

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0250.01 Conrad Imel x2313

HOUSE BILL 19-1229

HOUSE SPONSORSHIP

Roberts and Snyder,

SENATE SPONSORSHIP

Gardner and Lee,

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE "COLORADO ELECTRONIC PRESERVATION OF**
102 **ABANDONED ESTATE PLANNING DOCUMENTS ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the "Colorado Electronic Preservation of Abandoned Estate Planning Documents Act", which provides a procedure for determining whether an original estate planning document (original document) is abandoned and, if so, the process for creating an electronic estate planning document (electronic document) of the abandoned original document, filing the electronic document with the state court

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 (e) CUSTODIANS ARE IN THE BEST POSITION TO CERTIFY THE
2 AUTHENTICITY OF ORIGINAL ESTATE PLANNING DOCUMENTS BEFORE THEIR
3 CONVERSION TO ELECTRONIC FORMAT AND FILING WITH THE JUDICIAL
4 DEPARTMENT.

5 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

6 (a) PUBLIC POLICY OF THIS STATE SHOULD ENCOURAGE A
7 CUSTODIAN OF AN ABANDONED ORIGINAL ESTATE PLANNING DOCUMENT
8 TO CERTIFY THE DOCUMENT AS SUCH AND, AFTER MAKING A GOOD-FAITH
9 EFFORT TO LOCATE THE CREATOR OF THE DOCUMENT, CONVERT IT TO AN
10 ELECTRONIC FORMAT AND FILE THE ELECTRONIC RECORD OF THE
11 DOCUMENT WITH THE JUDICIAL DEPARTMENT;

12 (b) THE JUDICIAL DEPARTMENT SHOULD MAINTAIN THE
13 ELECTRONIC RECORD OF EACH DOCUMENT FILED WITH IT UNDER THIS
14 ARTICLE 23 AND FURNISH A CERTIFIED COPY THEREOF TO INDIVIDUALS
15 AND ENTITIES REASONABLY ENTITLED THERETO UPON PROOF OF IDENTITY
16 AND ENTITLEMENT;

17 (c) A CERTIFIED COPY OF AN ELECTRONIC RECORD MAINTAINED IN
18 THE JUDICIAL DEPARTMENT SHOULD BE ACCORDED THE SAME STATUS AS
19 THE ABANDONED ORIGINAL ESTATE PLANNING DOCUMENT; AND

20 (d) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS
21 ARTICLE 23 BE LIBERALLY CONSTRUED TO GIVE EFFECT TO THE PURPOSES
22 STATED IN THIS ARTICLE 23.

23 **15-23-103. Definitions.** AS USED IN THIS ARTICLE 23, UNLESS THE
24 CONTEXT OTHERWISE REQUIRES:

25 (1) "AGENT" MEANS AN ATTORNEY-IN-FACT GRANTED AUTHORITY
26 UNDER A DURABLE OR NONDURABLE POWER OF ATTORNEY.

27 (2) "CERTIFIED BY THE STATE COURT ADMINISTRATOR" MEANS A

1 RECORD CERTIFIED BY THE STATE COURT ADMINISTRATOR AS BEING A
2 TRUE COPY OF AN ELECTRONIC RECORD MAINTAINED BY THE STATE COURT
3 ADMINISTRATOR.

4 (3) "COMPUTER FOLDER" MEANS A DIRECTORY IDENTIFIED UNDER
5 THE NAME OF A CREATOR CONTAINING THE CREATOR'S ELECTRONIC
6 DOCUMENTS AND RELATED ELECTRONIC RECORDS THAT IS ESTABLISHED
7 AND MAINTAINED BY THE STATE COURT ADMINISTRATOR PURSUANT TO
8 SECTION 15-23-114 (3)(c).

9 (4) "CREATOR" MEANS AN INDIVIDUAL WHO, EITHER ALONE, WITH
10 ONE OR MORE OTHER INDIVIDUALS, OR THROUGH A FIDUCIARY, HAS
11 EXECUTED AN ORIGINAL ESTATE PLANNING DOCUMENT, AS DEFINED IN
12 SUBSECTION (13) OF THIS SECTION, PURSUANT TO THE LAW OF ANY
13 JURISDICTION.

14 (5) "CUSTODIAN" MEANS ANY OF THE FOLLOWING THAT HAS SOLE
15 POSSESSION AND CONTROL OF AN ORIGINAL ESTATE PLANNING DOCUMENT
16 OF AN INDIVIDUAL:

17 (a) AN ATTORNEY LICENSED OR FORMERLY LICENSED TO PRACTICE
18 IN COLORADO, THE ATTORNEY'S FIDUCIARY, OR AN AFFIANT OF AN
19 AFFIDAVIT OF THE DECEASED ATTORNEY'S ESTATE PURSUANT TO PART 12
20 OF ARTICLE 12 OF THIS TITLE 15;

21 (b) AN ENTITY PROVIDING LEGAL SERVICES PURSUANT TO RULE
22 265 OF THE COLORADO RULES OF CIVIL PROCEDURE;

23 (c) A PROFESSIONAL FIDUCIARY APPOINTED UNDER AN ORIGINAL
24 ESTATE PLANNING DOCUMENT, THE SUCCESSOR TO THE PROFESSIONAL
25 FIDUCIARY, THE PROFESSIONAL FIDUCIARY'S OR SUCCESSOR'S FIDUCIARY,
26 OR AN AFFIANT OF AN AFFIDAVIT OF THE PROFESSIONAL FIDUCIARY'S OR
27 SUCCESSOR'S ESTATE PURSUANT TO PART 12 OF ARTICLE 12 OF THIS TITLE

1 15;

2 (d) A FINANCIAL INSTITUTION PROVIDING FIDUCIARY SERVICES;

3 (e) A FINANCIAL INSTITUTION OR ITS SUBSIDIARY PROVIDING SAFE
4 DEPOSIT BOX SERVICES; OR

5 (f) AN ATTORNEY APPOINTED BY THE CHIEF JUDGE OF A JUDICIAL
6 DISTRICT TO INVENTORY FILES OF AN ATTORNEY PURSUANT TO RULE
7 251.32 (h) OF THE COLORADO RULES OF CIVIL PROCEDURE.

8 (6) "DILIGENT SEARCH" MEANS AN ATTEMPT TO LOCATE AND
9 CONTACT A CREATOR BY TWO OR MORE OF THE FOLLOWING MEANS:

10 (a) SEARCHING A TELEPHONE DIRECTORY COVERING AT LEAST THE
11 GEOGRAPHIC AREA OF THE LAST PHYSICAL ADDRESS OF THE CREATOR
12 KNOWN TO THE CUSTODIAN;

13 (b) CALLING THE CREATOR AT THE LAST PHONE NUMBER OF THE
14 CREATOR KNOWN TO THE CUSTODIAN;

15 (c) SENDING AN E-MAIL TO THE LAST E-MAIL ADDRESS OF THE
16 CREATOR KNOWN TO THE CUSTODIAN;

17 (d) CONDUCTING AN INTERNET SEARCH FOR THE CREATOR; OR

18 (e) SUBJECT TO APPLICABLE LAW OTHER THAN THIS ARTICLE 23,
19 ATTEMPTING TO CONTACT BY ANY MEANS DESCRIBED IN THIS SUBSECTION
20 (6):

21 (I) AN HEIR OF THE CREATOR;

22 (II) A FIDUCIARY, DEVISEE, OR BENEFICIARY DESIGNATED IN THE
23 CREATOR'S ORIGINAL DOCUMENT; OR

24 (III) IF APPLICABLE, ANOTHER PARTY TO THE DOCUMENT.

