
SENATE BILL 6069

State of Washington 62nd Legislature 2012 Regular Session

By Senators Litzow, Kline, Harper, and Frockt

Read first time 01/11/12. Referred to Committee on Judiciary.

1 AN ACT Relating to electronic transactions; amending RCW 9.38.060,
2 26.52.030, 41.05.014, 43.07.120, 58.09.050, 58.09.110, and 74.08.055;
3 adding a new chapter to Title 19 RCW; repealing RCW 19.34.010,
4 19.34.020, 19.34.030, 19.34.040, 19.34.100, 19.34.101, 19.34.110,
5 19.34.111, 19.34.120, 19.34.130, 19.34.200, 19.34.210, 19.34.220,
6 19.34.230, 19.34.231, 19.34.240, 19.34.250, 19.34.260, 19.34.270,
7 19.34.280, 19.34.290, 19.34.291, 19.34.300, 19.34.305, 19.34.310,
8 19.34.311, 19.34.320, 19.34.321, 19.34.330, 19.34.340, 19.34.350,
9 19.34.351, 19.34.360, 19.34.400, 19.34.410, 19.34.420, 19.34.500,
10 19.34.501, 19.34.502, 19.34.503, 19.34.900, 19.34.901, 19.34.902,
11 19.34.903, and 43.19.794; and providing an effective date.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

13 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and
14 cited as the uniform electronic transactions act.

15 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
16 section apply throughout this chapter unless the context clearly
17 requires otherwise.

1 (1) "Agreement" means the bargain of the parties in fact, as found
2 in their language or inferred from other circumstances and from rules,
3 regulations, and procedures given the effect of agreements under laws
4 otherwise applicable to a particular transaction.

5 (2) "Automated transaction" means a transaction conducted or
6 performed, in whole or in part, by electronic means or electronic
7 records, in which the acts or records of one or both parties are not
8 reviewed by an individual in the ordinary course in forming a contract,
9 performing under an existing contract, or fulfilling an obligation
10 required by the transaction.

11 (3) "Computer program" means a set of statements or instructions to
12 be used directly or indirectly in an information processing system in
13 order to bring about a certain result.

14 (4) "Contract" means the total legal obligation resulting from the
15 parties' agreement as affected by this chapter and other applicable
16 law.

17 (5) "Electronic" means relating to technology having electrical,
18 digital, magnetic, wireless, optical, electromagnetic, or similar
19 capabilities.

20 (6) "Electronic agent" means a computer program or an electronic or
21 other automated means used independently to initiate an action or
22 respond to electronic records or performances in whole or in part,
23 without review or action by an individual.

24 (7) "Electronic record" means a record created, generated, sent,
25 communicated, received, or stored by electronic means.

26 (8) "Electronic signature" means an electronic sound, symbol, or
27 process attached to or logically associated with a record and executed
28 or adopted by a person with the intent to sign the record.

29 (9) "Governmental agency" means an executive, legislative, or
30 judicial agency, department, board, commission, authority, institution,
31 or instrumentality of the federal government or of a state or of a
32 county, municipality, or other political subdivision of a state.

33 (10) "Information" means data, text, images, sounds, codes,
34 computer programs, software, databases, or the like.

35 (11) "Information processing system" means an electronic system for
36 creating, generating, sending, receiving, storing, displaying, or
37 processing information.

1 (12) "Person" means an individual, corporation, business trust,
2 estate, trust, partnership, limited liability company, association,
3 joint venture, governmental agency, public corporation, or any other
4 legal or commercial entity.

5 (13) "Record" means information that is inscribed on a tangible
6 medium or that is stored in an electronic or other medium and is
7 retrievable in perceivable form.

8 (14) "Security procedure" means a procedure employed for the
9 purpose of verifying that an electronic signature, record, or
10 performance is that of a specific person or for detecting changes or
11 errors in the information in an electronic record. The term includes
12 a procedure that requires the use of algorithms or other codes,
13 identifying words or numbers, encryption, or callback or other
14 acknowledgment procedures.

15 (15) "State" means a state of the United States, the District of
16 Columbia, Puerto Rico, the United States Virgin Islands, or any
17 territory or insular possession subject to the jurisdiction of the
18 United States. The term includes an Indian tribe or band, or Alaskan
19 native village, which is recognized by federal law or formally
20 acknowledged by a state.

21 (16) "Transaction" means an action or set of actions occurring
22 between two or more persons relating to the conduct of business,
23 commercial, or governmental affairs.

24 NEW SECTION. **Sec. 3.** SCOPE. (1) Except as otherwise provided in
25 subsection (2) of this section, this chapter applies to electronic
26 records and electronic signatures relating to a transaction.

27 (2) This chapter does not apply to a transaction to the extent it
28 is governed by:

29 (a) A law governing the creation and execution of wills, codicils,
30 or testamentary trusts;

31 (b) Title 62A RCW other than RCW 62A.1-107 and 62A.1-206 and
32 chapters 62A.2 and 62A.2A RCW;

33 (c) The uniform computer information transactions act; and

34 (d) Other laws, if any.

35 (3) This chapter applies to an electronic record or electronic
36 signature otherwise excluded from the application of this chapter under

1 subsection (2) of this section to the extent it is governed by a law
2 other than those specified in subsection (2) of this section.

3 (4) A transaction subject to this chapter is also subject to other
4 applicable substantive law.

5 NEW SECTION. **Sec. 4.** PROSPECTIVE APPLICATION. This chapter
6 applies to any electronic record or electronic signature created,
7 generated, sent, communicated, received, or stored on or after the
8 effective date of this act.

