

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 601 Session of
2013

INTRODUCED BY SCARNATI, MARCH 8, 2013

REFERRED TO STATE GOVERNMENT, MARCH 8, 2013

AN ACT

1 Amending Titles 44 (Law and Justice) and 45 (Legal Notices) of
2 the Pennsylvania Consolidated Statutes, modernizing
3 publication of Commonwealth legal materials; providing for
4 uniformity in electronic legal materials in the areas of
5 designation, authentication, preservation and access;
6 conferring powers and duties on various Commonwealth
7 agencies; and, in publication and effectiveness of
8 Commonwealth documents, further providing for definitions,
9 for the Joint Committee on Documents, for general
10 administration, for payment for documents, for distribution
11 of publication expenses, for effect of future legislation,
12 for publication of official codification, for deposit of
13 documents required, for processing of deposited documents,
14 for preliminary publication in Pennsylvania Bulletin, for
15 permanent supplements to Pennsylvania Code, for pricing and
16 distribution of published documents, for automatic
17 subscriptions, for required contractual arrangements, for
18 official text of published documents, for effective date of
19 documents and for presumptions created.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. The heading of Part I of Title 44 of the
23 Pennsylvania Consolidated Statutes is amended to read:

24 PART I

25 PRELIMINARY PROVISIONS

26 [(RESERVED)]

27 Section 2. Part I of Title 44 is amended by adding a chapter

1 to read:

2 CHAPTER 7

3 UNIFORM ELECTRONIC LEGAL MATERIAL ACT

4 Sec.

5 701. Short title of chapter.

6 702. Definitions.

7 703. Applicability.

8 704. Legal material in official electronic record.

9 705. Authentication of official electronic record.

10 706. Effect of authentication.

11 707. Preservation and security of legal material in official
12 electronic record.

13 708. Public access to legal material in official electronic
14 record.

15 709. Standards.

16 710. Uniformity of application and construction.

17 711. Relation to Electronic Signatures in Global and National
18 Commerce Act.

19 § 701. Short title of chapter.

20 This chapter shall be known and may be cited as the Uniform
21 Electronic Legal Material Act.

22 § 702. Definitions.

23 The following words and phrases when used in this chapter
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Bureau." The Legislative Reference Bureau.

27 "Electronic." Relating to technology having electrical,
28 digital, magnetic, wireless, optical, electromagnetic or similar
29 capabilities.

30 "Legal material." Whether or not in effect, any of the

1 following:

2 (1) The Constitution of the Commonwealth of
3 Pennsylvania.

4 (2) The Laws of Pennsylvania under 1 Pa.C.S. § 1103
5 (relating to preparation of statutes for printing).

6 (3) The Pennsylvania Code.

7 (4) A Commonwealth agency regulation that has or had the
8 effect of law.

9 (5) (Reserved).

10 (6) Reported decisions of:

11 (i) the Supreme Court;

12 (ii) Superior Court;

13 (iii) Commonwealth Court; or

14 (iv) a court of common pleas.

15 (7) Rules of court.

16 "Official publisher." As follows:

17 (1) For the Constitution of the Commonwealth of
18 Pennsylvania, the bureau.

19 (2) For the Laws of Pennsylvania under 1 Pa.C.S. § 1105
20 (relating to editing statutes for printing), the bureau.

21 (3) For the Pennsylvania Code, the bureau.

22 (4) For a regulation published in the Pennsylvania Code,
23 the bureau.

24 (5) (Reserved).

25 (6) (Reserved).

26 (7) For a State court decision included under paragraph
27 (6) of the definition of "legal material," the prothonotary
28 of the applicable court.

29 (8) For rules of court, the Administrative Office of
30 Pennsylvania Courts.

1 (9) (Reserved).

2 "Publish." To display, present or release to the public, or
3 cause to be displayed, presented or released to the public, by
4 the official publisher.

5 "Record." Information that is inscribed on a tangible medium
6 or that is stored in an electronic or other medium and is
7 retrievable in perceivable form.

8 "State." A state of the United States, the District of
9 Columbia, Puerto Rico, the Virgin Islands or any territory or
10 insular possession subject to the jurisdiction of the United
11 States.