25 (7) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING
26 ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL,
27 ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

1 (8) "ELECTRONIC ESTATE PLANNING DOCUMENT" AND
2 "ELECTRONIC DOCUMENT" MEAN THE ELECTRONIC RECORD CREATED FROM
3 AN ORIGINAL ESTATE PLANNING DOCUMENT.

4 (9) "FIDUCIARY" MEANS AN ORIGINAL, ADDITIONAL, OR
5 SUCCESSOR PERSONAL REPRESENTATIVE, CONSERVATOR, AGENT, OR
6 TRUSTEE.

7 (10) "FILING STATEMENT" MEANS INFORMATION PROVIDED AND
8 DECLARATIONS MADE BY A CUSTODIAN PURSUANT TO SECTION 15-23-111.

9 (11) "FINANCIAL INSTITUTION" MEANS A FEDERAL- OR
10 STATE-CHARTERED COMMERCIAL BANK, SAVINGS AND LOAN ASSOCIATION,
11 SAVINGS BANK, TRUST COMPANY, OR CREDIT UNION.

12 (12) "INDEX OF CREATOR NAMES" MEANS THE SEARCHABLE
13 DATABASE CREATED BY THE STATE COURT ADMINISTRATOR PURSUANT TO
14 SECTION 15-23-114 (2).

15 (13) "ORIGINAL ESTATE PLANNING DOCUMENT" AND "ORIGINAL
16 DOCUMENT" MEAN AN ORIGINAL INSTRUMENT IN WRITING THAT IS
17 IDENTIFIED UNDER ONE OF THE FOLLOWING CATEGORIES:

18 (a) ADVANCE MEDICAL DIRECTIVE DOCUMENTS, SUCH AS MEDICAL
19 OR HEALTH CARE POWERS OF ATTORNEY; CARDIOPULMONARY
20 RESUSCITATION DIRECTIVES; AUTHORIZATIONS TO RELEASE PROTECTED
21 HEALTH INFORMATION UNDER THE FEDERAL "HEALTH INSURANCE
22 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS
23 AMENDED, OR OTHER FEDERAL LAW; LIVING WILLS AND OTHER
24 INSTRUMENTS DEALING WITH A CREATOR'S END-OF-LIFE ISSUES;
25 ANATOMICAL GIFTS, AS DEFINED IN SECTION 15-19-202 (3); DISPOSITIONS
26 OF LAST REMAINS; AND INCLUDING ADVANCE MEDICAL DIRECTIVES, AS
27 DEFINED IN SECTION 15-18.7-102 (2), MEDICAL ORDERS FOR SCOPE OF

1 TREATMENT FORMS, AS DEFINED IN SECTION 15-18.7-103, AND
2 DECLARATIONS, AS DEFINED IN SECTION 15-19-103 (3);

3 (b) MARITAL AGREEMENT DOCUMENTS, SUCH AS MARITAL
4 AGREEMENTS, AS DEFINED IN SECTION 14-2-302 (2), AND PREMARITAL
5 AGREEMENTS, AS DEFINED IN SECTION 14-2-302 (5);

6 (c) POWER OF ATTORNEY DOCUMENTS, SUCH AS GENERAL POWERS
7 OF ATTORNEY, FINANCIAL POWERS OF ATTORNEY, SPECIAL POWERS OF
8 ATTORNEY, AND DESIGNATIONS OF GUARDIAN, AND INCLUDING, BUT NOT
9 LIMITED TO, A DELEGATION OF POWER BY A PARENT OR GUARDIAN, AS
10 DESCRIBED IN SECTION 15-14-105, A TESTAMENTARY APPOINTMENT OF A
11 GUARDIAN, AS DESCRIBED IN SECTION 15-14-202 (1), AGENCY
12 INSTRUMENTS, AS DEFINED IN SECTION 15-14-602 (2), AND A POWER OF
13 ATTORNEY, AS DEFINED IN SECTION 15-14-702 (7);

14 (d) TRUST DOCUMENTS, SUCH AS TRUSTS AND TRUST
15 AMENDMENTS, WHETHER CREATED BY AGREEMENT OR DECLARATION,
16 INCLUDING TRUST INSTRUMENTS, AS DEFINED IN SECTION 15-5-103 (22),
17 AND TRUSTS, AS DEFINED IN SECTION 15-10-201 (56)(a)(I);

18 (e) WILL DOCUMENTS, SUCH AS WILLS, AS DEFINED IN SECTION
19 15-10-201 (59); CODICILS; HOLOGRAPHIC WILLS; DOCUMENTS PURPORTING
20 TO BE WILLS; INSTRUMENTS THAT REVOKE OR REVISE A TESTAMENTARY
21 INSTRUMENT; TESTAMENTARY INSTRUMENTS THAT MERELY APPOINT A
22 PERSONAL REPRESENTATIVE; OTHER TESTAMENTARY INSTRUMENTS, SUCH
23 AS MEMORANDA DISTRIBUTING TANGIBLE PERSONAL PROPERTY, AS
24 DESCRIBED IN SECTION 15-11-513; AND TESTAMENTARY APPOINTMENTS
25 OF GUARDIAN AS DESCRIBED IN SECTION 15-14-202 (1);

26 (f) OTHER AGREEMENT DOCUMENTS, SUCH AS CONTRACTS
27 CONCERNING SUCCESSION, AS DESCRIBED IN SECTION 15-11-514,

1 COHABITATION AGREEMENTS, AND DESIGNATED BENEFICIARY
2 AGREEMENTS, AND INCLUDING INSTRUMENTS DESCRIBED IN THE
3 "COLORADO DESIGNATED BENEFICIARY AGREEMENT ACT", ARTICLE 22
4 OF THIS TITLE 15; AND

5 (g) OTHER DOCUMENTS, SUCH AS INSTRUMENTS AFFECTING
6 DISPOSITION OF TITLE TO, OR AN INTEREST IN, A CREATOR'S PROPERTY OR
7 DEMONSTRATING A CREATOR'S DONATIVE ARRANGEMENTS.

8 (14) "PROFESSIONAL FIDUCIARY" MEANS AN INDIVIDUAL OR
9 ENTITY THAT IS IN THE BUSINESS OF ACTING AS A FIDUCIARY.

10 (15) "PROFILE" MEANS AN ELECTRONIC RECORD CREATED AND
11 MAINTAINED BY THE STATE COURT ADMINISTRATOR PURSUANT TO
12 SECTION 15-23-114 (3)(d) UNDER THE NAME OF EACH CREATOR FOR WHOM
13 THE STATE COURT ADMINISTRATOR HAS RECEIVED AN ELECTRONIC ESTATE
14 PLANNING DOCUMENT.