9 NEW SECTION. **Sec. 5.** USE OF ELECTRONIC RECORDS AND ELECTRONIC
10 SIGNATURES--VARIATION BY AGREEMENT. (1) This chapter does not require
11 a record or signature to be created, generated, sent, communicated,
12 received, stored, or otherwise processed or used by electronic means or
13 in electronic form.

14 (2) This chapter applies only to transactions between parties each
15 of which has agreed to conduct transactions by electronic means.
16 Whether the parties agree to conduct a transaction by electronic means
17 is determined from the context and surrounding circumstances, including
18 the parties' conduct.

19 (3) A party that agrees to conduct a transaction by electronic
20 means may refuse to conduct other transactions by electronic means.
21 The right granted by this subsection may not be waived by agreement.

22 (4) Except as otherwise provided in this chapter, the effect of any
23 of its provisions may be varied by agreement. The presence in certain
24 provisions of this chapter of the words "unless otherwise agreed," or
25 words of similar import, does not imply that the effect of other
26 provisions may not be varied by agreement.

27 (5) Whether an electronic record or electronic signature has legal
28 consequences is determined by this chapter and other applicable law.

29 NEW SECTION. **Sec. 6.** CONSTRUCTION AND APPLICATION. This chapter
30 must be construed and applied:

31 (1) To facilitate electronic transactions consistent with other
32 applicable law;

33 (2) To be consistent with reasonable practices concerning
34 electronic transactions and with the continued expansion of those
35 practices; and

1 (3) To effectuate its general purpose to make uniform the law with
2 respect to the subject of this chapter among states enacting it.

3 NEW SECTION. **Sec. 7.** LEGAL RECOGNITION OF ELECTRONIC RECORDS,
4 ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS. (1) A record or
5 signature may not be denied legal effect or enforceability solely
6 because it is in electronic form.

7 (2) A contract may not be denied legal effect or enforceability
8 solely because an electronic record was used in its formation.

9 (3) If a law requires a record to be in writing, an electronic
10 record satisfies the law.

11 (4) If a law requires a signature, an electronic signature
12 satisfies the law.

13 NEW SECTION. **Sec. 8.** PROVISION OF INFORMATION IN WRITING--
14 PRESENTATION OF RECORDS. (1) If parties have agreed to conduct a
15 transaction by electronic means and a law requires a person to provide,
16 send, or deliver information in writing to another person, the
17 requirement is satisfied if the information is provided, sent, or
18 delivered, as the case may be, in an electronic record capable of
19 retention by the recipient at the time of receipt. An electronic
20 record is not capable of retention by the recipient if the sender or
21 its information processing system inhibits the ability of the recipient
22 to print or store the electronic record.

23 (2) If a law other than this chapter requires a record (a) to be
24 posted or displayed in a certain manner, (b) to be sent, communicated,
25 or transmitted by a specified method, or (c) to contain information
26 that is formatted in a certain manner, the following rules apply:

27 (i) The record must be posted or displayed in the manner specified
28 in the other law.

29 (ii) Except as otherwise provided in subsection (4)(b) of this
30 section, the record must be sent, communicated, or transmitted by the
31 method specified in the other law.

32 (iii) The record must contain the information formatted in the
33 manner specified in the other law.

34 (3) If a sender inhibits the ability of a recipient to store or
35 print an electronic record, the electronic record is not enforceable
36 against the recipient.

1 (4) The requirements of this section may not be varied by
2 agreement, but:

3 (a) To the extent a law other than this chapter requires
4 information to be provided, sent, or delivered in writing but permits
5 that requirement to be varied by agreement, the requirement under
6 subsection (1) of this section that the information be in the form of
7 an electronic record capable of retention may also be varied by
8 agreement; and

9 (b) A requirement under a law other than this chapter to send,
10 communicate, or transmit a record by regular United States mail may be
11 varied by agreement to the extent permitted by the other law.

12 NEW SECTION. Sec. 9. ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD
13 AND ELECTRONIC SIGNATURE. (1) An electronic record or electronic
14 signature is attributable to a person if it was the act of the person.
15 The act of the person may be shown in any manner, including a showing
16 of the efficacy of any security procedure applied to determine the
17 person to which the electronic record or electronic signature was
18 attributable.

19 (2) The effect of an electronic record or electronic signature
20 attributed to a person under subsection (1) of this section is
21 determined from the context and surrounding circumstances at the time
22 of its creation, execution, or adoption, including the parties'
23 agreement, if any, and otherwise as provided by law.

24 NEW SECTION. Sec. 10. EFFECT OF CHANGE OR ERROR. If a change or
25 error in an electronic record occurs in a transmission between parties
26 to a transaction, the following rules apply:

27 (1) If the parties have agreed to use a security procedure to
28 detect changes or errors and one party has conformed to the procedure,
29 but the other party has not, and the nonconforming party would have
30 detected the change or error had that party also conformed, the
31 conforming party may avoid the effect of the changed or erroneous
32 electronic record.

33 (2) In an automated transaction involving an individual, the
34 individual may avoid the effect of an electronic record that resulted
35 from an error made by the individual in dealing with the electronic

1 agent of another person if the electronic agent did not provide an
2 opportunity for the prevention or correction of the error and, at the
3 time the individual learns of the error, the individual:

4 (a) Promptly notifies the other person of the error and that the
5 individual did not intend to be bound by the electronic record received
6 by the other person;

7 (b) Takes reasonable steps, including steps that conform to the
8 other person's reasonable instructions, to return to the other person
9 or, if instructed by the other person, to destroy the consideration
10 received, if any, as a result of the erroneous electronic record; and

11 (c) Has not used or received any benefit or value from the
12 consideration, if any, received from the other person.