12 § 703. Applicability.

13 This chapter applies to all legal material in an electronic
14 record that is designated as official under section 704
15 (relating to legal material in official electronic record).

16 § 704. Legal material in official electronic record.

17 (a) Exclusive electronic publication.--If an official
18 publisher publishes legal material only in an electronic record,
19 the publisher shall:

20 (1) designate the electronic record as official; and

21 (2) comply with sections 705 (relating to authentication
22 of official electronic record), 707 (relating to preservation
23 and security of legal material in official electronic record)
24 and 708 (relating to public access to legal material in
25 official electronic record).

26 (b) Multiple publication.--An official publisher that
27 publishes legal material in an electronic record and also
28 publishes the material in a record other than an electronic
29 record may designate the electronic record as official if the
30 publisher complies with sections 705, 707 and 708.

1 § 705. Authentication of official electronic record.

2 An official publisher of legal material in an electronic
3 record that is designated as official under section 704
4 (relating to legal material in official electronic record) shall
5 authenticate the record. To authenticate an electronic record,
6 the publisher must provide a method for a user to determine that
7 the record received by the user from the publisher is unaltered
8 from the official record published by the publisher.

9 § 706. Effect of authentication.

10 (a) Pennsylvania.--Legal material in an electronic record
11 that is authenticated under section 705 (relating to
12 authentication of official electronic record) is presumed to be
13 an accurate copy of the legal material.

14 (b) Other states.--If another state has adopted a law
15 substantially similar to this chapter, legal material in an
16 electronic record that is designated as official and
17 authenticated by the official publisher in that state is
18 presumed to be an accurate copy of the legal material.

19 (c) Contest.--A party contesting the authentication of legal
20 material in an electronic record authenticated under section 705
21 has the burden of proving by a preponderance of the evidence
22 that the record is not authentic.

23 § 707. Preservation and security of legal material in official
24 electronic record.

25 (a) Duty.--An official publisher of legal material in an
26 electronic record that is or was designated as official under
27 section 704 (relating to legal material in official electronic
28 record) shall provide for the preservation and security of the
29 record in an electronic form or a form that is not electronic.

30 (b) Requirements.--If legal material is preserved under

1 subsection (a) in an electronic record, the official publisher
2 shall:

3 (1) ensure the integrity of the record;

4 (2) provide for backup and disaster recovery of the
5 record; and

6 (3) ensure the continuing usability of the material.

7 § 708. Public access to legal material in official electronic
8 record.

9 An official publisher of legal material in an electronic
10 record that is required to be preserved under section 707
11 (relating to preservation and security of legal material in
12 official electronic record) shall ensure that the material is
13 reasonably available for use by the public on a permanent basis.

14 § 709. Standards.

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

17 (1) standards and practices of other jurisdictions;

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

22 (3) the needs of users of legal material in an
23 electronic record;

24 (4) the views of governmental officials and entities and
25 other interested persons; and

26 (5) to the extent practicable, methods and technologies
27 for the authentication of, preservation and security of and
28 public access to, legal material which are compatible with
29 the methods and technologies used by other official
30 publishers in this Commonwealth and in other states that have

1 adopted a law substantially similar to this chapter.

2 § 710. Uniformity of application and construction.

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

6 § 711. Relation to Electronic Signatures in Global and National
7 Commerce Act.

8 To the extent permitted by section 102 of the Electronic
9 Signatures in Global and National Commerce Act (Public Law 106-
10 229, 15 U.S.C. § 7002), this chapter may supersede provisions of
11 that act.

12 Section 3. Section 501 of Title 45 is amended by adding
13 definitions to read:

14 § 501. Definitions.

15 Subject to additional definitions contained in subsequent
16 provisions of this part which are applicable to specific
17 provisions of this part, the following words and phrases when
18 used in this part shall have, unless the context clearly
19 indicates otherwise, the meanings given to them in this section:

20 * * *

21 "Authenticate." To attest to the genuine nature. The term
22 includes providing a method for a user to determine that an
23 electronic record is unaltered.

24 * * *

25 "Electronic." Relating to technology having electrical,
26 digital, magnetic, wireless, optical, electromagnetic or similar
27 capabilities.