15 (16) "PROOF OF IDENTITY" MEANS ANY OF THE FOLLOWING:

16 (a) FOR AN INDIVIDUAL, A RECORD OF THE INDIVIDUAL'S:

17 (I) PASSPORT, DRIVER'S LICENSE, OR GOVERNMENT-ISSUED
18 NON-DRIVER IDENTIFICATION CARD THAT IS CURRENT OR EXPIRED NOT
19 MORE THAN ONE YEAR BEFORE THE TIME OF PRESENTATION; OR

20 (II) OTHER FORM OF GOVERNMENT IDENTIFICATION THAT IS
21 CURRENT OR HAS BEEN EXPIRED FOR NOT MORE THAN ONE YEAR BEFORE
22 THE TIME OF PRESENTATION, CONTAINS THE SIGNATURE OR A PHOTOGRAPH
23 OF THE INDIVIDUAL, AND IS SATISFACTORY TO THE STATE COURT
24 ADMINISTRATOR;

25 (b) FOR A COURT, A RECORD OF A CERTIFIED COURT ORDER;

26 (c) FOR AN ENTITY, A RECORD OF A WRITING STATING THAT THE
27 INDIVIDUAL MAKING THE REQUEST ON BEHALF OF THE ENTITY IS AN

1 OFFICER OF THE ENTITY AND PROOF OF IDENTITY FOR THE INDIVIDUAL IN
2 THE SAME MANNER AS PROVIDED IN SUBSECTION (16)(a) OF THIS SECTION;
3 AND

4 (d) FOR A GOVERNMENT AGENCY, A RECORD OF A WRITING
5 STATING THAT THE INDIVIDUAL MAKING THE REQUEST ON BEHALF OF THE
6 AGENCY IS A REPRESENTATIVE OF THE AGENCY AND PROOF OF IDENTITY
7 FOR THE INDIVIDUAL IN THE SAME MANNER AS PROVIDED IN SUBSECTION
8 (16)(a) OF THIS SECTION.

9 (17) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
10 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
11 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

12 (18) "STATE COURT ADMINISTRATOR" MEANS THE STATE COURT
13 ADMINISTRATOR ESTABLISHED PURSUANT TO SECTION 13-3-101.

14 **15-23-104. Applicability.** (1) SUBJECT TO SUBSECTION (2) OF
15 THIS SECTION, THIS ARTICLE 23 APPLIES TO AN ORIGINAL ESTATE PLANNING
16 DOCUMENT CREATED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS
17 ARTICLE 23.

18 (2) THIS ARTICLE 23 DOES NOT APPLY TO AN ORIGINAL ESTATE
19 PLANNING DOCUMENT OF A CREATOR WHOSE LOCATION IS KNOWN TO THE
20 CUSTODIAN UNLESS THE CREATOR FAILS TO TAKE POSSESSION OF THE
21 DOCUMENT AND THE CUSTODIAN HAS COMPLIED WITH THE REQUIREMENTS
22 OF SECTION 15-23-105.

23 (3) A CUSTODIAN THAT COMPLIES WITH THE PROVISIONS OF THIS
24 ARTICLE 23 CONCERNING AN ORIGINAL ESTATE PLANNING DOCUMENT IS
25 NOT SUBJECT TO THE REQUIREMENTS OF THE "UNCLAIMED PROPERTY
26 ACT", ARTICLE 13 OF TITLE 38, CONCERNING THAT ORIGINAL DOCUMENT.

27 (4) NOTHING IN THIS ARTICLE 23 ABROGATES THE DUTIES IMPOSED

1 BY SECTIONS 15-10-111 AND 15-11-516.

2 **15-23-105. Transfer of possession to creator.** (1) BEFORE
3 FILING AN ELECTRONIC ESTATE PLANNING DOCUMENT WITH THE STATE
4 COURT ADMINISTRATOR AS PROVIDED IN THIS ARTICLE 23, THE CUSTODIAN
5 SHALL ATTEMPT TO TRANSFER POSSESSION OF THE ORIGINAL ESTATE
6 PLANNING DOCUMENT TO THE CREATOR AFTER A DILIGENT SEARCH.

7 (2) (a) IF THE ATTEMPT TO TRANSFER THE ORIGINAL DOCUMENT TO
8 THE CREATOR AFTER A DILIGENT SEARCH IS NOT SUCCESSFUL, THE
9 CUSTODIAN SHALL SEND A LETTER TO THE LAST MAILING ADDRESS OF THE
10 CREATOR KNOWN TO THE CUSTODIAN BY FIRST-CLASS MAIL OR CERTIFIED
11 MAIL RETURN RECEIPT REQUESTED, NOTIFYING THE CREATOR THAT IF THE
12 CREATOR DOES NOT TAKE POSSESSION OF THE ORIGINAL DOCUMENT
13 WITHIN NINETY DAYS AFTER THE DATE OF MAILING, THE CUSTODIAN WILL
14 FILE AN ELECTRONIC COPY OF THE ORIGINAL DOCUMENT WITH THE STATE
15 COURT ADMINISTRATOR AND DESTROY THE ORIGINAL DOCUMENT.

16 (b) IN THE CASE OF AN ORIGINAL DOCUMENT FOUND IN A SAFE
17 DEPOSIT BOX, THE CUSTODIAN MAY SEND THE LETTER REQUIRED BY THIS
18 SUBSECTION (2) ADDRESSED TO THE CREATOR "IN CARE OF" THE LESSEE OR
19 LESSEES OF THE SAFE DEPOSIT BOX AT THE MAILING ADDRESS OF THE
20 LESSEE OR LESSEES LAST KNOWN TO THE CUSTODIAN.

21 **15-23-106. Preservation of an abandoned original estate**
22 **planning document after diligent search.** IF THE CREATOR OF AN
23 ORIGINAL ESTATE PLANNING DOCUMENT CANNOT BE LOCATED OR DOES
24 NOT TAKE POSSESSION OF THE ORIGINAL DOCUMENT AS PROVIDED IN
25 SECTION 15-23-105 AND IF THE CUSTODIAN IS NEITHER ABLE NOR
26 REQUIRED TO TRANSFER POSSESSION OF THE ORIGINAL DOCUMENT TO
27 SOMEONE OTHER THAN THE CREATOR UNDER APPLICABLE LAW OTHER

1 THAN THIS ARTICLE 23, THE ORIGINAL DOCUMENT IS DEEMED ABANDONED
2 FOR THE PURPOSES OF THIS ARTICLE 23, AND THE CUSTODIAN MAY
3 PRESERVE THE ORIGINAL DOCUMENT ELECTRONICALLY AS PROVIDED IN
4 THIS ARTICLE 23.

5 **15-23-107. Privilege.** SUBJECT TO APPLICABLE LAW OTHER THAN
6 THIS ARTICLE 23, IF AN ORIGINAL ESTATE PLANNING DOCUMENT IS
7 PRIVILEGED PURSUANT TO SECTION 13-90-107 (1)(b), THE
8 CORRESPONDING ELECTRONIC ESTATE PLANNING DOCUMENT FILED WITH
9 THE STATE COURT ADMINISTRATOR AS PROVIDED IN THIS ARTICLE 23
10 REMAINS PRIVILEGED.

11 **15-23-108. Exculpation of custodian.** A CUSTODIAN IS NOT
12 LIABLE TO A PERSON FOR AN ACTION TAKEN UNDER THIS ARTICLE 23 OR
13 FOR A FAILURE TO ACT AS PROVIDED IN THIS ARTICLE 23 UNLESS THE
14 ACTION OR FAILURE TO ACT IS SHOWN TO HAVE RESULTED FROM THE
15 CUSTODIAN'S BAD FAITH, GROSS NEGLIGENCE, OR INTENTIONAL
16 MISCONDUCT.

