

State Government

Am. Sub. H.B. 8

Reps. Hambley and Rezabek, Brenner, Thompson, Koehler, Riedel, Dean, Blessing, Goodman, Anielski, Antonio, Arndt, Barnes, Boccieri, Boyd, Conditt, Dever, Edwards, Faber, Fedor, Galonski, Gavarone, Green, Greenspan, Holmes, Householder, Ingram, Kick, Landis, Leland, Manning, O'Brien, Patmon, Patterson, Patton, Pelanda, Perales, Ramos, Reineke, Rogers, Ryan, Schaffer, Slaby, K. Smith, Stein, Sweeney, West, Young

Sens. Uecker, Hackett, Balderson, Brown, Burke, Huffman, Kunze, Lehner, Manning, Oelslager, Schiavoni, Tavares, Thomas, Yuko

Effective date: September 28, 2018

- Exempts from the Public Records Law certain personal information concerning a minor in a record related to a school vehicle traffic accident.
- Provides for a journalist exemption to allow access to certain personal information concerning the minor.
- Establishes a process under which the parent or guardian of a minor whose personal information is included in a record related to a school vehicle traffic accident may request a copy of the record.
- Exempts from the Public Records Law "protected health information," as defined in the federal Health Insurance Portability and Accountability Act (HIPAA), when included in a health claim for payment or another document revealing the identity of an individual.

Sub. H.B. 139

Reps. Perales and Keller, Hambley, Fedor, Seitz, Dean, Antonio, Brenner, Craig, Cupp, Green, Greenspan, Lang, Retherford, Riedel, Young

Sens. Uecker, Coley, Skindell, Brown, Eklund, Hackett, Kunze, Manning, Oelslager, Schiavoni, Tavares, Terhar, Thomas, Yuko

Effective date: April 8, 2019

- Makes a permanently retained record that is exempt from disclosure under the Public Records Law available to the public 75 years after its creation, with certain exceptions.

S.B. 139

Sens. Skindell and Eklund, Thomas, Coley, Brown, Dolan, Hoagland, LaRose, Manning, Obhof, O'Brien, Oelslager, Schiavoni, Sykes, Tavares, Terhar, Williams

Reps. Anielski, Barnes, Blessing, Boyd, Brown, Craig, Dever, Ginter, Green, Hambley, Holmes, Howse, Leland, Miller, Patton, Rogers, Scherer, Seitz, Wiggam

Effective date: September 28, 2018

- Enacts the Uniform Electronic Legal Material Act, which specifies requirements for the Secretary of State, the Legislative Service Commission, and other state agencies that publish official electronic versions of legal materials, such as the Ohio Constitution, the Revised Code, and administrative rules.
- Applies only to electronic legal material that is designated official and is first published electronically on or after the act's effective date.
- Requires an agency that publishes legal material only in an electronic record to designate it as official and comply with the act's requirements.
- Allows an agency that publishes legal material both electronically and in another format to choose whether to designate the electronic record as official, and requires the agency to follow the act's requirements if it decides to make the electronic record official.
- Prescribes procedures for an agency to follow when it publishes official electronic legal material, including authenticating the record, providing for its preservation and security, and making it reasonably available to the public on a permanent basis.
- Specifies that electronic legal material that is authenticated under the act or under a substantially similar law in another state is presumed to be an accurate copy of that material.
- Requires a party that contests the authentication of official electronic legal materials to prove by a preponderance of the evidence that the record is not authentic.
- Requires a court that applies and construes the act to consider the need to promote uniformity of the Uniform Electronic Legal Materials Act with respect to its subject matter among states that enact it.
- States that the act modifies, limits, and supersedes certain provisions of the federal Electronic Signatures in Global and National Commerce Act.

Sub. S.B. 221

Sens. Uecker, Huffman, Beagle, Sykes, Coley, LaRose, Balderson, Dolan, Hackett, Hoagland, Jordan, Kunze, Manning, McColley, Obhof, Oelslager, Peterson, Terhar

Reps. Anielski, Becker, Blessing, Brenner, Butler, Carfagna, Dean, Faber, Gavarone, Green, Hambley, Henne, Hill, Hood, Koehler, Landis, Lanese, Lang, Patton, Perales, Reineke, Retherford, Rezabek, Riedel, Romanchuk, Ryan, Scherer, Seitz, Stein, Wiggam, Young

Effective date: August 18, 2019; Section 4, directing LIS to reprogram the electronic rule-filing system, effective February 18, 2019

