January 31, 2012

Wm. Robinson III
President, ABA
Frost Brown Todd
wrobinson@fblaw.com

Dear Mr. Robinson:

Re: Uniform Electronic Legal Material Act

I am writing to ask you to support approval of the Uniform Electronic Legal Material Act (UELMA) at the ABA’s Midyear Meeting in New Orleans. The American Association of Law Libraries (AALL) strongly supports UELMA, which was approved by the Uniform Law Commission at its annual meeting in July 2011. UELMA addresses the urgent problem, identified in AALL’s 2007 State-by-State Report on Authentication of Online Legal Resources, that more and more states are eliminating their print legal resources in favor of online-only, without assuring authentication, preservation and permanent public access. UELMA provides a technology-neutral, outcomes-based approach to ensuring that online state legal material deemed official will be preserved and permanently available to the public in unaltered form.

AALL disagrees with the notion, recently expressed by the American Court and Commercial Newspapers, Inc., that the movement toward online-only publication of legal materials is a new trend. In fact, our 2007 report and 2009-2010 updates found that fourteen states, plus the District of Columbia, have discontinued at least one print official legal resource. The move to online-only publication of state legal material is established and growing.

Many stakeholders, including AALL, the ABA’s Science and Technology Section and Judicial Division, Thomson/Reuters (West) Publishing, LexisNexis Publishing, and other for-profit and not-for-profit organizations participated in the process when UELMA was drafted and concluded that states need flexibility to determine the best methods to assure trustworthiness of their online legal material. The Uniform Act’s technology-neutral, outcomes-based approach allows states to determine suitable authentication and preservation measures, while recognizing that there is no consensus among experts about the best methods and that technology will continue to evolve. For states looking for guidance on the options available to them and related costs, the California Office of Legislative Counsel recently produced an excellent report, Authentication of Primary Legal Materials and Pricing Options.

It is clear that states are increasingly looking to eliminate print legal resources without ensuring the authentication, preservation and permanent public access to online materials. This is a problem that cannot wait any longer for a solution. UELMA will ensure that judges, the legal community, and members of the public will be able to trust state legal material that is published only online.

UELMA is properly a uniform act because it is important that states adopt the Act in whole to address the several issues raised by online publication. It is equally important that states have a coordinated approach.
to these common problems, which is best served by a uniform law. A model act would bring no standardization or coordination among the states, and would result in a piecemeal approach to addressing the issues. A model act would not solve this pressing problem. AALL strongly encourages the ABA to approve UELMA. Please feel free to contact AALL’s Director of Government Relations Emily Feltren at 202/942-4233 or efeltren@aall.org with any questions.

Sincerely,

Darcy Kirk
AALL President