28 * * *

29 "Publish." To present to the public in any medium.

30 "Record." Information that is inscribed on a tangible medium

1 or that is stored in an electronic or other medium and is
2 retrievable in perceivable form.

3 * * *

4 Section 4. Sections 502(a), 503, 504, 505(a), 508, 721,
5 722(b), (c) and (d), 723, 724(a) and (b), 726(a), 730
6 introductory paragraph (2) and (3), 731, 732(a), (b) and (d),
7 901(b), 903 and 905 of Title 45 are amended to read:

8 § 502. Joint Committee on Documents.

9 (a) Establishment.--The Joint Committee on Documents shall
10 consist of [five] nine governmental members and two public
11 members. The governmental members shall be the General Counsel,
12 the Attorney General, the Director of the Legislative Reference
13 Bureau, the Director of the Pennsylvania Code, the President pro
14 tempore of the Senate, the Minority Leader of the Senate, the
15 Speaker of the House of Representatives, the Minority Leader of
16 the House of Representatives and the Secretary of General
17 Services, or persons severally designated in writing by them.
18 The public members shall be appointed by the Governor from among
19 attorneys at law or other members of the public who represent
20 the class who may be expected to refer to the documents
21 published pursuant to this part. For the purposes of the act of
22 April 9, 1929 (P.L.177, No.175), known as "The Administrative
23 Code of 1929" and its supplements the joint committee shall be a
24 departmental administrative board in the Department of General
25 Services.

26 * * *

27 § 503. General administration of part.

28 Subject to the provisions of section 732 (relating to
29 required contractual arrangements), the manner in which the
30 code, the permanent supplements thereto, and the bulletin, shall

1 be [printed, reprinted, compiled, indexed, bound and
2 distributed] published, and all other matters with respect
3 thereto not otherwise provided for in this part shall be
4 prescribed by regulations promulgated or orders adopted by the
5 joint committee. The joint committee shall administer this part
6 and Subchapter A of Chapter 3 of Title 2 (relating to
7 regulations of Commonwealth agencies) with a view toward
8 encouraging the widest possible dissemination of documents among
9 the persons affected thereby which is consistent with the due
10 administration of public affairs.

11 [§ 504. Payment for documents.

12 Payments for documents published by authority of this part
13 shall be made to the Department of General Services, which shall
14 pay the same into the State Treasury through the Department of
15 Revenue to the credit of the appropriations of the bureau and
16 the department in such proportions as the joint committee shall
17 specify.]

18 § 505. Distribution of publication expenses.

19 (a) General rule.--In order to reimburse the Legislative
20 Reference Bureau for the cost of administering this part and in
21 order to reimburse the Department of General Services for the
22 expenses of the joint committee and for the costs incurred in
23 [printing and distributing the publications provided for in]
24 publication under Subchapter B of Chapter 7 (relating to
25 publication of documents) which are neither recovered by the
26 sale of such publications to an agency under section 729
27 (relating to publication of individual documents) [and section
28 731 (relating to automatic subscriptions) or to the public under
29 section 504 (relating to payment for documents)] nor paid by
30 appropriations made directly to the bureau or the department for

1 the costs and expenses of such [administration, printing and
2 distribution] publication, every government unit issuing,
3 prescribing or promulgating documents published by authority of
4 this part shall be billed at least quarterly by the bureau and
5 the Department of General Services, upon a cost basis, at such
6 amounts as the joint committee with the approval of the
7 Executive Board shall determine, for such costs and expenses.
8 Amounts payable under this section for reimbursing the bureau
9 and the department for the costs [of administration and printing
10 and distribution] shall be credited to the appropriations of the
11 bureau and the department respectively, and shall be paid out of
12 the moneys in the General Fund, special operating funds, or
13 other funds of the State Treasury currently appropriated to each
14 such issuing, prescribing or promulgating government unit.

15 * * *

16 § 508. Effect of future legislation.

17 No subsequent statute shall be held to supersede or modify
18 the [provisions of] act of July 31, 1968 (P.L.769, No.240),
19 referred to as the Commonwealth Documents Law, or this part
20 except to the extent that such statute shall do so expressly.