13 (3) If neither subsection (1) nor subsection (2) of this section
14 applies, the change or error has the effect provided by other law,
15 including the law of mistake, and the parties' contract, if any.

16 (4) Subsections (2) and (3) of this section may not be varied by
17 agreement.

18 NEW SECTION. **Sec. 11.** NOTARIZATION AND ACKNOWLEDGMENT. If a law
19 requires a signature or record to be notarized, acknowledged, verified,
20 or made under oath, the requirement is satisfied if the electronic
21 signature of the person authorized to perform those acts, together with
22 all other information required to be included by other applicable law,
23 is attached to or logically associated with the signature or record.

24 NEW SECTION. **Sec. 12.** RETENTION OF ELECTRONIC RECORDS--ORIGINALS.

25 (1) If a law requires that a record be retained, the requirement is
26 satisfied by retaining an electronic record of the information in the
27 record which:

28 (a) Accurately reflects the information set forth in the record
29 after it was first generated in its final form as an electronic record
30 or otherwise; and

31 (b) Remains accessible for later reference.

32 (2) A requirement to retain a record in accordance with subsection
33 (1) of this section does not apply to any information the sole purpose
34 of which is to enable the record to be sent, communicated, or received.

35 (3) A person may satisfy subsection (1) of this section by using

1 the services of another person if the requirements of that subsection
2 are satisfied.

3 (4) If a law requires a record to be presented or retained in its
4 original form, or provides consequences if the record is not presented
5 or retained in its original form, that law is satisfied by an
6 electronic record retained in accordance with subsection (1) of this
7 section.

8 (5) If a law requires retention of a check, that requirement is
9 satisfied by retention of an electronic record of the information on
10 the front and back of the check in accordance with subsection (1) of
11 this section.

12 (6) A record retained as an electronic record in accordance with
13 subsection (1) of this section satisfies a law requiring a person to
14 retain a record for evidentiary, audit, or like purposes, unless a law
15 enacted after the effective date of this act specifically prohibits the
16 use of an electronic record for the specified purpose.

17 (7) This section does not preclude a governmental agency of this
18 state from specifying additional requirements for the retention of a
19 record subject to the agency's jurisdiction.

20 NEW SECTION. **Sec. 13.** ADMISSIBILITY IN EVIDENCE. In a
21 proceeding, evidence of a record or signature may not be excluded
22 solely because it is in electronic form.

23 NEW SECTION. **Sec. 14.** AUTOMATED TRANSACTION. In an automated
24 transaction, the following rules apply:

25 (1) A contract may be formed by the interaction of electronic
26 agents of the parties, even if no individual was aware of or reviewed
27 the electronic agents' actions or the resulting terms and agreements.

28 (2) A contract may be formed by the interaction of an electronic
29 agent and an individual, acting on the individual's own behalf or for
30 another person, including by an interaction in which the individual
31 performs actions that the individual is free to refuse to perform and
32 which the individual knows or has reason to know will cause the
33 electronic agent to complete the transaction or performance.

34 (3) The terms of the contract are determined by the substantive law
35 applicable to it.

1 NEW SECTION. **Sec. 15.** TIME AND PLACE OF SENDING AND RECEIPT. (1)

2 Unless otherwise agreed between the sender and the recipient, an
3 electronic record is sent when it:

4 (a) Is addressed properly or otherwise directed properly to an
5 information processing system that the recipient has designated or uses
6 for the purpose of receiving electronic records or information of the
7 type sent and from which the recipient is able to retrieve the
8 electronic record;

9 (b) Is in a form capable of being processed by that system; and

10 (c) Enters an information processing system outside the control of
11 the sender or of a person that sent the electronic record on behalf of
12 the sender or enters a region of the information processing system
13 designated or used by the recipient which is under the control of the
14 recipient.

15 (2) Unless otherwise agreed between a sender and the recipient, an
16 electronic record is received when:

17 (a) It enters an information processing system that the recipient
18 has designated or uses for the purpose of receiving electronic records
19 or information of the type sent and from which the recipient is able to
20 retrieve the electronic record; and

21 (b) It is in a form capable of being processed by that system.

22 (3) Subsection (2) of this section applies even if the place the
23 information processing system is located is different from the place
24 the electronic record is deemed to be received under subsection (4) of
25 this section.

26 (4) Unless otherwise expressly provided in the electronic record or
27 agreed between the sender and the recipient, an electronic record is
28 deemed to be sent from the sender's place of business and to be
29 received at the recipient's place of business. For purposes of this
30 subsection, the following rules apply:

31 (a) If the sender or recipient has more than one place of business,
32 the place of business of that person is the place having the closest
33 relationship to the underlying transaction.

34 (b) If the sender or the recipient does not have a place of
35 business, the place of business is the sender's or recipient's
36 residence, as the case may be.

37 (5) An electronic record is received under subsection (2) of this
38 section even if no individual is aware of its receipt.

1 (6) Receipt of an electronic acknowledgment from an information
2 processing system described in subsection (2) of this section
3 establishes that a record was received but, by itself, does not
4 establish that the content sent corresponds to the content received.