17 **15-23-109. Electronic conversion and filing.** (1) IF THE
18 CREATOR DOES NOT TAKE POSSESSION OF THE ORIGINAL ESTATE PLANNING
19 DOCUMENT WITHIN NINETY DAYS AFTER THE DATE OF MAILING THE LETTER
20 REQUIRED IN SECTION 15-23-105 (2), THE CUSTODIAN MAY CREATE AN
21 ELECTRONIC ESTATE PLANNING DOCUMENT, WHICH MUST BE IN COLOR AND
22 IN A FORMAT AND USING THE TECHNOLOGY PRESCRIBED BY THE STATE
23 COURT ADMINISTRATOR, AND MAY FILE THE ELECTRONIC DOCUMENT WITH
24 THE STATE COURT ADMINISTRATOR.

25 (2) AS TO EACH ELECTRONIC ESTATE PLANNING DOCUMENT BEING
26 FILED, THE CUSTODIAN, OR, IF THE CUSTODIAN IS AN ENTITY, AN OFFICER
27 OF THE CUSTODIAN, SHALL:

- 1 (a) EXAMINE THE ORIGINAL ESTATE PLANNING DOCUMENT;
- 2 (b) BASED UPON THAT EXAMINATION, BE SATISFIED THAT THE
- 3 DOCUMENT IS AN ORIGINAL ESTATE PLANNING DOCUMENT OF THE
- 4 CREATOR, AS THOSE TERMS ARE DEFINED IN SECTION 15-23-103;
- 5 (c) COMPARE THE ELECTRONIC ESTATE PLANNING DOCUMENT WITH
- 6 THE ORIGINAL ESTATE PLANNING DOCUMENT; AND
- 7 (d) BE SATISFIED THAT THE ELECTRONIC ESTATE PLANNING
- 8 DOCUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ESTATE
- 9 PLANNING DOCUMENT.

10 (3) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE 23 TO THE

11 CONTRARY, A CUSTODIAN SUBJECT TO THE COLORADO RULES OF

12 PROFESSIONAL CONDUCT SHALL COMPLY WITH THE RULES AS THEY MAY

13 RELATE TO A FILING PURSUANT TO THIS ARTICLE 23 PRIOR TO FILING AN

14 ELECTRONIC ESTATE PLANNING DOCUMENT WITH THE STATE COURT

15 ADMINISTRATOR.

16 **15-23-110. Penalty of perjury.** THE ACT OF SUBMITTING A FILING

17 STATEMENT TO THE STATE COURT ADMINISTRATOR PURSUANT TO SECTION

18 15-23-111 OR SUBMITTING A REQUEST TO THE STATE COURT

19 ADMINISTRATOR PURSUANT TO SECTION 15-23-119, 15-23-120, OR

20 15-23-122 CONSTITUTES THE AFFIRMATION OR ACKNOWLEDGMENT OF THE

21 SUBMITTER, UNDER THE PENALTY OF PERJURY, THAT THE FILING

22 STATEMENT OR REQUEST IS THE SUBMITTER'S ACT AND DEED, OR THAT THE

23 SUBMITTER IN GOOD FAITH BELIEVES THAT THE FILING STATEMENT OR

24 REQUEST IS THE ACT AND DEED OF THE INDIVIDUAL ON WHOSE BEHALF THE

25 SUBMITTER IS ACTING; THAT THE SUBMITTER AND THE INDIVIDUAL ON

26 WHOSE BEHALF THE SUBMITTER IS ACTING IN GOOD FAITH BELIEVES THE

27 INFORMATION PROVIDED AND DECLARATIONS MADE IN THE FILING

1 STATEMENT OR REQUEST ARE TRUE; AND THAT THE FILING STATEMENT OR
2 REQUEST COMPLIES WITH THE REQUIREMENTS OF THIS ARTICLE 23.

3 **15-23-111. Filing statement.** (1) A CUSTODIAN SHALL SUBMIT A
4 FILING STATEMENT FOR EACH ELECTRONIC ESTATE PLANNING DOCUMENT
5 FOR EACH CREATOR SUBMITTED TO THE STATE COURT ADMINISTRATOR
6 PURSUANT TO THIS ARTICLE 23.

7 (2) A CUSTODIAN SHALL PROVIDE THE FOLLOWING INFORMATION
8 AND MAKE THE FOLLOWING DECLARATIONS ON A FILING STATEMENT FORM
9 FURNISHED BY THE STATE COURT ADMINISTRATOR:

10 (a) A DECLARATION THAT AFTER ATTEMPTING TO TRANSFER
11 POSSESSION OF THE ORIGINAL ESTATE PLANNING DOCUMENT TO ITS
12 CREATOR AS PROVIDED IN SECTION 15-23-105:

13 (I) THE CUSTODIAN CANNOT LOCATE THE CREATOR OF THE
14 ORIGINAL DOCUMENT;

15 (II) THE CREATOR HAS NOT TAKEN POSSESSION OF THE ORIGINAL
16 DOCUMENT; OR

17 (III) THE CUSTODIAN HAS NEITHER BEEN ABLE NOR REQUIRED TO
18 TRANSFER POSSESSION OF THE ORIGINAL DOCUMENT TO SOMEONE OTHER
19 THAN THE CREATOR UNDER APPLICABLE LAW OTHER THAN THIS ARTICLE
20 23;

21 (b) THE NAME OF THE CREATOR, LAST NAME FIRST;

22 (c) ALL ALIASES OF THE CREATOR, LAST NAME FIRST, KNOWN TO
23 THE CUSTODIAN;

24 (d) THE DATE OF BIRTH OF THE CREATOR, IF KNOWN TO THE
25 CUSTODIAN;

26 (e) SUBJECT TO SUBSECTION (3) OF THIS SECTION, THE LAST
27 MAILING AND PHYSICAL ADDRESSES OF THE CREATOR KNOWN TO THE

1 CUSTODIAN;

2 (f) REGARDING THE CUSTODIAN:

3 (I) IF THE CUSTODIAN IS AN INDIVIDUAL, THE NAME AND ADDRESS
4 OF THE INDIVIDUAL;

5 (II) IF THE CUSTODIAN IS AN ENTITY, THE NAME AND ADDRESS OF
6 THE ENTITY, THE NAME AND POSITION OF THE INDIVIDUAL ACTING ON
7 BEHALF OF THE ENTITY, AND THE INDIVIDUAL'S ADDRESS IF DIFFERENT
8 THAN THAT OF THE ENTITY;

9 (g) FOR THE ELECTRONIC ESTATE PLANNING DOCUMENT FILED:

10 (I) THE NAME AND DATE OF THE ELECTRONIC DOCUMENT;

11 (II) THE CATEGORY OF THE ORIGINAL DOCUMENT, AS DESCRIBED
12 IN SECTION 15-23-103 (13), THAT HAS BEEN CONVERTED TO AN
13 ELECTRONIC DOCUMENT; AND

14 (III) THE NUMBER OF PAGES OF THE ELECTRONIC DOCUMENT;

15 (h) A DECLARATION THAT THE CUSTODIAN, OR IF AN ENTITY, THE
16 OFFICER OF THE CUSTODIAN, SUBMITTING THE FILING STATEMENT HAS:

17 (I) EXAMINED THE ORIGINAL ESTATE PLANNING DOCUMENT;