21 § 721. Publication of official codification.

22 It shall be the duty of the Legislative Reference Bureau,
23 subject to the policy supervision and direction of the joint
24 committee, to arrange through the Department of General Services
25 for the prompt [printing and distribution] publication of the
26 code, the permanent supplements thereto and the bulletin, in the
27 manner and at the times required in accordance with this
28 subchapter and regulations promulgated hereunder.

29 § 722. Deposit of documents required.

30 * * *

1 (b) Disposition of copies.--Upon such filing one copy shall
2 be immediately available for public inspection and copying under
3 regulations promulgated by the joint committee, which copy shall
4 be retained by the bureau for one year after the publication
5 thereof, whereupon it shall be forwarded to the Pennsylvania
6 Historical and Museum Commission for preservation in the
7 Commonwealth archives. The other copy shall be [transmitted
8 immediately to the Department of General Services, or to a
9 printer designated by it,] processed for publication as provided
10 in this subchapter.

11 (c) Effect of failure to file.--Every agency, the
12 Administrative Office of Pennsylvania Courts and the clerk or
13 prothonotary of the Supreme Court shall cause to be transmitted
14 to the bureau for deposit as herein provided two certified
15 duplicate original copies of all documents issued, prescribed or
16 promulgated by the agency or the unified judicial system which
17 are required by or pursuant to this subchapter or any other
18 provision of law to be deposited or published, or both, under
19 this part; in default of which any such document[, except a
20 document rendered entirely void by such default pursuant to 2
21 Pa.C.S. § 308 (relating to unfiled administrative regulations
22 invalid) or any similar provision of law,] shall be effective
23 only to the extent provided in section 903 of this title
24 (relating to effective date of documents). If an agency and the
25 bureau disagree concerning the form or format of a document
26 required or authorized to be deposited with the bureau, the
27 agency may refer the matter to the joint committee, which shall
28 resolve the conflict pursuant to the standards and procedures
29 provided by section [723 of this title] 723(a) (relating to
30 processing of deposited documents).

1 [(d) Home rule charter documents and optional plans of
2 government.--

3 (1) The clerk of the city council of any city of the
4 first class shall cause a certified copy of the full text of
5 any home rule charter or amendment or repeal as approved by
6 the electors to be filed in the Department of Community
7 Affairs (and in the office of the secretary of the board of
8 public education, in the case of a charter provision
9 affecting the school district of the city) immediately
10 following the final certification of the return of the votes
11 cast on the question of the adoption, amendment or repeal of
12 a home rule charter.

13 (2) In the case of any other political subdivision
14 authorized to adopt a home rule charter or optional plan of
15 government, the county board of elections shall file the
16 documents relating thereto in the Department of Community
17 Affairs and in other public offices as provided by the act of
18 April 13, 1972 (P.L.184, No.62), known as the "Home Rule
19 Charter and Optional Plans Law."

20 (3) The Department of Community Affairs shall, within
21 ten days after receipt of any home rule charter or amendment
22 or repeal or any optional plan of government as approved by
23 the electors of any part of this Commonwealth, certify two
24 duplicate original copies of the full text thereof and
25 deposit such certified copies with the Legislative Reference
26 Bureau.]

27 § 723. Processing of deposited documents.

28 (a) Review of deposited text.--The bureau, or a qualified
29 contractor selected by the bureau with the approval of the joint
30 committee, may review any or all documents deposited with the

1 bureau before they are released for publication, and may prepare
2 in active cooperation with an agency a revised text of any
3 document relating to the administrative regulations of the
4 agency which conforms fully to the format established for the
5 code, which eliminates all obsolete, unnecessary or unauthorized
6 material, which has been prepared in such a manner as to lend to
7 the published code as a whole uniformity of style and clarity of
8 expression, and which does not effect any change in the
9 substance of the deposited text of such regulations. [Whenever
10 any such revised text with respect to each agency is prepared,
11 two duplicate original copies thereof, with proof of service of
12 a third copy thereof upon the executive officer, chairman or
13 secretary of such agency, shall be filed by the bureau with the
14 joint committee, and shall immediately be made available by the
15 bureau for public inspection and copying.