5 (7) If a person is aware that an electronic record purportedly sent
6 under subsection (1) of this section, or purportedly received under
7 subsection (2) of this section, was not actually sent or received, the
8 legal effect of the sending or receipt is determined by other
9 applicable law. Except to the extent permitted by the other law, the
10 requirements of this subsection may not be varied by agreement.

11 NEW SECTION. **Sec. 16.** TRANSFERABLE RECORDS. (1) In this section,
12 "transferable record" means an electronic record that:

13 (a) Would be a note under chapter 62A.3 RCW or a document under
14 chapter 62A.7 RCW if the electronic record were in writing; and

15 (b) The issuer of the electronic record expressly has agreed is a
16 transferable record.

17 (2) A person has control of a transferable record if a system
18 employed for evidencing the transfer of interests in the transferable
19 record reliably establishes that person as the person to which the
20 transferable record was issued or transferred.

21 (3) A system satisfies subsection (2) of this section, and a person
22 is deemed to have control of a transferable record, if the transferable
23 record is created, stored, and assigned in such a manner that:

24 (a) A single authoritative copy of the transferable record exists
25 which is unique, identifiable, and, except as otherwise provided in
26 (d), (e), and (f) of this subsection, unalterable;

27 (b) The authoritative copy identifies the person asserting control
28 as:

29 (i) The person to which the transferable record was issued; or

30 (ii) If the authoritative copy indicates that the transferable
31 record has been transferred, the person to which the transferable
32 record was most recently transferred;

33 (c) The authoritative copy is communicated to and maintained by the
34 person asserting control or its designated custodian;

35 (d) Copies or revisions that add or change an identified assignee
36 of the authoritative copy can be made only with the consent of the
37 person asserting control;

1 (e) Each copy of the authoritative copy and any copy of a copy is
2 readily identifiable as a copy that is not the authoritative copy; and

3 (f) Any revision of the authoritative copy is readily identifiable
4 as authorized or unauthorized.

5 (4) Except as otherwise agreed, a person having control of a
6 transferable record is the holder, as defined in RCW 62A.1-201(20), of
7 the transferable record and has the same rights and defenses as a
8 holder of an equivalent record or writing under the uniform commercial
9 code including, if the applicable statutory requirements under RCW
10 62A.3-302(a), 62A.7-501, or 62A.9A-308 are satisfied, the rights and
11 defenses of a holder in due course, a holder to which a negotiable
12 document of title has been duly negotiated, or a purchaser,
13 respectively. Delivery, possession, and endorsement are not required
14 to obtain or exercise any of the rights under this subsection.

15 (5) Except as otherwise agreed, an obligor under a transferable
16 record has the same rights and defenses as an equivalent obligor under
17 equivalent records or writings under the uniform commercial code.

18 (6) If requested by a person against which enforcement is sought,
19 the person seeking to enforce the transferable record shall provide
20 reasonable proof that the person is in control of the transferable
21 record. Proof may include access to the authoritative copy of the
22 transferable record and related business records sufficient to review
23 the terms of the transferable record and to establish the identity of
24 the person having control of the transferable record.

25 NEW SECTION. **Sec. 17.** CREATION AND RETENTION OF ELECTRONIC
26 RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES.
27 Each governmental agency of this state shall determine whether, and the
28 extent to which, a governmental agency will create and retain
29 electronic records and convert written records to electronic records.

30 NEW SECTION. **Sec. 18.** ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC
31 RECORDS BY GOVERNMENTAL AGENCIES. (1) Except as otherwise provided in
32 section 12(6) of this act, each governmental agency of this state shall
33 determine whether, and the extent to which, a governmental agency will
34 send and accept electronic records and electronic signatures to and
35 from other persons and otherwise create, generate, communicate, store,

1 process, use, and rely upon electronic records and electronic
2 signatures.

3 (2) To the extent that a governmental agency uses electronic
4 records and electronic signatures under subsection (1) of this section,
5 the governmental agency, giving due consideration to security, may
6 specify:

7 (a) The manner and format in which the electronic records must be
8 created, generated, sent, communicated, received, and stored and the
9 systems established for those purposes;

10 (b) If electronic records must be signed by electronic means, the
11 type of electronic signature required, the manner and format in which
12 the electronic signature must be affixed to the electronic record, and
13 the identity of, or criteria that must be met by, any third party used
14 by a person filing a document to facilitate the process;

15 (c) Control processes and procedures as appropriate to ensure
16 adequate preservation, disposition, integrity, security,
17 confidentiality, and auditability of electronic records; and

18 (d) Any other required attributes for electronic records which are
19 specified for corresponding nonelectronic records or reasonably
20 necessary under the circumstances.

21 (3) Except as otherwise provided in section 12(6) of this act, this
22 chapter does not require a governmental agency of this state to use or
23 permit the use of electronic records or electronic signatures.

24 NEW SECTION. **Sec. 19.** INTEROPERABILITY. The governmental agency
25 of this state which adopts standards pursuant to section 18 of this act
26 may encourage and promote consistency and interoperability with similar
27 requirements adopted by other governmental agencies of this and other
28 states and the federal government and nongovernmental persons
29 interacting with governmental agencies of this state. If appropriate,
30 those standards may specify differing levels of standards from which
31 governmental agencies of this state may choose in implementing the most
32 appropriate standard for a particular application.

33 NEW SECTION. **Sec. 20.** SEVERABILITY. If any provision of this
34 chapter or its application to any person or circumstance is held
35 invalid, the invalidity does not affect other provisions or

1 applications of this chapter which can be given effect without the
2 invalid provision or application, and to this end the provisions of
3 this chapter are severable.

