

HB 319 -- Redline

Comparison to Original Bill to Enrolled -- Electronic Records Amendments

Deletions ~~struck~~ · Insertions underlined

~~HB0319S02~~Enrolled compared Copy with ~~H.B. HB0319~~ {Omitted text} shows text that was in HB0319 but was omitted in HB0319S02 inserted text shows text that was not in HB0319 but was inserted into HB0319S02
DISCLAIMER:

~~This~~319 document Electronic is Records provided Amendments to GENERAL assist SESSION you STATE in OF your UTAH comparison Chief of Sponsor: the two bills.

~~Sometimes this automated comparison will NOT be completely accurate.~~

~~Therefore, you need to read the actual bills.~~

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~~Electronic Records Amendments GENERAL SESSION STATE OF UTAH Chief Sponsor:~~

~~Cutler Senate Sponsor: Wayne~~Sponsor: A-

Wayne A.

? authorizes counties to accept digitally authenticated records~~records;~~ ~~{as an alternative to traditionally notarized documents} ;~~

? ~~{provides that digitally authenticated records have the same legal effect as notarized documents when requirements are met;} H ?~~ requires the ~~{State Archivist }~~ state archivist to establish retention and preservation standards for ~~B~~ digital records;

~~3-? 1~~ HB0319 compared with HB0319S02 grants rulemaking authority to the ~~{State Archivist }~~ state archivist in consultation with the Division of Technology Services;

~~17-71-301~~17-71-301, ~~as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 13 {17-71-602 H.B., as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 13} {46-1-2, as last amended by Laws of Utah 2025, First Special Session, Chapter 16} {57-3-101, as last amended by Laws of Utah 2025, First Special Session, Chapter 15} 63A-12-101, as last amended by Laws of Utah 2025, Chapter 476 63A-12-104, as last amended by Laws of Utah 2025, Chapter 475 63A-16-104, as last amended by Laws of Utah 2024, Chapter 508 ENACTS:~~

~~17-71-301.5~~319, Enrolled Utah Copy Code63A-12-101, Annotated as 1953 last {57-3-101.5 amended by Utah Laws Code of Annotated Utah 1953} 2025, 63A-12-117 Chapter ,476 Utah 63A-12-104, Code as Annotated last 1953 amended 63A-16-215 by ,Laws of Utah Code 2025, Annotated Chapter 1953 475 Be 63A-16-104, it as enacted last amended by the Laws Legislature of the Utah state 2024, of Chapter Utah: 508 ENACTS:

17-71-301.5, Utah Code Annotated 1953 63A-12-117, Utah Code Annotated 1953 63A-16-215, Utah Code Annotated 1953 Be it enacted by the Legislature of the state of Utah:

~~17-71-301.17-71-301 .~~

~~-- 2 --~~ HB0319 compared with HB0319S02 (2) shall comply with rules made by the County Recorder Standards Board under Section 63C-30-202, including rules that govern:

(3) shall comply with the appeal authority established by the county legislative body in accordance with Section 17-71-306;[~~{[}~~ and] (4) may adopt policies and procedures governing the office of the county recorder that do not conflict with this chapter or rules made by the County Recorder Standards Board under Section 63C-30-202[.] ;

and (5) shall comply with approval requirements described in Section 17-71-301.5 before accepting digitally authenticated records as defined in Section ~~{46-1-2}~~ 17-71-301.5.

Section ~~2~~17-71-301.5 is enacted to read:

~~17-71-301.5.17-71-301.5 .~~

~~(1)- As~~2 used in Enrolled this Copy section: H.B.

319 (1) As used in this section:

~~(a){(b)}~~(b) "Digital authentication system" means the technology and procedures used to create digitally authenticated records.

~~(b){(c)}~~(c) "Digitally authenticated record" means ~~{the same as that term is defined in Section 46-1-2.}~~ an electronic document that:

~~(c){(d)}~~(d) "Division" means the Division of Technology Services created in Section 63A-16-103.

~~-- 3 --~~ HB0319 compared with HB0319S02 (e) "Records Management Committee" means the Records Management Committee created in Section 63A-12-112.

