

CHAPTER 252

PROBATE, TRUSTS, AND FIDUCIARIES

HOUSE BILL 19-1229

BY REPRESENTATIVE(S) Roberts and Snyder, Arndt, Bird, Buckner, Duran, Kennedy;
also SENATOR(S) Gardner and Lee, Priola, Tate.

AN ACT

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

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 23 to title 15 as follows:

ARTICLE 23
Colorado Electronic Preservation of
Abandoned Estate Planning Documents Act

15-23-101. Short title. THE SHORT TITLE OF THIS ARTICLE 23 IS THE "COLORADO ELECTRONIC PRESERVATION OF ABANDONED ESTATE PLANNING DOCUMENTS ACT".

15-23-102. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) ABANDONED ORIGINAL ESTATE PLANNING DOCUMENTS ARE IN THE CUSTODY OF PROFESSIONALS WHO ARE UNABLE TO LOCATE THE CREATORS OF THE DOCUMENTS;

(b) CREATING A CENTRAL REPOSITORY FOR THESE DOCUMENTS WOULD BE IN THE BEST INTERESTS OF THE CUSTODIANS AND CREATORS OF THESE DOCUMENTS AND THE CREATORS' REPRESENTATIVES WHO MAY LATER BE IN NEED OF THE DOCUMENTS;

(c) THE JUDICIAL DEPARTMENT IS AN APPROPRIATE REPOSITORY FOR THE DOCUMENTS;

(d) ECONOMICS DICTATE AND TECHNOLOGY PERMITS CONVERSION OF ORIGINAL

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

ESTATE PLANNING DOCUMENTS INTO ELECTRONIC VERSIONS OF THE ORIGINALS AS RELIABLE SUBSTITUTES FOR THE ORIGINALS; AND

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

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

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

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

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

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

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

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

(2) "CERTIFIED BY THE STATE COURT ADMINISTRATOR" MEANS A RECORD CERTIFIED BY THE STATE COURT ADMINISTRATOR AS BEING A TRUE COPY OF AN ELECTRONIC RECORD MAINTAINED BY THE STATE COURT ADMINISTRATOR.

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

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

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

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

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

(c) A PROFESSIONAL FIDUCIARY APPOINTED UNDER AN ORIGINAL ESTATE PLANNING DOCUMENT, THE SUCCESSOR TO THE PROFESSIONAL FIDUCIARY, THE PROFESSIONAL FIDUCIARY'S OR SUCCESSOR'S FIDUCIARY, OR AN AFFIANT OF AN AFFIDAVIT OF THE PROFESSIONAL FIDUCIARY'S OR SUCCESSOR'S ESTATE PURSUANT TO PART 12 OF ARTICLE 12 OF THIS TITLE 15;

(d) A FINANCIAL INSTITUTION PROVIDING FIDUCIARY SERVICES;

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

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

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

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

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

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

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

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

(I) AN HEIR OF THE CREATOR;

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

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

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

(8) "ELECTRONIC ESTATE PLANNING DOCUMENT" AND "ELECTRONIC DOCUMENT"

MEAN THE ELECTRONIC RECORD CREATED FROM AN ORIGINAL ESTATE PLANNING DOCUMENT.

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

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

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

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

(13) "ORIGINAL ESTATE PLANNING DOCUMENT" AND "ORIGINAL DOCUMENT" MEAN AN ORIGINAL INSTRUMENT IN WRITING THAT IS ANY WILL DOCUMENT, INCLUDING, BUT NOT LIMITED TO WILLS, AS DEFINED IN SECTION 15-10-201 (59); CODICILS; HOLOGRAPHIC WILLS; DOCUMENTS PURPORTING TO BE WILLS; INSTRUMENTS THAT REVOKE OR REVISE A TESTAMENTARY INSTRUMENT; TESTAMENTARY INSTRUMENTS THAT MERELY APPOINT A PERSONAL REPRESENTATIVE; OTHER TESTAMENTARY INSTRUMENTS, SUCH AS MEMORANDA DISTRIBUTING TANGIBLE PERSONAL PROPERTY, AS DESCRIBED IN SECTION 15-11-513; AND TESTAMENTARY APPOINTMENTS OF GUARDIAN AS DESCRIBED IN SECTION 15-14-202 (1).

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

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

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

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

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

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

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

(c) FOR AN ENTITY, A RECORD OF A WRITING STATING THAT THE INDIVIDUAL

MAKING THE REQUEST ON BEHALF OF THE ENTITY IS AN OFFICER OF THE ENTITY AND PROOF OF IDENTITY FOR THE INDIVIDUAL IN THE SAME MANNER AS PROVIDED IN SUBSECTION (16)(a) OF THIS SECTION; AND

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

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

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

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

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

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

(4) NOTHING IN THIS ARTICLE 23 ABROGATES THE DUTIES IMPOSED BY SECTIONS 15-10-111 AND 15-11-516.

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

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

(b) IN THE CASE OF AN ORIGINAL DOCUMENT FOUND IN A SAFE DEPOSIT BOX, THE CUSTODIAN MAY SEND THE LETTER REQUIRED BY THIS SUBSECTION (2) ADDRESSED TO THE CREATOR "IN CARE OF" THE LESSEE OR LESSEES OF THE SAFE DEPOSIT BOX AT

THE MAILING ADDRESS OF THE LESSEE OR LESSEES LAST KNOWN TO THE CUSTODIAN.