4 **Sec. 21.** RCW 9.38.060 and 2001 c 39 s 1 are each amended to read
5 as follows:

6 (1) A person shall not knowingly misrepresent the person's identity
7 or authorization to obtain a public key certificate used to reference
8 a private key for creating (~~((a-digital))~~) an electronic signature.

9 (2) A person shall not knowingly forge (~~((a-digital))~~) an electronic
10 signature as defined in (~~((RCW 19.34.020(16))~~) section 2 of this act.

11 (3) A person shall not knowingly present a public key certificate
12 for which the person is not the owner of the corresponding private key
13 in order to obtain unauthorized access to information or engage in an
14 unauthorized transaction.

15 (4) (~~((The definitions in RCW 19.34.020 apply to this section.~~
16 ~~(5))~~) A person who violates this section is guilty of a class C
17 felony punishable under chapter 9A.20 RCW.

18 **Sec. 22.** RCW 26.52.030 and 1999 c 184 s 5 are each amended to read
19 as follows:

20 (1) A person entitled to protection who has a valid foreign
21 protection order may file that order by presenting a certified,
22 authenticated, or exemplified copy of the foreign protection order to
23 a clerk of the court of a Washington court in which the person entitled
24 to protection resides or to a clerk of the court of a Washington court
25 where the person entitled to protection believes enforcement may be
26 necessary. Any out-of-state department, agency, or court responsible
27 for maintaining protection order records, may by facsimile or
28 electronic transmission send a reproduction of the foreign protection
29 order to the clerk of the court of Washington as long as it contains a
30 facsimile or (~~((digital))~~) electronic signature by any person authorized
31 to make such transmission.

32 (2) Filing of a foreign protection order with a court and entry of
33 the foreign protection order into any computer-based criminal
34 intelligence information system available in this state used by law
35 enforcement agencies to list outstanding warrants are not prerequisites
36 for enforcement of the foreign protection order.

1 (3) The court shall accept the filing of a foreign protection order
2 without a fee or cost.

3 (4) The clerk of the court shall provide information to a person
4 entitled to protection of the availability of domestic violence, sexual
5 abuse, and other services to victims in the community where the court
6 is located and in the state.

7 (5) The clerk of the court shall assist the person entitled to
8 protection in completing an information form that must include, but
9 need not be limited to, the following:

10 (a) The name of the person entitled to protection and any other
11 protected parties;

12 (b) The name and address of the person who is subject to the
13 restraint provisions of the foreign protection order;

14 (c) The date the foreign protection order was entered;

15 (d) The date the foreign protection order expires;

16 (e) The relief granted under (specify the
17 relief awarded and citations thereto, and designate which of the
18 violations are arrestable offenses);

19 (f) The judicial district and contact information for court
20 administration for the court in which the foreign protection order was
21 entered;

22 (g) The social security number, date of birth, and description of
23 the person subject to the restraint provisions of the foreign
24 protection order;

25 (h) Whether the person who is subject to the restraint provisions
26 of the foreign protection order is believed to be armed and dangerous;

27 (i) Whether the person who is subject to the restraint provisions
28 of the foreign protection order was served with the order, and if so,
29 the method used to serve the order;

30 (j) The type and location of any other legal proceedings between
31 the person who is subject to the restraint provisions and the person
32 entitled to protection.

33 An inability to answer any of the above questions does not preclude
34 the filing or enforcement of a foreign protection order.

35 (6) The clerk of the court shall provide the person entitled to
36 protection with a copy bearing proof of filing with the court.

37 (7) Any assistance provided by the clerk under this section does

1 not constitute the practice of law. The clerk is not liable for any
2 incomplete or incorrect information that he or she is provided.

3 **Sec. 23.** RCW 41.05.014 and 2009 c 201 s 2 are each amended to read
4 as follows:

5 (1) The administrator may require applications, enrollment forms,
6 and eligibility certification documents for benefits that are
7 administered by the authority under this chapter and chapters 70.47 and
8 70.47A RCW to be signed by the person submitting them. The
9 administrator may accept electronic signatures.

10 (2) For the purpose of this section, "electronic signature" means
11 a signature in electronic form attached to or logically associated with
12 an electronic record (~~including, but not limited to, a digital~~
13 ~~signature~~)).

14 **Sec. 24.** RCW 43.07.120 and 2010 1st sp.s. c 29 s 6 are each
15 amended to read as follows:

16 (1) The secretary of state must establish by rule and collect the
17 fees in this subsection:

18 (a) For a copy of any law, resolution, record, or other document or
19 paper on file in the secretary's office;

20 (b) For any certificate under seal;

21 (c) For filing and recording trademark;

22 (d) For each deed or patent of land issued by the governor;

23 (e) For recording miscellaneous records, papers, or other
24 documents.

25 (2) The secretary of state may adopt rules under chapter 34.05 RCW
26 establishing reasonable fees for the following services rendered under
27 Title 23B RCW, chapter 18.100, 19.09, (~~19.34,~~) 19.--- (the new
28 chapter created in section 29 of this act), 19.77, 23.86, 23.90, 24.03,
29 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.04, 25.15, 25.10, 25.05,
30 or 26.60 RCW:

31 (a) Any service rendered in-person at the secretary of state's
32 office;

33 (b) Any expedited service;

34 (c) The electronic or facsimile transmittal of information from
35 corporation records or copies of documents;

1 (d) The providing of information by micrographic or other reduced-
2 format compilation;

3 (e) The handling of checks, drafts, or credit or debit cards upon
4 adoption of rules authorizing their use for which sufficient funds are
5 not on deposit; and

6 (f) Special search charges.