~~(d){(f)}~~(f) "State Archives" means the Division of Archives and Records Service created in Section 63A-

12-101.

~~(2)(a)-(a)~~ A county recorder may accept and record a digitally authenticated record if:
(iii) ensure compliance with retention requirements established by the ~~{State Archivist }~~ state archivist under Section 63A-12-117;

~~(i)- the3 digital_ authenticationH.B.-system the county proposes to use;~~

319 Enrolled Copy (i) the digital authentication system the county proposes to use;

~~{and}~~(ix) format specifications for long-term storage;

~~{and}~~(x) consultation conducted with:

~~-- 4 -- HB0310 compared with HB0310S02-~~(A) the Title and Escrow Commission created in Section 31A-2-403; and (b) obtain approval from the ~~{State Archivist }~~ state archivist in accordance with Subsection (4).

~~(4)(4)(a) (a)-The {State Archivist }~~ state archivist shall review each county proposal submitted under Subsection (3) ~~for for: {compliance with}.~~

~~(i){(A)}(A)~~ retention schedules approved by the Records Management Committee;

~~(ii){(B)}(B)~~ preservation standards for digital records established under Section 63A-12-117;

~~(iii){(C)}(C)~~ transfer requirements for permanent ~~records;and records;~~ ~~(iv){(D)} technical standards established by rule under Section 63A-12-117;~~

~~{and}and (v){(ii)}(D) {adequacytechnical }standards sufficiencyestablished ofby countyrule resourcesunder andSection training63A-12-117; for implementation{.};~~

(ii) sufficiency of county resources and training for implementation;

(b) The ~~{State Archivist }~~ state archivist shall consult with the division regarding technical aspects of a proposal.

~~(c){(d)}(d)~~ The ~~{State Archivist }~~ state archivist shall provide written approval or denial to the county within 45 ~~days_ after4 the_ dayEnrolled onCopy whichH.B.-the county submits a proposal under Subsection (3)-.~~

~~(d){(e)}319 Ifdays after the {Stateday Archiviston }which statethe archivistcounty deniesubmits a proposal,proposal theunder {StateSubsection Archivist(3)-} state archivist shall provide:~~

(e) If the state archivist denies a proposal, the state archivist shall provide:

~~(e){(f)}(f)~~ A county may resubmit a modified proposal in accordance with this section.

~~-- 5 -- HB0310 compared with HB0310S02-~~(6) A county recorder may establish and collect fees for accepting and recording digitally authenticated records in accordance with Section 17-71-407.

~~{Section 3-}~~

~~Section 17-71-602 is amended to read:~~

~~} 17-71-602-~~

~~Validity of electronic documents-~~

~~(1) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this chapter-~~

~~(2) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature-~~

~~(3) (a) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if:~~

~~(i) the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature[.];~~

~~or (ii) the document is a digitally authenticated record that meets the requirements established under Section 17-71-301.5-~~

~~(b) A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature-~~

~~{Section 4-}~~

~~Section 46-1-2 is amended to read:~~

~~} 46-1-2-~~

~~Definitions-~~

~~As used in this chapter:-~~

~~(1) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the document's stated purpose-~~

~~(2) "Before me" means that an individual appears in the presence of the notary-~~

~~(3) "Commission" means:-~~

~~(a) to empower to perform notarial acts;~~

~~or (b) the written document that gives authority to perform notarial acts, including the Certificate of Authority of Notary Public that the lieutenant governor issues to a notary.~~

~~- 6 - HB0310 compared with HB0310S02 (4) "Copy certification" means a notarial act in which a notary certifies that a photocopy is an accurate copy of a document that is neither a public record nor publicly recorded.~~

~~(5) "Digital authentication" means a method of verifying the identity of a person and the integrity of an electronic document using tamper-evident technology that:~~

~~(a) creates a verifiable record of the authentication;~~

~~and (b) meets standards established under Section 63A-12-117.~~

~~(6) "Digitally authenticated record" means an electronic document that:~~

~~(a) has been authenticated using digital authentication as defined in this section;~~