18 (II) BASED UPON THAT EXAMINATION, BELIEVES THAT THE
19 DOCUMENT IS AN ORIGINAL ESTATE PLANNING DOCUMENT OF THE
20 CREATOR, AS THOSE TERMS ARE DEFINED IN SECTION 15-23-103;

21 (III) COMPARED THE ELECTRONIC ESTATE PLANNING DOCUMENT
22 WITH THE ORIGINAL ESTATE PLANNING DOCUMENT; AND

23 (IV) BASED UPON THAT COMPARISON, BELIEVES THAT THE
24 ELECTRONIC ESTATE PLANNING DOCUMENT IS A TRUE AND CORRECT COPY
25 OF THE ORIGINAL ESTATE PLANNING DOCUMENT;

26 (i) (I) A DECLARATION THAT, IF THE CUSTODIAN IS SUBJECT TO THE
27 COLORADO RULES OF PROFESSIONAL CONDUCT, THE CUSTODIAN HAS

1 COMPLIED WITH THE RULES AS THEY MAY RELATE TO THIS FILING;

2 (II) FOR THE PURPOSE OF THE DECLARATION MADE PURSUANT TO
3 THIS SUBSECTION (2)(i), THE STATE COURT ADMINISTRATOR SHALL REFER
4 TO THE COLORADO RULES OF PROFESSIONAL CONDUCT AS THE "COLORADO
5 RULES OF PROFESSIONAL CONDUCT ADOPTED BY THE SUPREME COURT OF
6 COLORADO";

7 (j) A DECLARATION THAT THE CUSTODIAN HAS COMPLIED WITH ALL
8 APPLICABLE LAW OTHER THAN THIS ARTICLE 23; AND

9 (k) A DECLARATION THAT THE ACT OF SUBMITTING A FILING
10 STATEMENT TO THE STATE COURT ADMINISTRATOR SUBJECTS THE
11 SUBMITTER AND THE INDIVIDUAL ON WHOSE BEHALF THE SUBMITTER IS
12 ACTING TO THE PENALTY OF PERJURY, PURSUANT TO SECTION 15-23-110,
13 FOR THE INFORMATION PROVIDED AND DECLARATIONS MADE IN THE FILING
14 STATEMENT, WHETHER OR NOT THE INDIVIDUAL IS NAMED IN THE FILING
15 STATEMENT AS THE ONE SUBMITTING THE FILING STATEMENT.

16 (3) IN THE CASE OF AN ORIGINAL ESTATE PLANNING DOCUMENT
17 FOUND IN A SAFE DEPOSIT BOX, IT IS SUFFICIENT UNDER SUBSECTION (2)(e)
18 OF THIS SECTION TO FURNISH THE LAST MAILING AND PHYSICAL
19 ADDRESSES OF THE LESSEE OR LESSEES OF THE SAFE DEPOSIT BOX KNOWN
20 TO THE CUSTODIAN.

21 (4) INFORMATION PROVIDED AND DECLARATIONS MADE IN THE
22 FILING STATEMENT ARE PART OF THE PROFILE FOR EACH CREATOR.

23 **15-23-112. Reliance on filing statement.** THE STATE COURT
24 ADMINISTRATOR MAY RELY ON INFORMATION PROVIDED AND
25 DECLARATIONS MADE IN A FILING STATEMENT AND HAS NO DUTY TO MAKE
26 FURTHER INQUIRY.

27 **15-23-113. Fees - disposition - appropriation - cash fund.**

1 (1) THE STATE COURT ADMINISTRATOR SHALL DETERMINE AND COLLECT
2 FEES TO COVER THE ASSOCIATED COSTS FOR SUBMITTING THE FOLLOWING:

3 (a) A FILING STATEMENT, INCLUDING THE ATTACHED ELECTRONIC
4 ESTATE PLANNING DOCUMENT;

5 (b) A REQUEST FOR RETRIEVAL; AND

6 (c) A REQUEST FOR DELETION.

7 (2) THE FEES ESTABLISHED PURSUANT TO THIS SECTION MUST BE
8 BASED ON THE ACTUAL COST OF THE SUBMISSION.

9 (3) THE STATE COURT ADMINISTRATOR SHALL TRANSMIT FEES
10 COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO
11 SHALL CREDIT THEM TO THE ELECTRONIC PRESERVATION OF ABANDONED
12 ESTATE PLANNING DOCUMENTS CASH FUND CREATED IN SUBSECTION (4)
13 OF THIS SECTION.

14 (4) THE ELECTRONIC PRESERVATION OF ABANDONED ESTATE
15 PLANNING DOCUMENTS CASH FUND, REFERRED TO IN THIS SUBSECTION (4)
16 AS THE "FUND", IS HEREBY CREATED IN THE STATE TREASURY. THE FUND
17 CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT TO SUBSECTION
18 (3) OF THIS SECTION AND ANY OTHER MONEY THAT THE GENERAL
19 ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE
20 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE
21 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. SUBJECT
22 TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE JUDICIAL
23 DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR THE
24 ADMINISTRATION OF THIS ARTICLE 23.

25 **15-23-114. Duties of the state court administrator.** (1) THE
26 STATE COURT ADMINISTRATOR SHALL PROVIDE THE FORMS REQUIRED TO
27 ADMINISTER THE PROVISIONS OF THIS ARTICLE 23.

1 (2) THE STATE COURT ADMINISTRATOR SHALL CREATE AN INDEX
2 OF CREATOR NAMES THAT IS A SEARCHABLE DATABASE OF ALL NAMES,
3 ALIASES, AND LAST KNOWN PHYSICAL ADDRESSES OF ALL CREATORS FOR
4 WHOM ELECTRONIC ESTATE PLANNING DOCUMENTS ARE FILED WITH THE
5 STATE COURT ADMINISTRATOR AS PROVIDED IN THIS ARTICLE 23.

6 (3) UPON RECEIPT OF A FILING STATEMENT WITH AN ELECTRONIC
7 ESTATE PLANNING DOCUMENT OF A CREATOR, THE STATE COURT
8 ADMINISTRATOR SHALL:

9 (a) PROVIDE THE CUSTODIAN WITH A DATE-STAMPED COPY OF THE
10 FILING STATEMENT ACKNOWLEDGING RECEIPT OF THE FILING STATEMENT
11 AND THE ATTACHED ELECTRONIC ESTATE PLANNING DOCUMENT;

12 (b) ADD TO THE INDEX OF CREATOR NAMES THE NAME OF EACH
13 CREATOR AND THE ALIASES OF THE CREATOR CROSS-REFERENCED TO THE
14 CREATOR'S NAME, LAST NAME FIRST, AND THE LAST KNOWN PHYSICAL
15 ADDRESS OF THE CREATOR AS SET FORTH IN THE FILING STATEMENT;

16 (c) CREATE AND MAINTAIN A COMPUTER FOLDER FOR EACH
17 CREATOR;

18 (d) CREATE A PROFILE FOR EACH CREATOR, WHICH MUST BE FILED
19 IN THE COMPUTER FOLDER OF EACH CREATOR AND WHICH MUST CONTAIN
20 THE DATE OF FILING, INFORMATION PROVIDED IN THE FILING STATEMENT,
21 AND DECLARATIONS MADE IN THE FILING STATEMENT; AND

22 (e) CREATE AND MAINTAIN A SEPARATE ELECTRONIC RECORD OF
23 EACH ELECTRONIC ESTATE PLANNING DOCUMENT FILED FOR THE CREATOR
24 IDENTIFIED IN THE FILING STATEMENT AND STORE THE ELECTRONIC
25 RECORD IN A COMPUTER FOLDER UNDER THE CREATOR'S NAME, LAST NAME
26 FIRST.