7 (3) To facilitate the collection of fees, the secretary of state
8 may establish accounts for deposits by persons who may frequently be
9 assessed such fees to pay the fees as they are assessed. The secretary
10 of state may make whatever arrangements with those persons as may be
11 necessary to carry out this section.

12 (4) The secretary of state may adopt rules for the use of credit or
13 debit cards for payment of fees.

14 (5) No member of the legislature, state officer, justice of the
15 supreme court, judge of the court of appeals, or judge of the superior
16 court may be charged for any search relative to matters pertaining to
17 the duties of his or her office; nor may such official be charged for
18 a certified copy of any law or resolution passed by the legislature
19 relative to his or her official duties, if such law has not been
20 published as a state law.

21 **Sec. 25.** RCW 58.09.050 and 1999 c 39 s 1 are each amended to read
22 as follows:

23 The records of survey to be filed under authority of this chapter
24 shall be processed as follows:

25 (1)(a) The record of survey filed under RCW 58.09.040(1) shall be
26 an original map, eighteen by twenty-four inches, that is legibly drawn
27 in black ink on mylar and is suitable for producing legible prints
28 through scanning, microfilming, or other standard copying procedures.

29 (b) The following are allowable formats for the original that may
30 be used in lieu of the format set forth under (a) of this subsection:

31 (i) Photo mylar with original signatures;

32 (ii) Any standard material as long as the format is compatible with
33 the auditor's recording process and records storage system. This
34 format is only allowed in those counties that are excepted from
35 permanently storing the original document as required in RCW
36 58.09.110(5);

1 (iii) An electronic version of the original if the county has the
2 capability to accept (~~(a digital)~~) an electronic signature (~~((issued by~~
3 ~~a licensed certification authority under chapter 19.34 RCW or a~~
4 ~~certification authority under the rules adopted by the Washington state~~
5 ~~board of registration for professional engineers and land surveyors,))~~
6 and can import electronic files into an imaging system. The electronic
7 version shall be a standard raster file format acceptable to the
8 county.

9 A two inch margin on the left edge and a one-half inch margin on
10 other edges of the map shall be provided. The auditor shall reject for
11 recording any maps not suitable for producing legible prints through
12 scanning, microfilming, or other standard copying procedures.

13 (2) Information required by RCW 58.09.040(2) shall be filed on a
14 standard form eight and one-half inches by fourteen inches as designed
15 and prescribed by the department of natural resources. The auditor
16 shall reject for recording any records of corner information not
17 suitable for producing legible prints through scanning, microfilming,
18 or other standard copying procedures. An electronic version of the
19 standard form may be filed if the county has the capability to accept
20 (~~(a digital)~~) an electronic signature (~~((issued by a licensed~~
21 ~~certification authority under chapter 19.34 RCW or a certification~~
22 ~~authority under the rules adopted by the Washington state board of~~
23 ~~registration for professional engineers and land surveyors,))~~) and can
24 import electronic files into an imaging system. The electronic version
25 shall be a standard raster file format acceptable to the county.

26 (3) Two legible prints of each record of survey as required under
27 the provisions of this chapter shall be furnished to the county auditor
28 in the county in which the survey is to be recorded. The auditor, in
29 those counties using imaging systems, may require only the original,
30 and fewer prints, as needed, to meet the requirements of their duties.
31 If any of the prints submitted are not suitable for scanning or
32 microfilming the auditor shall not record the original.

33 (4) Legibility requirements are set forth in the recorder's
34 checklist under RCW 58.09.110.

35 **Sec. 26.** RCW 58.09.110 and 1999 c 39 s 2 are each amended to read
36 as follows:

37 The auditor shall accept for recording those records of survey and

1 records of corner information that are in compliance with the
2 recorder's checklist as jointly developed by a committee consisting of
3 the survey advisory board and two representatives from the Washington
4 state association of county auditors. This checklist shall be adopted
5 in rules by the department of natural resources.

6 (1) The auditor shall keep proper indexes of such record of survey
7 by the name of owner and by quarter-quarter section, township, and
8 range, with reference to other legal subdivisions.

9 (2) The auditor shall keep proper indexes of the record of corner
10 information by section, township, and range.

11 (3) After entering the recording data on the record of survey and
12 all prints received from the surveyor, the auditor shall send one of
13 the surveyor's prints to the department of natural resources in
14 Olympia, Washington, for incorporation into the statewide survey
15 records repository. However, the county and the department of natural
16 resources may mutually agree to process the original or an electronic
17 version of the original in lieu of the surveyor's print.

18 (4) After entering the recording data on the record of corner
19 information the auditor shall send a legible copy, suitable for
20 scanning, to the department of natural resources in Olympia,
21 Washington. However, the county and the department of natural
22 resources may mutually agree to process the original or an electronic
23 version of the original in lieu of the copy.

24 (5) The auditor shall permanently keep the original document filed
25 using storage and handling processes that do not cause excessive
26 deterioration of the document. A county may be excepted from the
27 requirement to permanently store the original document if it has a
28 document scanning, filming, or other process that creates a permanent,
29 archival record that meets or surpasses the standards as adopted in
30 rule by the division of archives and records management in chapter 434-
31 663 or 434-677 WAC. The auditor must be able to provide full-size
32 copies upon request. The auditor shall maintain a copy or image of the
33 original for public reference.