~~(b) meets the requirements established by rule under Section 63A-12-117;~~

~~and (c) if the document is to be recorded by a county recorder, has been approved for county use in accordance with Section 17-71-301.5.~~

~~[(5)] (7) "Electronic notarization" means:~~

~~(a) a remote notarization;~~

~~or (b) a notarization:~~

~~(i) in an electronic format;~~

~~(ii) of a document that may be recorded electronically under Subsection 17-71-402(2);~~

~~and (iii) that conforms with rules made under Section 46-1-3.7.~~

~~[(6)] (8) "Electronic recording" means the audio and video recording, described in Subsection 46-1-3.6(3), of a remote notarization.~~

~~[(7)] (9) "Electronic seal" means an electronic version of the seal described in Section 46-1-16, that conforms with rules made under Subsection 46-1-3.7(1)(d), that a notary may attach to a notarial certificate to complete an electronic notarization.~~

~~[(8)] (10) "Electronic signature" means the same as that term is defined in Section 46-4-102.~~

~~[(9)] (11) "In the presence of the notary" means that an individual:~~

~~(a) is physically present with the notary in close enough proximity to see and hear the notary;~~

~~or (b) communicates with a remote notary by means of an electronic device or process that:~~

~~(i) allows the individual and remote notary to communicate with one another simultaneously by sight and sound;~~

~~and (ii) complies with rules made under Section 46-1-3.7.~~

~~[(10)] (12) "Jurat" means a notarial act in which a notary certifies:~~

~~(a) the identity of a signer who:~~

~~- 7 - HB0310 compared with HB0310S02 (i) is personally known to the notary;~~

~~or (ii) provides the notary satisfactory evidence of the signer's identity;~~

~~(b) that the signer affirms or swears an oath attesting to the truthfulness of a document;~~

~~and (c) that the signer voluntarily signs the document in the presence of the notary.~~

~~[(11)] (13) "Notarial act" or "notarization" means an act that a notary is authorized to perform under Section 46-1-6.~~

~~[(12)] (14) "Notarial certificate" means the affidavit described in Section 46-1-6.5 that is:~~

~~(a) a part of or attached to a notarized document;~~

~~and (b) completed by the notary and bears the notary's signature and official seal.~~

~~[(13)] (15) (a) "Notary" means an individual commissioned to perform notarial acts under this chapter.~~

~~(b) "Notary" includes a remote notary.~~

~~[(14)] (16) "Oath" or "affirmation" means a notarial act in which a notary certifies that a person made a vow or affirmation in the presence of the notary on penalty of perjury.~~

~~[(15)] (17) "Official misconduct" means a notary's performance of any act prohibited or failure to perform any act mandated by this chapter or by any other law in connection with a notarial act.~~

~~[(16)] (18) (a) "Official seal" means the seal described in Section 46-1-16 that a notary may attach to a notarial certificate to complete a notarization.~~

~~(b) "Official seal" includes an electronic seal.~~

~~[(17)] (19) "Personally known" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.~~

~~[(18)] (20) "Remote notarization" means a notarial act performed by a remote notary in accordance with this chapter for an individual who is not in the physical presence of the remote notary at the time the remote notary performs the notarial act.~~

~~[(19)] (21) "Remote notary" means a notary that holds an active remote notary certification under Section 46-1-3.5.~~

~~[(20)] (22) (a) "Satisfactory evidence of identity" means:~~

~~(i) for both an in-person and remote notarization, identification of an individual based on:~~

~~-- 8 -- HB0310 compared with HB0310S02 (A) subject to Subsection [(20)(b)] (22)(b), valid personal identification with the individual's photograph, signature, and physical description that the United States government, any state within the United States, or a foreign government issues;~~

~~(B) subject to Subsection [(20)(b)] (22)(b), a valid passport that any nation issues;~~

~~or (C) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual;~~

~~and (ii) for a remote notarization only, a third party's affirmation of an individual's identity in accordance with rules made under Section 46-1-3.7 by means of:~~

~~(A) dynamic knowledge-based authentication, which may include requiring the individual to answer questions about the individual's personal information obtained from public or proprietary data sources;~~