Incorporations by reference

- States that an agency incorporates material into a rule by reference when it refers in the rule to the text or other material as if it were reproduced in the rule.
- Requires an agency to accompany an incorporation by reference with a citation that enables a person to find the incorporated material free of charge.
- Requires an agency to specify the date of incorporation by reference, date of publication, or version or edition of the material to be incorporated and authorizes an agency to include a website address in a rule.
- Prohibits an agency from incorporating by reference material that does not exist at the time of the incorporation by reference of the material into the rule.
- Requires an agency to ensure that material incorporated by reference is available to the public from the agency and requires the agency to make the material available to the public upon request.
- Requires an agency to file material incorporated by reference into a rule with the Joint Committee on Agency Rule Review (JCARR) if the accompanying citation is not sufficient for JCARR to access the material readily and free of charge.
- Authorizes JCARR to solicit information in the rule summary and fiscal analysis (RSFA) explaining how a material incorporated by reference is exempt from the incorporation by reference requirements.
- Authorizes JCARR to recommend invalidation of a proposed or existing rule if it does not cite to a readily available source for incorporated material or if the agency has erroneously treated the incorporation as exempt from the incorporation by reference requirements.
- Requires an agency, as part of its five year review process, to review incorporations by reference to ensure that the citations allow the material to be accessed readily or free of charge, or to ensure that an exemption applies.
- Exempts from the incorporation by reference requirements published federal laws and regulations, published state laws and regulations, material maintaining federal

funding, forms and digital applications, and material restating administrative conclusions or commercial standards.

RSFA addition

- Authorizes JCARR to request an agency to provide an explanation of the relationship between a fee imposed by rule and the agency's costs in performing the function for which the fee is charged.

Standards for review of rules

- Adds, as an "adverse impact on business" for purposes of the business review of rules, that a rule likely would directly reduce the revenue or increase the expenses of the lines of business to which it applies.
- Permits the JCARR Chairperson to move that JCARR order the agency to submit a rule for periodic review if the Chairperson becomes aware that the rule is having an unintended or unexpected effect on businesses.
- Requires an agency receiving an order to submit a rule having an unintended or unexpected effect on businesses to begin compliance with the order not later than 30 days after it was transmitted.
- Allows JCARR to recommend invalidation of an existing rule if the rule has an unintended or unexpected effect on businesses that is not reasonably within the statute under which the agency adopted the rule.

Agency duty to state principles of law or policy in rules

- Requires an agency, at reasonable intervals, to review its operations to identify principles of law or policy that have not been stated in a rule and that the agency is relying upon (1) in conducting adjudications or other determinations of rights and liabilities or (2) in issuing writings and other materials.
- Requires the agency, if the principle of law or policy establishes a legal regulation or standard that would not otherwise exist, to consider whether the policy should be restated in a rule.
- Requires the agency to consider restating in a rule a principle of law or policy that clarifies or aids in interpreting an existing rule or statute.
- Requires the agency to commence rulemaking no later than six months after determining that a principle of law or policy should be restated in a rule.
- Authorizes a person to petition an agency to restate a principle of law or policy in a rule if the person was a party to an adjudication or other determination that has resulted in an order or other disposition, and the adjudication involved a principle that should have been supplanted by its restatement in a rule.

- Authorizes the JCARR Chairperson, if JCARR becomes aware that an agency is relying on a principle of law or policy that should have been supplanted by its restatement in a rule, to request the agency to appear before JCARR and address why it is relying on that principle.
- Requires the agency, upon receiving the request, to designate a suitable officer or employee to appear on behalf of the agency before JCARR.
- Declares that the provisions requiring agencies to state principles of law or policy in rules do not apply to certain elected state officers, state institutions of higher education, or the five state retirement systems.

Dereliction in adopting rules

- Authorizes the JCARR Chairperson, if JCARR becomes aware that an agency is required to adopt a rule but appears neither to have done so nor to have commenced the rulemaking process, to request the agency to appear to explain its apparent dereliction.
- Requires the agency, upon receiving the request, to designate a suitable officer or employee to appear on behalf of the agency before JCARR as directed in the request.

JCARR staffing

- Specifies that JCARR's Executive Director serves at the pleasure of the President of the Senate and Speaker of the House by mutual consensus.
- Authorizes the Executive Director to employ technical, clerical, and professional employees as are necessary to carry out JCARR's powers and administrative duties.

Vocational rehabilitation services fee schedule

- Requires the Opportunities for Ohioans with Disabilities Agency to establish the fee schedule by rule adopted under the Administrative Procedure Act.