16 (b) Status of revised text.--Such revised text shall become
17 the agency text of such regulations for the purposes of this
18 part ten days after such filing unless, within such ten-day
19 period, the agency shall file with the joint committee written
20 objections to such revised text. In that event, the joint
21 committee shall consult with the agency, shall make such
22 alterations, if any, in such revised text as may be necessary in
23 order to retain the substance of the deposited text of such
24 regulations in a manner consistent with the standards of the
25 code, and shall by order prescribe the text of such regulations
26 which shall become the agency text thereof for the purposes of
27 this part.]

28 § 724. Preliminary publication in Pennsylvania Bulletin.

29 (a) General rule.--Except as provided in subsection (c), all
30 documents required or authorized by section 702 (relating to

1 contents of Pennsylvania Code) to be codified in the code, and
2 all other documents required or authorized by section 725
3 (relating to additional contents of Pennsylvania Bulletin) to be
4 published, shall be published in the first available issue of an
5 official gazette, known as the "Pennsylvania Bulletin,"
6 [printed] published after the filing of such documents by the
7 Legislative Reference Bureau.

8 (b) Frequency and format of bulletin.--The bulletin shall be
9 published at least once each week and shall contain all
10 previously unpublished documents duly filed prior to the closing
11 date and hour of the issue, which date and hour shall appear
12 upon the first page of such issue. All issues of the bulletin
13 shall contain a table of contents. A cumulative index shall be
14 published at least once each three months. The joint committee
15 may provide for more frequent publication of the bulletin and
16 indices as circumstances may require. There shall be [printed]
17 published with each document a notation of the date of filing
18 thereof.

19 * * *

20 § 726. Permanent supplements to Pennsylvania Code.

21 (a) General rule.--At least once each year all documents
22 required or authorized pursuant to section 702 (relating to
23 contents of Pennsylvania Code) to be codified in the code which
24 have been filed with the bureau pursuant to this part shall be
25 permanently integrated into the code by [the] publication [of
26 looseleaf pages or pocket parts for or other appropriate
27 permanent supplements to or reissues of the code as published]
28 pursuant to section 721 (relating to publication of official
29 codification). The index to the code shall be similarly
30 supplemented [or reissued].

1 * * *

2 § 730. Pricing and distribution of published documents.

3 The prices to be charged for individual copies of and
4 subscriptions to the code, the permanent supplements thereto and
5 the bulletin, for reprints and bound volumes thereof and for
6 pamphlet regulations, statements of policy, general rules and
7 rules of court, which prices may be fixed without reference to
8 the restrictions placed upon and fixed for the sale of other
9 publications of the Commonwealth, and the number of copies which
10 shall be distributed free for official use, shall be set by
11 regulations promulgated by the joint committee. Without limiting
12 the generality of the foregoing, such regulations may provide
13 for volume discounts available to established law book
14 publishers who agree to incorporate fully the code, the
15 permanent supplements thereto and the bulletin into their
16 general scheme of promotion and distribution and may provide for
17 the free reciprocal exchange of publications between this
18 Commonwealth and other states and foreign jurisdictions and for
19 the free distribution upon request of [at least one copy of]
20 every publication printed under authority of this part to each:

21 * * *

22 [(2) Member of the General Assembly at the post office
23 address specified by him.

24 (3) Law school library which pursuant to rules of court
25 receives copies of reproduced briefs and records filed in the
26 Supreme Court of Pennsylvania.

27 § 731. Automatic subscriptions.

28 Except as otherwise provided by regulations promulgated by
29 the joint committee, whenever the Pennsylvania Public Utility
30 Commission, the Department of Banking, the Insurance Department

1 or any other agency assesses, pursuant to authority expressly
2 conferred by law, the cost or any substantial part thereof of
3 the regulation or supervision of any class of persons directly
4 against such class of persons, such agency shall purchase from
5 the Department of General Services in the name of each such
6 person:

7 (1) a subscription to the bulletin; and

8 (2) a subscription to the title or part thereof of the
9 code and the permanent supplements thereto relating to the
10 regulation or supervision of such class of persons;

11 and shall include in its assessment bills issued to each such
12 class of persons the estimated cost (notwithstanding any other
13 provision of law requiring such assessment to be retrospective)
14 and the net unrecovered cost attributable to any preceding
15 period, of complying with this section.]

