>• The Court of Special Appeals</li> </ul> </li> <li>• An Opinion Issued by the Office of the Attorney General</li> <li>• Code of Maryland Regulations</li> <li>• A Final Decision in a Contested Case Issued by a Unit of State Government under the Administrative Procedure Act</li> <li>• Maryland Register</li> </ul>	General fund expenditures for the Department of Legislative Services (DLS) increase by \$28,500 in FY 2018 for hardware and software associated with the bill's authentication requirement. Future year expenditures (\$20,500) reflect ongoing costs.	5/3/2017	10/1/2017
Michigan	HB 4779	<ul style="list-style-type: none"> <li>• The state constitution of 1963.</li> <li>• The public acts of this state.</li> <li>• The Michigan Compiled Laws.</li> <li>• A rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.</li> <li>• Materials related to and created by the courts in this state as provided for in a cooperative agreement entered into under section 129.</li> </ul>	[The bill] could have an indeterminate impact on the State for any necessary costs associated with information technology updates to properly archive and store the required legal materials. The costs are indeterminate and would depend on the current capacity of the Legislative Council to comply with the proposed bill's requirements; otherwise, additional funds could be necessary.	12/28/2018	12/28/2018
Minnesota	SF 157/ HF 278	<ul style="list-style-type: none"> <li>• Minnesota Constitution</li> <li>• Laws of Minnesota</li> <li>• Minnesota Statutes</li> <li>• Minnesota Rules</li> </ul>	No fiscal impact	3/14/2013	1/1/2015

Nevada	SB 105	<ul style="list-style-type: none"> <li>• Nevada Constitution</li> <li>• Statutes of Nevada</li> <li>• Nevada Revised Statutes</li> <li>• Nevada Administrative Code</li> </ul>	No fiscal impact	5/23/2013	1/1/2014
North Dakota	HB 1129	<ul style="list-style-type: none"> <li>• North Dakota Constitution</li> <li>• North Dakota Century Code</li> <li>• Laws of North Dakota</li> <li>• North Dakota Administrative Code</li> </ul>	\$115,000 for the 2013-15 biennium. Of this amount, \$85,000 is one-time costs relating to software development and \$30,000 is ongoing costs each biennium.	4/8/2013	7/31/2013
Ohio	SB 139	<ul style="list-style-type: none"> <li>• The Constitution of this state</li> <li>• The session laws of this state</li> <li>• The Revised Code</li> <li>• State agency rules that have or had the effect of law</li> <li>• The final decisions of state administrative agencies.</li> </ul>	In order to fulfill the requirements of the bill, LSC would likely have to contract with a new vendor such as LexisNexis or Westlaw. The new contract to include authentication services would likely exceed \$100,000 annually based on the bids these vendors provided LSC in the past regarding online Revised Code and Administrative Code publishing.	6/29/2018	9/28/2018
Oregon	HB 2944	<ul style="list-style-type: none"> <li>• Oregon Constitution</li> <li>• Oregon Session Laws</li> <li>• Oregon Revised Statutes</li> <li>• Oregon Administrative Rules</li> </ul>	Minimal fiscal impact	5/23/2013	5/23/2013



Pennsylvania	SB 601	<ul style="list-style-type: none"> <li>• Pennsylvania Constitution</li> <li>• Laws of Pennsylvania</li> <li>• Pennsylvania Code</li> <li>• State agency regulations with effect of law</li> <li>• Reported decisions of Pennsylvania Supreme Court; Pennsylvania Superior Court; Pennsylvania Commonwealth Court; or a Pennsylvania court of common pleas</li> <li>• Rules of Pennsylvania court</li> </ul>	No fiscal impact	9/24/2014	11/23/2014
Utah	SB 121	<ul style="list-style-type: none"> <li>• Utah Constitution</li> <li>• Laws of Utah</li> <li>• Utah Code</li> <li>• Utah Administrative Code</li> <li>• Utah State Bulletin</li> </ul>	One-time cost of \$178,000 \$45,000 ongoing	3/15/2018	1/1/2019
Texas	HB 402	<ul style="list-style-type: none"> <li>• Texas Constitution</li> <li>• General or special laws passed in a regular or special session of the Texas Legislature</li> <li>• State agency rule adopted in accordance with Chapter 2001</li> </ul>	No significant impact	5/24/2019	9/1/2019

Washington	SB 5039	<ul style="list-style-type: none"><li>• Washington state Constitution</li><li>• Session laws of the state of Washington</li><li>• Revised Code of Washington</li><li>• A state agency rule that has or had the effect of law</li><li>• Washington State Register</li><li>• Washington Administrative Code</li></ul>	No fiscal impact	4/21/2017	1/1/2018
West Virginia	SB 214	<ul style="list-style-type: none"><li>• West Virginia Constitution</li><li>• Acts of the Legislature</li><li>• Code of West Virginia</li><li>• All rules and other materials filed in the State Register</li><li>• The state administrative agency decisions made pursuant to articles four and five, chapter twenty-nine-a of this code</li></ul>	No fiscal impact	4/9/2017	7/2/2017