~~or (B) analysis of the individual's biometric data, which may include facial recognition, voiceprint analysis, or fingerprint analysis.~~

~~(b) "Satisfactory evidence of identity," for a remote notarization, requires the identification described in Subsection [(20)(a)(i)(A)] (22)(a)(i)(A) or passport described in Subsection [(20)(a)(i)(B)] (22)(a)(i)(B) to be verified through public or proprietary data sources in accordance with rules made under Section 46-1-3.7.~~

~~(i)(B) to be verified through public or proprietary data sources in accordance with rules made under Section 46-1-3.7.~~

~~(c) "Satisfactory evidence of identity" does not include:~~

~~(i) a driving privilege card under Subsection 53-3-207(12);~~

~~or (ii) another document that is not considered valid for identification.~~

~~[(21)] (23) "Signature witnessing" means a notarial act in which an individual:~~

~~(a) appears in the presence of the notary and presents a document;~~

~~(b) provides the notary satisfactory evidence of the individual's identity, or is personally known to the notary;~~

~~and (c) signs the document in the presence of the notary.~~

~~(24) "Tamper-evident technology" means technology that:~~

~~(a) creates a permanent, verifiable record that allows detection of any unauthorized alteration to an electronic document after authentication;~~

~~and (b) maintains an immutable audit trail of authentication events.~~

~~{Section 5.~~

~~Section 57-3-101 is amended to read:~~

~~} -- 9 -- HB0310 compared with HB0310S02 57-3-101.~~

~~Certificate of acknowledgment, proof of execution, jurat, or other certificate required -- Notarial acts affecting real property -- Right to record documents unaffected by subdivision ordinances.~~

~~(1) A certificate of the acknowledgment of any document, or of the proof of the execution of any document, or a jurat as defined in Section 46-1-2, or other notarial certificate containing the words "subscribed and sworn" or their substantial equivalent, that is signed and certified by the officer taking the acknowledgment, proof, or jurat, as provided in this title, or a digitally authenticated record as provided in Section 57-3-101.5, entitles the document and the certificate to be recorded in the office of the recorder of the county where the real property is located.~~

~~(2) Notarial acts affecting real property in this state shall also be performed in conformance with Title 46, Chapter 1, Notaries Public Reform Act.~~

~~(3) Nothing in the provisions of Title 10, Chapter 20, Part 8, Subdivisions, and Title 17, Chapter 70, Part 7, Subdivisions, shall prohibit the recording of a document which is otherwise entitled to be recorded under the provisions of this chapter.~~

~~Section 6.~~

~~Section 6 is enacted to read:~~

~~57-3-101.5.~~

~~Digital authentication as alternative to notarization.~~

~~(1) As used in this section:~~

~~(a) "Digital authentication" means the same as that term is defined in Section 46-1-2.~~

~~(b) "Digitally authenticated record" means the same as that term is defined in Section 46-1-2.~~

~~(2) A digitally authenticated record has the same legal effect for recording purposes as a document that contains a certificate of acknowledgment, proof of execution, jurat, or other certificate described in Section 57-3-101 if:~~

~~(a) the digitally authenticated record meets the standards established by the State Archivist under~~

~~Section 63A-12-117;~~

~~and (b) if the digitally authenticated record is to be recorded by a county recorder, the county has obtained approval under Section 17-71-301.5.~~

~~(2) This section does not:~~

~~(a) require a person to use digital authentication;~~

~~(b) invalidate a document authenticated by traditional notarization under Section 57-3-101;~~

~~or (c) require a county recorder to accept digitally authenticated records.~~

~~63A-12-101 10. HB0310 compared with HB0310S02 63A-12-101.~~

(h) develop training programs to assist records officers and other interested officers and employees of governmental entities to administer this chapter and Title 63G, Chapter ~~27, Government~~ 5 Records Access ~~H.B. and Management Act;~~

319 Enrolled Copy 2, Government Records Access and Management Act;

(l) prepare forms for use by all governmental entities for a person requesting access to a record;[~~{}~~ and] (m) if the department operates the Division of Archives and Records Service as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

