

§456-A. Admissibility of electronic records

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Electronic record" means a record whose content is not readable unless retrieved by means of an electronic device such as a computer or an audio or video player. [PL 1997, c. 636, §9 (NEW).]

B. "Record" means all documentary material, regardless of media or characteristics, made or received and maintained by an agency in accordance with law or rule or in the transaction of its official business. "Record" does not include extra copies of printed or processed material of which official or record copies have been retained, stocks of publications and processed documents intended for distribution or use or records relating to personal matters that may have been kept in an office for convenience. [PL 1997, c. 636, §9 (NEW).]

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2. Effect. A record may not be denied legal effect, validity or enforceability solely because it is in the form of an electronic record.

[PL 1997, c. 636, §9 (NEW).]

3. Accuracy. The assessment of accuracy and integrity of information set forth in electronic records is governed by the following.

A. If a rule of law requires a record to be presented or retained in its original form or provides consequences for the record not being presented or retained in its original form, that requirement is met by an electronic record if there exists a reliable assurance as to the integrity of the information set forth in the electronic record at the time it was first generated in its final form, whether as an electronic record or in another form. Reliable assurance may be based on documentation of standard operating, access and security procedures governing the system that manages the electronic record. [PL 1997, c. 636, §9 (NEW).]

B. The integrity and accuracy of the information in an electronic record are determined by whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change that arises in the normal course of communication, storage and display. The standard of reliability required must be assessed in light of the purpose for which the information was generated and in light of all the relevant circumstances. [PL 1997, c. 636, §9 (NEW).]

[PL 1997, c. 636, §9 (NEW).]

4. Retention. The ability of electronic records to meet legal requirements regarding the retention of documents, records or information is governed by the following.

A. If a rule of law requires that certain documents, records or information be retained, that requirement is met by retaining electronic records as long as the following conditions are satisfied:

(1) The information contained in the electronic record remains accessible so that it is usable for subsequent reference;

(2) The electronic record is retained in the format in which it was generated, stored, sent or received, or in a format that can be demonstrated to reflect accurately the information as originally generated, stored, sent or received; and

(3) Any information that enables the identification of the source or origin and destination of an electronic record and the date and time when it was sent or received is retained. [PL 1997, c. 636, §9 (NEW).]

B. A requirement to retain documents, records or information in accordance with paragraph A does not extend to any information the sole purpose of which is to enable the record to be sent or received. [PL 1997, c. 636, §9 (NEW).]

C. A person may satisfy the requirement referred to in paragraph A by using the services of any other person as long as the conditions set forth in paragraph A, subparagraphs (1) to (3) are met. [PL 1997, c. 636, §9 (NEW).]

D. Nothing in this subsection precludes any state agency from specifying additional requirements for the retention of records, either written or electronic, that are subject to the jurisdiction of that agency. [PL 1997, c. 636, §9 (NEW).]
[PL 1997, c. 636, §9 (NEW).]

SECTION HISTORY

PL 1997, c. 636, §9 (NEW).

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