16 § 732. Required contractual arrangements.

17 (a) General rule.--[Except as otherwise provided by statute
18 finally enacted after July 1, 1969 applicable to public printing
19 and binding generally] The following shall be published by the
20 bureau or by a contractor under subsection (b):

21 (1) the code;

22 (2) the permanent supplements thereto published pursuant
23 to section 726 (relating to permanent supplements to
24 Pennsylvania Code);

25 (3) pamphlet copies of regulations, statements of
26 policy, general rules and rules of court published pursuant
27 to section 729 (relating to publication of individual
28 documents); and

29 (4) the bulletin (unless the application of this section
30 to the bulletin is found to be impracticable by the joint

committee after notice in the bulletin and opportunity for hearing) published pursuant to section 724 (relating to preliminary publication in Pennsylvania Bulletin) and section 725 (relating to additional contents of Pennsylvania Bulletin) [;

shall be printed or reproduced under contract with a contractor unaffiliated with the Commonwealth].

(b) [Competitive bidding.--Every such contract] Selection of contractor.--A contract under subsection (a) shall be given[, after] in one of the following manners:

(1) After reasonable public invitation for proposals, to the lowest responsible bidder below such maximum price and under such regulations as shall be prescribed by the joint committee.

(2) After investigation and public hearing by the joint committee, to a sole source contractor selected by the joint committee.

* * *

[(d) Definitions.--For the purposes of this section the terms "printed" or "reproduced" shall not include mimeographed, multilithed or reproduced by any similar in-house process or produced by computer.]

§ 901. Official text of published documents.

* * *

[(b) Home rule charter documents and optional plans of government.--Notwithstanding subsection (a), the text of any home rule charter amendment or repeal or any optional plan of government, as published as provided in Subchapter B of Chapter 7, shall from the date of such publication be prima facie evidence of the text of the home rule charter, amendment or

1 repeal, or of the plan of government approved by the electors.]

2 § 903. Effective date of documents.

3 No otherwise valid document which is required by or pursuant
4 to this part or by any other provision of law to be published
5 under this part, shall be valid as against any person who has
6 not had actual knowledge thereof until such publication has been
7 effected. Publication shall be deemed to have been effected upon
8 the deposit of the bulletin or the permanent supplement to the
9 code containing such document in the United States mail for
10 distribution. The issue date of the bulletin and of the
11 permanent supplement to the code shall be the day of such
12 deposit, and, in the case of the bulletin, such date shall be
13 [printed] indicated prominently upon the first page of each
14 issue thereof.

15 § 905. Presumptions created.

16 The publication in the code, the permanent supplements
17 thereto, or the bulletin of any document shall create a
18 rebuttable presumption:

19 (1) That it was duly issued, prescribed or promulgated.

20 [(2) That it was approved as to legality, if so required
21 by 2 Pa.C.S. § 305 (relating to approval as to legality) by
22 the Department of Justice.]

23 (3) That there has been compliance with all
24 [requirements of Subchapter A of Chapter 3 of Title 2
25 (relating to regulations of Commonwealth agencies) and of
26 this part and the regulations promulgated thereunder] of the
27 following applicable to such document [have been complied
28 with]:

29 (i) Section 612 of the act of April 9, 1929

30 (P.L.177, No.175), known as The Administrative Code of

1 1929.

2 (ii) The act of July 31, 1968 (P.L.769, No.240),
3 referred to as the Commonwealth Documents Law.

4 (iii) Sections 204(b) and 301(10) of the act of
5 October 15, 1980 (P.L.950, No.164), known as the
6 Commonwealth Attorneys Act.

7 (iv) The act of June 25, 1982 (P.L.633, No.181),
8 known as the Regulatory Review Act.

9 (v) This part.

10 (vi) 1 Pa. Code Pt. I (relating to Joint Committee
11 on Documents).

12 Section 5. This act shall take effect in 60 days.