~~11 HB0310 compared with HB0310S02~~ (i) the proposed rate schedule as required by Section 63A-1-114;

~~63A-12-104. 63A-12-104 .~~

and (b) procedures and standards for digital authentication systems and preservation of ~~digitally authenticated~~ 6 records in Enrolled ~~accordance~~ Copy with H.B. Section 63A-12-117;

319 digitally authenticated records in accordance with Section 63A-12-117;

Section ~~563A-12-117~~ is enacted to read:

~~63A-12-117. 63A-12-117 .~~

~~12 HB0310 compared with HB0310S02~~ (b) "Digitally authenticated record" means the same as that term is defined in Section ~~{46-1-2}~~ 17-71-301.5.

(c) except as otherwise prohibited by law, transfer records to the state archives in accordance with state archivist requirements;

~~(4)(4)(a)-(a)~~ The state archivist, in consultation with the Division of Technology Services, shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

~~(ii)- preservation~~ 7 standards for H.B. digital authentication systems to ensure long-term preservation;

319 Enrolled Copy (ii) preservation standards for digital authentication systems to ensure long-term preservation;

~~13 HB0310 compared with HB0310S02~~ (i) immutability or tamper-evident characteristics sufficient to detect unauthorized alterations;

(ii) verified identity of the person authenticating the ~~record using~~ record using identity verification procedures that meet or exceed the requirements for satisfactory evidence of identity established for remote notarization under Section 46-1-2;

~~63A-16-104. 63A-16-104 .~~

(3) develop and implement processes to replicate information technology best practices and ~~standards throughout~~ 8 the executive ~~branch;~~ Enrolled Copy H.B.

319 standards throughout the executive branch;

and ~~14 HB0310 compared with HB0310S02~~ (b) communicate the results of the assessment described in Subsection (4)(a) to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

and ~~(e)- full~~ 9 functionality and H.B. usability on common mobile devices;

319 Enrolled Copy (e) full functionality and usability on common mobile devices;

~~15 HB0310 compared with HB0310S02~~ (12) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Government Operations Interim Committee in accordance with Section 63A-16-201 on a semiannual basis regarding the status of information technology projects;

~~(21)- develop~~ 10 a method ~~Enrolled of Copy accountability H.B. to agencies for services provided by the department through service agreements with the agencies;~~

~~319 16(21) -develop~~ HB0310a compared method with of HB0310S02 accountability (22) to serve agencies as a project manager for enterprise services architecture, provided including by management the of department applications, through standards, service and agreements procurement with of the enterprise agencies; architecture;

(22) serve as a project manager for enterprise architecture, including management of applications, standards, and procurement of enterprise architecture;

~~(a)(a)(i)-(i)~~ governmental information technology;

and ~~(b)(b)(i)-(i)~~ as part of a cooperative organization;

~~17 HB0319 compared with HB0319S02~~ (31) establish standards for the information technology needs of a collection of executive ~~branch_ agencies11 or_ programs~~ H.B. ~~that share common characteristics relative to the types of stakeholders the agencies or programs serve, including:~~

319 Enrolled Copy branch agencies or programs that share common characteristics relative to the types of stakeholders the agencies or programs serve, including:

(33) establish a system of accountability to user agencies through the use of service agreements;[~~{}~~ and] (34) provide the services described in Section 63A-16-109 for a state elected official or state employee who has been threatened[.] ;

Section ~~763A-16-215~~ is enacted to read:

~~63A-16-215~~ 63A-16-215 .

(b) "Digitally authenticated record" means the same as that term is defined in Section ~~{46-1-2}~~ 17-71-301.5.

~~18 HB0319 compared with HB0319S02~~ (b) cybersecurity requirements;

(3) The division may provide technical assistance to governmental entities implementing ~~digital_ authentication12 systems_ approved~~ Enrolled under Copy Section H.B. ~~17-71-301.5~~

319 digital authentication systems approved under Section 17-71-301.5.

~~Effective date.~~

~~2-23-26 5:13 PM - 1013 -~~