

Legislative Analysis



ELECTRONIC RECORDS

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Senate Bills 1186 (S-1), 1187 (S-1), 1188 (S-1), and 1189 (S-1)
as reported from House committee

Analysis available at
<http://www.legislature.mi.gov>

Sponsor: Sen. Peter MacGregor

House Committee: Government Operations

Senate Committee: Government Operations [Discharged]

Complete to 12-16-20

(Enacted as Public Acts 335, 336, 337, and 338 of 2020)

SUMMARY:

The bills would amend the following acts to allow for remote procedures (such as signing, witnessing, notarizing, or recording) for certain records through June 30, 2021:

- SB 1186: Uniform Electronic Transactions Act.
- SB 1187: Michigan Law on Notarial Acts.
- SB 1188: Uniform Real Property Electronic Recording Act.
- SB 1189: Estates and Protected Individuals Code (EPIC).

Those acts were recently amended¹ by (respectively) 2020 PAs 247, 249, 248, and 246 to do all of the following *through December 31, 2020*:

- Allow state departments to send and accept electronic records and electronic signatures to and from other persons without a determination from or approval by DTMB.
- Allow notaries public to use two-way real-time audiovisual technology to perform notarial acts electronically rather than in person under certain circumstances; allow signing in counterparts; and extend a notary public's commission that expired after March 1, 2020.
- Require registers of deeds to accept electronic documents for recording and require financial institutions to accept such a document recorded by a register of deeds.
- Allow certain documents (including a will, a disclaimer under section 2903 of EPIC, a funeral representative designation, a parental appointment of a guardian of a minor, an appointment of a guardian of a legally incapacitated individual, a durable power of attorney, or a patient advocate designation) to be signed or witnessed using two-way real-time audiovisual technology; and allow certain visits required under EPIC (such as between a guardian and a legally incapacitated ward) to be conducted using that technology.

Senate Bills 1186 to 1189 would extend those provisions *through June 30, 2021*.

None of the bills could take effect unless all of them were enacted.

SB 1186: MCL 450.848a

SB 1187: MCL 55.269, 55.286c, and 55.296d

SB 1188: MCL 565.845a

SB 1189: MCL 700.1202 and 700.5108a

¹ <http://legislature.mi.gov/doc.aspx?2020-HB-6294>

FISCAL IMPACT:

Senate Bill 1186 would provide for minor administrative cost savings to DTMB by temporarily waiving the department’s responsibility to dedicate personnel resources to oversee and determine certain matters regarding each state department’s use and administrative processing of electronic records and electronic signatures. Any potential savings would come from increased administrative costs from changes caused by the response to the coronavirus outbreak. Minor savings would therefore not result in a decrease in spending from the prior year.

The bill would have no fiscal impact on local units of government.

Senate Bill 1187 would result in a minimal decrease in revenue to the Notary Fees Fund and the Notary Education and Training Fund. Extending to June 30, 2021, the valid period of a notary public’s commission that would have expired after December 31, 2020, would result in a marginal decrease in renewal fees for that period. Revenue from both funds supports costs of the secretary of state associated with training and administration of notary public regulations. In FY 2020-21, \$343,500 from the Notary Fees Fund and \$100,000 from the Notary Education and Training Fund was appropriated to the Department of State.

Senate Bill 1188 would have no fiscal impact on the state or local units of government.

Senate Bill 1189 would be unlikely to have a significant fiscal impact of the state or local units of government. Any additional costs incurred under the bill would be minor and sufficiently offset by existing appropriations.

POSITIONS:

The Secretary of State indicated support for Senate Bill 1187. (12-15-20)

The Michigan Manufacturers Association indicated support for Senate Bills 1186, 1187, and 1189. (12-15-20)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.