

Written Testimony to the Texas House of Representatives Judiciary and Civil Jurisprudence Committee April 28, 2014

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Interim Charge 3:

Review the methods used by state agencies and courts to prepare and publish electronic legal materials. Examine the processes used to ensure reliability and permanence of these materials and strategies used to harmonize those processes with national standards, including possible adoption of the Uniform Electronic Legal Materials Act.

How do Courts in Texas Authenticate Records?

There is no uniform system of authenticating court and legal documents within the Texas Judiciary. Each court follows its own guidelines with a majority retaining a signed original copy of orders and opinions to be designated as the official version, while still posting a copy online.

Supreme Court

- Stores a signed blue back original paper copy of opinions that is kept in the case file.
- Stores signed original paper copy of administrative orders.
- Clerk keeps minute books which contains all paper copies of orders and opinions.
 - No watermark or barcodes used.

Court of Criminal Appeals

- Stores signed original paper copy of opinions and orders.
 - No watermark or barcodes used.

Appellate Courts

- 1st, 2nd, 5th, 6th, 7th, 8th, 9th, 11th and the 14th Courts of Appeals keep the signed original copy of opinions for permanent retention. Several of the courts also keep an electronic copy for permanent retention.
- 3rd, 4th and 13th Courts of Appeals keep a scanned electronic copy of the signed original for permanent retention.
- 12th Court of Appeals designates its electronic version as the official version, but still keeps the original paper copy on file.
- 10th Court of appeals keeps the signed original paper copy and uses a watermark.

Trial Courts

- A small number of District and County clerks designate the electronic copy as the official version of the document.

Office of Court Administration

- OCA does not watermark or barcode records. Forms and documents posted on OCA's web site TXCourts.gov are considered the official version of the records.

How have other states treated the Judicial Branch in enacting the UELMA?

As of March 2014, 9 states have enacted the UELMA – California, Colorado, Connecticut, Hawaii, Idaho, Minnesota, Nevada, North Dakota and Oregon. Three of those states included parts of the judiciary in the definition of legal materials covered under the act – Connecticut, Hawaii and Idaho.

- **Connecticut** – defines legal materials to include reported decisions by the State Supreme Court, Appellate Court and Superior Court.
 - Commission on Official Legal Publications designated as publisher of materials.
- **Hawaii** – defines legal materials to include reported decisions by the State Supreme Court, Intermediary Appellate Court or State court rules.
 - Supreme Court designated as publisher of materials.
- **Idaho** – defines legal materials to include reported decisions by the State Supreme Court, Intermediate Appellate Court or State court rules.
 - Clerk of the Supreme Court and Idaho Code Commission designated as publisher of materials.

Alternatives to the UELMA

Arkansas has not adopted the UELMA; however in 2009, the Supreme Court of Arkansas became the first state in the country to designate the electronic version of its appellate decisions posted on the Arkansas Judiciary Website as the official report of its appellate rulings.

Printing of the Arkansas Reports and Arkansas Appellate reports has ceased. The court uses an electronic database that contains the official reports of all Arkansas Appellate decisions.