34 (6) If the county has the capability to accept (~~(a digital)~~) an
35 electronic signature (~~((issued by a licensed certification authority~~
36 ~~under chapter 19.34 RCW or a certification authority under the rules~~
37 ~~adopted by the Washington state board of registration for professional~~
38 ~~engineers and land surveyors,))~~) and can import electronic files into an

1 imaging system, the auditor may accept for recording electronic
2 versions of the documents required by this chapter. The electronic
3 version shall be a standard raster file format acceptable to the
4 county.

5 (7) This section does not supersede other existing recording
6 statutes.

7 **Sec. 27.** RCW 74.08.055 and 2009 c 201 s 1 are each amended to read
8 as follows:

9 (1) Each applicant for or recipient of public assistance shall
10 complete and sign a physical application or, if available, electronic
11 application for assistance which shall contain or be verified by a
12 written declaration that it is signed under the penalties of perjury.
13 The department may make electronic applications available. The
14 secretary, by rule and regulation, may require that any other forms
15 filled out by applicants or recipients of public assistance shall
16 contain or be verified by a written declaration that it is made under
17 the penalties of perjury and such declaration shall be in lieu of any
18 oath otherwise required, and each applicant shall be so informed at the
19 time of the signing. The application and signature verification shall
20 be in accordance with federal requirements for that program.

21 (2) Any applicant for or recipient of public assistance who
22 willfully makes and signs any application, statement, other paper, or
23 electronic record which contains or is verified by a written
24 declaration that it is made under the penalties of perjury and which he
25 or she does not believe to be true and correct as to every material
26 matter is guilty of a class B felony punishable according to chapter
27 9A.20 RCW.

28 (3) As used in this section:

29 (a) "Electronic record" means a record generated, communicated,
30 received, or stored by electronic means for use in an information
31 system or for transmission from one information system to another.

32 (b) "Electronic signature" means a signature in electronic form
33 attached to or logically associated with an electronic record
34 (~~including, but not limited to, a digital signature~~). An electronic
35 signature is a paperless way to sign a document using an electronic
36 sound, symbol, or process, attached to or logically associated with a

1 record and executed or adopted by a person with the intent to sign the
2 record.

3 (c) "Sign" includes signing by physical signature, if available, or
4 electronic signature. An application must contain a signature in
5 either physical or, if available, electronic form.

6 NEW SECTION. **Sec. 28.** The following acts or parts of acts are
7 each repealed:

8 (1) RCW 19.34.010 (Purpose and construction) and 1999 c 287 s 1 &
9 1996 c 250 s 102;

10 (2) RCW 19.34.020 (Definitions) and 2000 c 171 s 50, 1999 c 287 s
11 2, 1997 c 27 s 30, & 1996 c 250 s 103;

12 (3) RCW 19.34.030 (Secretary--Duties) and 1999 c 287 s 4, 1997 c 27
13 s 1, & 1996 c 250 s 104;

14 (4) RCW 19.34.040 (Secretary--Fees--Disposition) and 1997 c 27 s 2
15 & 1996 c 250 s 105;

16 (5) RCW 19.34.100 (Certification authorities--Licensure--
17 Qualifications--Revocation and suspension) and 1999 c 287 s 5, 1998 c
18 33 s 1, 1997 c 27 s 3, & 1996 c 250 s 201;

19 (6) RCW 19.34.101 (Expiration of licenses--Renewal--Rules) and 1997
20 c 27 s 4;

21 (7) RCW 19.34.110 (Compliance audits) and 1999 c 287 s 6, 1997 c 27
22 s 5, & 1996 c 250 s 202;

23 (8) RCW 19.34.111 (Qualifications of auditor signing report of
24 opinion--Compliance audits under state auditor's authority) and 1999 c
25 287 s 7 & 1997 c 27 s 6;

26 (9) RCW 19.34.120 (Licensed certification authorities--
27 Enforcement--Suspension or revocation--Penalties--Rules--Costs--
28 Procedure--Injunctions) and 1999 c 287 s 8, 1997 c 27 s 7, & 1996 c 250
29 s 203;

30 (10) RCW 19.34.130 (Certification authorities--Prohibited
31 activities--Statement by secretary advising of certification
32 authorities creating prohibited risks--Protest--Hearing--Disposition--
33 Notice--Procedure) and 1999 c 287 s 9 & 1996 c 250 s 204;

34 (11) RCW 19.34.200 (Licensed certification authorities--
35 Requirements) and 1999 c 287 s 10, 1997 c 27 s 8, & 1996 c 250 s 301;

36 (12) RCW 19.34.210 (Certificate--Issuance--Confirmation of
37 information--Confirmation of prospective subscriber--Standards,

1 statements, plans, requirements more rigorous than chapter--Revocation,
2 suspension--Investigation--Notice--Procedure) and 1999 c 287 s 11, 1997
3 c 27 s 9, & 1996 c 250 s 302;

4 (13) RCW 19.34.220 (Licensed certification authorities--Warranties,
5 obligations upon issuance of certificate--Notice) and 1997 c 27 s 32 &
6 1996 c 250 s 303;

7 (14) RCW 19.34.230 (Subscribers--Representations and duties upon
8 acceptance of certificate) and 1996 c 250 s 304;

9 (15) RCW 19.34.231 (Signature of a unit of government required--
10 City or county as certification authority--Unit of state government
11 prohibited from being certification authority--Exceptions) and 2011 1st
12 sp.s. c 43 s 809, 2011 c 183 s 2, 1999 c 287 s 12, & 1997 c 27 s 10;