27 (4) THE STATE COURT ADMINISTRATOR SHALL ADOPT STANDARDS

1 AND PROCEDURES FOR THE IMPLEMENTATION OF THIS ARTICLE 23.

2 **15-23-115. Destruction of original estate planning document.**

3 SUBJECT TO APPLICABLE LAW OTHER THAN THIS ARTICLE 23, THE
4 CUSTODIAN SHALL DESTROY THE ORIGINAL ESTATE PLANNING DOCUMENT
5 AFTER COMPLYING WITH THE PROVISIONS OF THIS ARTICLE 23 AND
6 RECEIVING THE DATE-STAMPED COPY OF THE FILING STATEMENT FROM THE
7 STATE COURT ADMINISTRATOR PURSUANT TO SECTION 15-23-114 (3)(a).

8 **15-23-116. Authenticity of electronic estate planning**

9 **document.** (1) AN ELECTRONIC ESTATE PLANNING DOCUMENT CERTIFIED
10 BY THE STATE COURT ADMINISTRATOR THAT IS MADE FROM AN ORIGINAL
11 ESTATE PLANNING DOCUMENT DESCRIBED IN SECTION 15-23-103 (13)(a)
12 TO (13)(e) IS DEEMED TO BE THE ORIGINAL OF THE DOCUMENT FOR ALL
13 PURPOSES UNDER COLORADO LAW.

14 (2) APPLICABLE LAW DETERMINES WHETHER AN ELECTRONIC
15 ESTATE PLANNING DOCUMENT CERTIFIED BY THE STATE COURT
16 ADMINISTRATOR THAT IS MADE FROM AN ORIGINAL ESTATE PLANNING
17 DOCUMENT DESCRIBED IN SECTION 15-23-103 (13)(f) OR (13)(g) IS
18 DEEMED TO BE THE ORIGINAL OF THE DOCUMENT.

19 **15-23-117. Public record.** (1) THE INDEX OF CREATOR NAMES
20 CREATED PURSUANT TO SECTION 15-23-114 (2) IS A PUBLIC RECORD.

21 (2) A COMPUTER FOLDER AND ITS CONTENTS, INCLUDING THE
22 CREATOR'S PROFILE, FILING STATEMENTS, AND ELECTRONIC ESTATE
23 PLANNING DOCUMENTS IS NOT A PUBLIC RECORD AND IS NOT SUBJECT TO
24 ANY FEDERAL OR STATE OPEN RECORDS ACT OR ANY REQUEST FOR PUBLIC
25 INFORMATION UNDER ANY FEDERAL, STATE, OR LOCAL LAW.

26 **15-23-118. Access to filing statement.** THE STATE COURT
27 ADMINISTRATOR SHALL PROVIDE AN INDIVIDUAL, ENTITY, COURT, OR

1 GOVERNMENT AGENCY THAT IS AUTHORIZED TO RECEIVE A COPY OF A
2 FILING STATEMENT PURSUANT TO SECTION 15-23-119 OR 15-23-120, AND
3 THAT HAS PROVIDED PROOF OF IDENTITY, ACCESS TO ANY FILING
4 STATEMENT FILED UNDER ANY NAMES OR ALIASES THAT ARE THE SUBJECT
5 OF AN INQUIRY.

6 **15-23-119. Access to electronic estate planning document prior**
7 **to notification of creator's death.** (1) UNTIL NOTIFIED OF A CREATOR'S
8 DEATH AS PROVIDED IN SECTION 15-23-120 (1)(b), THE STATE COURT
9 ADMINISTRATOR MAY PRESUME THAT THE CREATOR IS LIVING.

10 (2) WHEN A CREATOR IS PRESUMED LIVING, THE STATE COURT
11 ADMINISTRATOR SHALL DELIVER A COPY OF AN ELECTRONIC DOCUMENT
12 CERTIFIED BY THE STATE COURT ADMINISTRATOR TO ANY OF THE
13 FOLLOWING INDIVIDUALS OR ENTITIES UPON REQUEST FOR A COPY OF THE
14 ELECTRONIC ESTATE PLANNING DOCUMENT ON A FORM FURNISHED BY THE
15 STATE COURT ADMINISTRATOR AND PAYMENT OF A RETRIEVAL FEE:

16 (a) THE CREATOR, UPON PRESENTATION OF PROOF OF IDENTITY OF
17 THE CREATOR;

18 (b) AN INDIVIDUAL AUTHORIZED TO RECEIVE THE COPY OF AN
19 ELECTRONIC DOCUMENT IN A WRITING SIGNED BY THE CREATOR AND
20 NOTARIZED, UPON PRESENTATION OF:

21 (I) A RECORD OF THE WRITING; AND

22 (II) PROOF OF IDENTITY OF THE AUTHORIZED INDIVIDUAL;

23 (c) AN AGENT OF THE CREATOR, UPON PRESENTATION OF:

24 (I) A RECORD OF THE POWER OF ATTORNEY;

25 (II) A RECORD OF THE AGENT'S CERTIFICATION AS TO THE VALIDITY
26 OF THE POWER OF ATTORNEY AND THE AGENT'S AUTHORITY AS PROVIDED
27 IN SECTION 15-14-742; AND

1 (III) PROOF OF IDENTITY OF THE AGENT;

2 (d) AN INDIVIDUAL OR ENTITY NOMINATED OR APPOINTED AS A
3 FIDUCIARY IN THE ELECTRONIC DOCUMENT OR APPOINTED BY A COURT,
4 UPON PRESENTATION OF:

5 (I) A RECORD OF THE ORIGINAL ESTATE PLANNING DOCUMENT OR
6 OF THE CERTIFIED COURT ORDER; AND

7 (II) PROOF OF IDENTITY OF THE FIDUCIARY;

8 (e) A COURT-APPOINTED CONSERVATOR FOR THE CREATOR, UPON
9 PRESENTATION OF:

10 (I) A RECORD OF CERTIFIED LETTERS OF CONSERVATORSHIP; AND

11 (II) PROOF OF IDENTITY OF THE CONSERVATOR; OR

12 (f) AN INDIVIDUAL, ENTITY, COURT, OR GOVERNMENT AGENCY
13 AUTHORIZED TO RECEIVE THE COPY OF THE ELECTRONIC DOCUMENT AS
14 PROVIDED IN AN ORDER ENTERED BY A COURT, UPON PRESENTATION OF:

15 (I) A RECORD OF THE CERTIFIED COURT ORDER; AND

16 (II) PROOF OF IDENTITY OF THE AUTHORIZED INDIVIDUAL, OR OF
17 THE INDIVIDUAL ACTING ON BEHALF OF THE AUTHORIZED ENTITY, COURT,
18 OR GOVERNMENT AGENCY.

