

**OPPOSITION TO THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT**

19 October 2011

**Background**

The Uniform Law Commission (ULC) adopted the Uniform Electronic Legal Material Act (*the* Act) at its July 2011 annual conference to provide a uniform Act that helps govern the trustworthiness and authenticity of the information posted on state Internet sites by states. The ULC developed the Act to assure that all state legal Internet sites conform to uniform standards when posting legal material. The posted legal material--whose categories may be defined by each state--must be current and authentic, archived, accessible, posted indefinitely, and have all electronic posted versions of laws available, no matter how many times the versions change. The Act assumes states will adhere to the law correctly, and that the standards are adequate. It shifts the burden to disprove information that is questionable on the opposing party. The uniform law moves next to the American Bar Association for endorsement. The ABA House of Delegates, formed primarily by state and local bar associations, will take action in February.

**The ABA should not endorse this Act**

* The Act fails to make uniform the very criteria that make uniformity critical. That is, it leaves to each state to make key determinations on important elements that would make the legal material trustworthy.
* The Act is silent on how states can prove the legal material is current
* The Act is silent on how states can prove the authenticity of the legal material
* The Act provides no criteria or procedures on archiving legal material
* The Act does not contain standards for states to make the information accessible
* The Act does not have guidelines on how states should distinguish between previous versions and current versions of legal material
* The Act unfairly shifts the burden to consumers to prove by preponderance of the evidence that the legal material is not authentic when the Act itself is without guidelines
  + No established time and date that states must follow to update information
  + No assurance that print copies will be available to the public