13 (16) RCW 19.34.240 (Private key--Control--Public disclosure
14 exemption) and 2011 c 60 s 10, 2005 c 274 s 235, 1997 c 27 s 11, & 1996
15 c 250 s 305;

16 (17) RCW 19.34.250 (Suspension of certificate--Evidence--
17 Investigation--Notice--Termination--Limitation or preclusion by
18 contract--Misrepresentation--Penalty--Contracts for regional
19 enforcement by agencies--Rules) and 2000 c 171 s 51, 1999 c 287 s 13,
20 1997 c 27 s 12, & 1996 c 250 s 306;

21 (18) RCW 19.34.260 (Revocation of certificate--Confirmation--
22 Notice--Release from security duty--Discharge of warranties) and 1997
23 c 27 s 13 & 1996 c 250 s 307;

24 (19) RCW 19.34.270 (Certificate--Expiration) and 1996 c 250 s 308;

25 (20) RCW 19.34.280 (Recommended reliance limit--Liability--Damages)
26 and 1999 c 287 s 14, 1997 c 27 s 14, & 1996 c 250 s 309;

27 (21) RCW 19.34.290 (Collection based on suitable guaranty--
28 Proceeds--Attorneys' fees--Costs--Notice--Recovery of qualified right
29 of payment) and 1996 c 250 s 310;

30 (22) RCW 19.34.291 (Discontinuation of certification authority
31 services--Duties of authority--Continuation of guaranty--Process to
32 maintain and update records--Rules--Costs) and 1997 c 27 s 15;

33 (23) RCW 19.34.300 (Satisfaction of signature requirements) and
34 1997 c 27 s 16 & 1996 c 250 s 401;

35 (24) RCW 19.34.305 (Acceptance of digital signature in reasonable
36 manner) and 1997 c 27 s 31;

37 (25) RCW 19.34.310 (Unreliable digital signatures--Risk) and 1997
38 c 27 s 17 & 1996 c 250 s 402;

1 (26) RCW 19.34.311 (Reasonableness of reliance--Factors) and 1997
2 c 27 s 18;

3 (27) RCW 19.34.320 (Digital message as written on paper--
4 Requirements--Other requirements not affected--Exception from uniform
5 commercial code) and 1997 c 27 s 19 & 1996 c 250 s 403;

6 (28) RCW 19.34.321 (Acceptance of certified court documents in
7 electronic form--Requirements--Rules of court on use in proceedings)
8 and 1997 c 27 s 20;

9 (29) RCW 19.34.330 (Digital message deemed original) and 1999 c 287
10 s 15 & 1996 c 250 s 404;

11 (30) RCW 19.34.340 (Certificate as acknowledgment--Requirements--
12 Exception--Responsibility of certification authority) and 1997 c 27 s
13 21 & 1996 c 250 s 405;

14 (31) RCW 19.34.350 (Adjudicating disputes--Presumptions) and 1997
15 c 27 s 22 & 1996 c 250 s 406;

16 (32) RCW 19.34.351 (Alteration of chapter by agreement--Exceptions)
17 and 1997 c 27 s 34;

18 (33) RCW 19.34.360 (Presumptions of validity/limitations on
19 liability--Conformance with chapter) and 1999 c 287 s 3;

20 (34) RCW 19.34.400 (Recognition of repositories--Application--
21 Discontinuance--Procedure) and 1999 c 287 s 16, 1997 c 27 s 23, & 1996
22 c 250 s 501;

23 (35) RCW 19.34.410 (Repositories--Liability--Exemptions--
24 Liquidation, limitation, alteration, or exclusion of damages) and 1999
25 c 287 s 17, 1997 c 27 s 33, & 1996 c 250 s 502;

26 (36) RCW 19.34.420 (Confidentiality of certain records--Limited
27 access to state auditor) and 2011 1st sp.s. c 43 s 810 & 1998 c 33 s 2;

28 (37) RCW 19.34.500 (Rule making) and 1997 c 27 s 24 & 1996 c 250 s
29 603;

30 (38) RCW 19.34.501 (Chapter supersedes and preempts local actions)
31 and 1997 c 27 s 25;

32 (39) RCW 19.34.502 (Criminal prosecution not precluded--Remedies
33 not exclusive--Injunctive relief availability) and 1997 c 27 s 26;

34 (40) RCW 19.34.503 (Jurisdiction, venue, choice of laws) and 1997
35 c 27 s 27;

36 (41) RCW 19.34.900 (Short title) and 1996 c 250 s 101;

37 (42) RCW 19.34.901 (Effective date--1996 c 250) and 2000 c 171 s
38 52, 1997 c 27 s 28, & 1996 c 250 s 602;

1 (43) RCW 19.34.902 (Severability--1996 c 250) and 1996 c 250 s 604;
2 (44) RCW 19.34.903 (Part headings and section captions not law--
3 1996 c 250) and 1996 c 250 s 605; and
4 (45) RCW 43.19.794 (Departmental authority as certification
5 authority for electronic authentication) and 2011 1st sp.s. c 43 s 602,
6 1999 c 287 s 18, & 1997 c 27 s 29.

7 NEW SECTION. **Sec. 29.** Sections 1 through 20 of this act
8 constitute a new chapter in Title 19 RCW.

9 NEW SECTION. **Sec. 30.** This act takes effect January 1, 2013.

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