19 (3) A REQUEST MADE PURSUANT TO THIS SECTION MUST BE MADE
20 ON A FORM PROVIDED BY THE STATE COURT ADMINISTRATOR THAT
21 CONTAINS A DECLARATION THAT THE ACT OF SUBMITTING THE REQUEST TO
22 THE STATE COURT ADMINISTRATOR SUBJECTS THE SUBMITTER AND THE
23 INDIVIDUAL ON WHOSE BEHALF THE SUBMITTER IS ACTING TO THE
24 PENALTY OF PERJURY PURSUANT TO SECTION 15-23-110 FOR THE
25 INFORMATION PROVIDED AND THE DECLARATIONS MADE IN THE REQUEST
26 FORM, WHETHER OR NOT THE INDIVIDUAL IS NAMED IN THE REQUEST AS
27 THE ONE SUBMITTING THE REQUEST.

1 (4) THE STATE COURT ADMINISTRATOR SHALL FILE A REQUEST
2 FORM SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION IN THE
3 CREATOR'S COMPUTER FOLDER.

4 **15-23-120. Access to electronic estate planning document after**
5 **notification of creator's death - definitions.** (1) AS USED IN THIS
6 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "AUTHORIZED RECIPIENT" MEANS:

8 (I) AN INDIVIDUAL OR ENTITY NOMINATED OR APPOINTED AS A
9 FIDUCIARY IN AN ORIGINAL ESTATE PLANNING DOCUMENT OF A CREATOR
10 OR APPOINTED ON BEHALF OF THE ESTATE OF A CREATOR BY A COURT,
11 UPON PRESENTATION OF THE FOLLOWING:

12 (A) A RECORD OF THE ORIGINAL DOCUMENT OR THE CERTIFIED
13 COURT ORDER; AND

14 (B) PROOF OF THE IDENTITY OF THE FIDUCIARY;

15 (II) AN INDIVIDUAL OR ENTITY NAMED AS A DEVISEE UNDER A WILL
16 DOCUMENT OR BENEFICIARY UNDER A TRUST DOCUMENT, UPON
17 PRESENTATION OF THE FOLLOWING:

18 (A) A RECORD OF THE WILL DOCUMENT OR THE TRUST DOCUMENT;
19 AND

20 (B) PROOF OF IDENTITY OF THE INDIVIDUAL, OR THE INDIVIDUAL
21 ACTING ON BEHALF OF THE ENTITY, NAMED AS A DEVISEE OR BENEFICIARY;

22 (III) A COURT-APPOINTED FIDUCIARY FOR AN INDIVIDUAL NAMED
23 AS A DEVISEE UNDER A WILL DOCUMENT OR BENEFICIARY UNDER A TRUST
24 DOCUMENT UPON PRESENTATION OF THE FOLLOWING:

25 (A) A RECORD OF THE WILL DOCUMENT OR THE TRUST DOCUMENT;

26 (B) A RECORD OF CERTIFIED LETTERS OF APPOINTMENT OF THE
27 FIDUCIARY; AND

1 (C) PROOF OF IDENTITY OF THE FIDUCIARY; OR
2 (IV) AN INDIVIDUAL, ENTITY, COURT, OR GOVERNMENT AGENCY
3 AUTHORIZED TO RECEIVE A COPY OF ANY OR ALL OF THE CONTENTS OF A
4 COMPUTER FOLDER AS PROVIDED IN A COURT ORDER, UPON PRESENTATION
5 OF THE FOLLOWING:

- 6 (A) RECORD OF THE CERTIFIED COURT ORDER; AND
7 (B) PROOF OF IDENTITY OF THE AUTHORIZED INDIVIDUAL, OR OF
8 THE INDIVIDUAL ACTING ON BEHALF OF THE AUTHORIZED ENTITY, COURT,
9 OR GOVERNMENT AGENCY.

10 (b) "NOTIFICATION OF DEATH" MEANS PRESENTATION TO THE
11 STATE COURT ADMINISTRATOR OF:

- 12 (I) A RECORD OF THE CREATOR'S CERTIFIED DEATH CERTIFICATE;
13 OR
14 (II) A RECORD OF THE CERTIFIED COURT ORDER DETERMINING
15 THAT A CREATOR IS DECEASED.

16 (2) UPON NOTIFICATION OF DEATH AND A REQUEST FOR ANY OR
17 ALL OF THE CONTENTS OF A COMPUTER FOLDER BY AN AUTHORIZED
18 RECIPIENT ON A FORM FURNISHED BY THE STATE COURT ADMINISTRATOR
19 AND PAYMENT OF A RETRIEVAL FEE, THE STATE COURT ADMINISTRATOR
20 SHALL:

21 (a) DELIVER A COPY OF THE REQUESTED CONTENTS OF THE
22 COMPUTER FOLDER WITH EACH ELECTRONIC ESTATE PLANNING DOCUMENT
23 CERTIFIED BY THE STATE COURT ADMINISTRATOR TO THE AUTHORIZED
24 RECIPIENT;

25 (b) AS TO A WILL DOCUMENT OF A CREATOR, LODGE A COPY OF THE
26 ELECTRONIC ESTATE PLANNING DOCUMENT CERTIFIED BY THE STATE
27 COURT ADMINISTRATOR AS REQUIRED BY SECTION 15-11-516; AND

1 (c) FILE THE REQUEST FORM IN THE CREATOR'S COMPUTER FOLDER.

2 (3) A REQUEST MADE PURSUANT TO THIS SECTION MUST BE MADE
3 ON A FORM PROVIDED BY THE STATE COURT ADMINISTRATOR THAT
4 CONTAINS A DECLARATION THAT THE ACT OF SUBMITTING THE REQUEST TO
5 THE STATE COURT ADMINISTRATOR SUBJECTS THE SUBMITTER AND THE
6 INDIVIDUAL ON WHOSE BEHALF THE SUBMITTER IS ACTING TO THE
7 PENALTY OF PERJURY PURSUANT TO SECTION 15-23-110 FOR THE
8 INFORMATION PROVIDED AND THE DECLARATIONS MADE IN THE REQUEST
9 FORM, WHETHER OR NOT THE INDIVIDUAL IS NAMED IN THE REQUEST AS
10 THE ONE SUBMITTING THE REQUEST.

11 **15-23-121. Action to establish a claim.** IF AN INDIVIDUAL,
12 ENTITY, OR GOVERNMENT AGENCY SUBMITS A REQUEST FOR RETRIEVAL OF
13 A COPY OF ANY OR ALL OF THE CONTENTS OF A COMPUTER FOLDER AS
14 PROVIDED IN THIS ARTICLE 23 AND THE REQUEST IS DENIED BY THE STATE
15 COURT ADMINISTRATOR OR IS NOT ACTED UPON BY THE STATE COURT
16 ADMINISTRATOR WITHIN NINETY DAYS AFTER ITS SUBMISSION, THE
17 INDIVIDUAL, ENTITY, OR GOVERNMENT AGENCY MAY FILE AN ACTION IN
18 THE PROBATE COURT OF THE CITY AND COUNTY OF DENVER, NAMING THE
19 STATE COURT ADMINISTRATOR AS RESPONDENT, TO RETRIEVE A COPY OF
20 ANY OR ALL OF THE CONTENTS OF THE COMPUTER FOLDER. THE
21 INDIVIDUAL, ENTITY, OR GOVERNMENT AGENCY MUST FILE THE ACTION
22 WITHIN NINETY DAYS AFTER THE DATE OF THE DENIAL BY THE STATE
23 COURT ADMINISTRATOR OR WITHIN ONE HUNDRED EIGHTY DAYS AFTER
24 THE DATE OF THE FILING OF THE REQUEST FOR RETRIEVAL IF THE STATE
25 COURT ADMINISTRATOR HAS FAILED TO ACT ON IT.

26 **15-23-122. Deletion of electronic estate planning documents**
27 **and computer folders - error correction.** (1) (a) THE STATE COURT

1 ADMINISTRATOR SHALL DELETE AN ELECTRONIC ESTATE PLANNING
2 DOCUMENT FILED PURSUANT TO THIS ARTICLE 23 UPON PRESENTATION OF:

3 (I) A REQUEST BY A CREATOR OF THE DOCUMENT ON A NOTARIZED
4 FORM FURNISHED BY THE STATE COURT ADMINISTRATOR;

5 (II) PROOF OF IDENTITY OF THE CREATOR; AND

6 (III) PAYMENT OF A DELETION FEE.

7 (b) THE STATE COURT ADMINISTRATOR SHALL FILE THE REQUEST
8 FORM IN THE CREATOR'S COMPUTER FOLDER AND SHALL MAINTAIN THE
9 FOLDER FOR THE PERIOD OF TIME SPECIFIED IN SUBSECTION (4) OF THIS
10 SECTION.

11 (c) UPON REQUEST FOR DELETION PURSUANT TO THIS SUBSECTION
12 (1), THE STATE COURT ADMINISTRATOR SHALL DELETE THE ELECTRONIC
13 DOCUMENT ONLY FROM THE COMPUTER FOLDER OF THE CREATOR WHO
14 REQUESTS THE DELETION.

15 (2) A REQUEST PURSUANT TO THIS SECTION MUST BE MADE ON A
16 FORM PROVIDED BY THE STATE COURT ADMINISTRATOR THAT CONTAINS
17 THE DECLARATION THAT THE ACT OF SUBMITTING THE REQUEST TO THE
18 STATE COURT ADMINISTRATOR SUBJECTS THE SUBMITTER AND THE
19 INDIVIDUAL ON WHOSE BEHALF THE SUBMITTER IS ACTING TO THE
20 PENALTY OF PERJURY PURSUANT TO SECTION 15-23-110 FOR THE
21 INFORMATION PROVIDED AND THE DECLARATIONS MADE ON THE REQUEST
22 FORM, WHETHER OR NOT THE INDIVIDUAL IS NAMED IN THE REQUEST AS
23 THE ONE SUBMITTING THE REQUEST.

24 (3) THE STATE COURT ADMINISTRATOR MAY TAKE SUCH ACTIONS
25 AS THE STATE COURT ADMINISTRATOR DEEMS NECESSARY TO CORRECT
26 ANY TECHNOLOGICAL, TYPOGRAPHICAL, OR CLERICAL ERROR, AND, AT THE
27 STATE COURT ADMINISTRATOR'S DISCRETION, HE OR SHE MAY DELETE A

1 RECORD THAT A CUSTODIAN HAS FILED IN ERROR.

2 (4) THE STATE COURT ADMINISTRATOR MAY DELETE A COMPUTER
3 FOLDER ONE HUNDRED YEARS AFTER THE DATE OF THE CREATION OF THE
4 FOLDER.

5 **SECTION 2.** In Colorado Revised Statutes, 13-3-101, **add** (11)
6 as follows:

7 **13-3-101. State court administrator - repeal.** (11) THE STATE
8 COURT ADMINISTRATOR SHALL ADMINISTER THE "COLORADO ELECTRONIC
9 PRESERVATION OF ABANDONED ESTATE PLANNING DOCUMENTS ACT",
10 ARTICLE 23 OF TITLE 15.

11 **SECTION 3.** In Colorado Revised Statutes, **repeal and reenact,**
12 **with amendments,** 15-12-304 as follows:

13 **15-12-304. Informal probate - unavailable in certain cases.**

14 (1) APPLICATIONS FOR INFORMAL PROBATE THAT RELATE TO ANY OF THE
15 FOLLOWING MUST BE DECLINED:

16 (a) ONE OR MORE OF A KNOWN SERIES OF TESTAMENTARY
17 INSTRUMENTS, OTHER THAN A WILL AND ONE OR MORE CODICILS THERETO,
18 THE LATEST OF WHICH DOES NOT EXPRESSLY REVOKE THE EARLIER; OR

19 (b) A COPY OF THE DECEDENT'S ORIGINAL WILL CERTIFIED BY THE
20 STATE COURT ADMINISTRATOR PURSUANT TO ARTICLE 23 OF THIS TITLE 15.

21 **SECTION 4.** In Colorado Revised Statutes, 15-12-402, **amend**
22 (1) introductory portion, (1)(c), and (2) as follows:

23 **15-12-402. Formal testacy or appointment proceedings -**
24 **petition - contents.** (1) Petitions for formal probate of a will, or for
25 adjudication of intestacy with or without request for appointment of a
26 personal representative, must be directed to the court, request a judicial
27 order after notice and hearing, and contain further statements as indicated

1 in this section. A petition for formal probate of a will ~~shall~~ MUST:

2 (c) State whether the original of the last will of the decedent, OR
3 A COPY OF THE DECEDENT'S ORIGINAL WILL CERTIFIED BY THE STATE
4 COURT ADMINISTRATOR PURSUANT TO ARTICLE 23 OF THIS TITLE 15, is in
5 the possession of the court or accompanies the petition.

6 (2) If the original will, OR A COPY OF THE DECEDENT'S ORIGINAL
7 WILL CERTIFIED BY THE STATE COURT ADMINISTRATOR PURSUANT TO
8 ARTICLE 23 OF THIS TITLE 15, is neither in the possession of the court nor
9 accompanies the petition and no authenticated copy of a will probated in
10 another jurisdiction accompanies the petition, the petition also must state
11 the contents of the will and indicate that it is lost, destroyed, or otherwise
12 unavailable.

13 **SECTION 5.** In Colorado Revised Statutes, 38-13-110, **add**
14 (1)(c) as follows:

15 **38-13-110. Report and payment or delivery of abandoned**
16 **property.** (1) (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
17 ARTICLE 13 TO THE CONTRARY, A HOLDER WHO QUALIFIES AS A
18 CUSTODIAN PURSUANT TO SECTION 15-23-103 (5) AND WHO COMPLIES
19 WITH THE PROVISIONS OF THE "COLORADO ELECTRONIC PRESERVATION OF
20 ABANDONED ESTATE PLANNING DOCUMENTS ACT", ARTICLE 23 OF TITLE
21 15, CONCERNING AN ORIGINAL ESTATE PLANNING DOCUMENT, AS DEFINED
22 IN SECTION 15-23-103 (13), IS NOT SUBJECT TO THE REQUIREMENTS OF
23 THIS ARTICLE 13 CONCERNING THAT ORIGINAL ESTATE PLANNING
24 DOCUMENT.

25 **SECTION 6. Act subject to petition - effective date.** This act
26 takes effect July 1, 2020; except that, if a referendum petition is filed
27 pursuant to section 1 (3) of article V of the state constitution against this

1 act or an item, section, or part of this act within the ninety-day period
2 after final adjournment of the general assembly, then the act, item,
3 section, or part will not take effect unless approved by the people at the
4 general election to be held in November 2019 and, in such case, will take
5 effect on the date of the official declaration of the vote thereon by the
6 governor.