15-23-106. Preservation of an abandoned original estate planning document after diligent search. IF THE CREATOR OF AN ORIGINAL ESTATE PLANNING DOCUMENT CANNOT BE LOCATED OR DOES NOT TAKE POSSESSION OF THE ORIGINAL DOCUMENT AS PROVIDED IN SECTION 15-23-105 AND IF THE CUSTODIAN IS NEITHER ABLE NOR REQUIRED TO TRANSFER POSSESSION OF THE ORIGINAL DOCUMENT TO SOMEONE OTHER THAN THE CREATOR UNDER APPLICABLE LAW OTHER THAN THIS ARTICLE 23, THE ORIGINAL DOCUMENT IS DEEMED ABANDONED FOR THE PURPOSES OF THIS ARTICLE 23, AND THE CUSTODIAN MAY PRESERVE THE ORIGINAL DOCUMENT ELECTRONICALLY AS PROVIDED IN THIS ARTICLE 23.

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

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

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

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

(a) EXAMINE THE ORIGINAL ESTATE PLANNING DOCUMENT;

(b) BASED UPON THAT EXAMINATION, BE SATISFIED THAT THE DOCUMENT IS AN ORIGINAL ESTATE PLANNING DOCUMENT OF THE CREATOR, AS THOSE TERMS ARE DEFINED IN SECTION 15-23-103;

(c) COMPARE THE ELECTRONIC ESTATE PLANNING DOCUMENT WITH THE ORIGINAL ESTATE PLANNING DOCUMENT; AND

(d) BE SATISFIED THAT THE ELECTRONIC ESTATE PLANNING DOCUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ESTATE PLANNING DOCUMENT.

(3) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE 23 TO THE CONTRARY, A CUSTODIAN SUBJECT TO THE COLORADO RULES OF PROFESSIONAL CONDUCT SHALL COMPLY WITH THE RULES AS THEY MAY RELATE TO A FILING PURSUANT TO THIS

ARTICLE 23 PRIOR TO FILING AN ELECTRONIC ESTATE PLANNING DOCUMENT WITH THE STATE COURT ADMINISTRATOR.

15-23-110. Penalty of perjury. THE ACT OF SUBMITTING A FILING STATEMENT TO THE STATE COURT ADMINISTRATOR PURSUANT TO SECTION 15-23-111 OR SUBMITTING A REQUEST TO THE STATE COURT ADMINISTRATOR PURSUANT TO SECTION 15-23-119, 15-23-120, OR 15-23-122 CONSTITUTES THE AFFIRMATION OR ACKNOWLEDGMENT OF THE SUBMITTER, UNDER THE PENALTY OF PERJURY, THAT THE FILING STATEMENT OR REQUEST IS THE SUBMITTER'S ACT AND DEED, OR THAT THE SUBMITTER IN GOOD FAITH BELIEVES THAT THE FILING STATEMENT OR REQUEST IS THE ACT AND DEED OF THE INDIVIDUAL ON WHOSE BEHALF THE SUBMITTER IS ACTING; THAT THE SUBMITTER AND THE INDIVIDUAL ON WHOSE BEHALF THE SUBMITTER IS ACTING IN GOOD FAITH BELIEVES THE INFORMATION PROVIDED AND DECLARATIONS MADE IN THE FILING STATEMENT OR REQUEST ARE TRUE; AND THAT THE FILING STATEMENT OR REQUEST COMPLIES WITH THE REQUIREMENTS OF THIS ARTICLE 23.

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

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

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

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

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

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

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

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

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

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

(f) REGARDING THE CUSTODIAN:

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

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

(g) FOR THE ELECTRONIC ESTATE PLANNING DOCUMENT FILED:

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

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

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

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

(I) EXAMINED THE ORIGINAL ESTATE PLANNING DOCUMENT;

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

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

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

(i) (I) A DECLARATION THAT, IF THE CUSTODIAN IS SUBJECT TO THE COLORADO RULES OF PROFESSIONAL CONDUCT, THE CUSTODIAN HAS COMPLIED WITH THE RULES AS THEY MAY RELATE TO THIS FILING;

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

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

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

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

OF THE SAFE DEPOSIT BOX KNOWN TO THE CUSTODIAN.

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

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

15-23-113. Fees - disposition - appropriation - cash fund. (1) THE STATE COURT ADMINISTRATOR SHALL DETERMINE AND COLLECT FEES TO COVER THE ASSOCIATED COSTS FOR SUBMITTING THE FOLLOWING:

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

(b) A REQUEST FOR RETRIEVAL; AND

(c) A REQUEST FOR DELETION.

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

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

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

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

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

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

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

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

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

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

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

(4) (a) THE STATE COURT ADMINISTRATOR MAY ENTER INTO AN INTERAGENCY AGREEMENT WITH ANOTHER STATE AGENCY TO MAINTAIN ANY COMPUTER FOLDER OR PROFILE REQUIRED BY THIS ARTICLE 23. ANY COMPUTER FOLDER OR PROFILE MAINTAINED PURSUANT TO SUCH AN AGREEMENT IS CONSIDERED TO BE MAINTAINED BY THE STATE COURT ADMINISTRATOR FOR THE PURPOSES OF THIS ARTICLE 23.

(b) AN INTERAGENCY AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (4) MUST REQUIRE ANY PARTIES TO THE AGREEMENT TO DELIVER ANY INFORMATION OR ELECTRONIC RECORD MAINTAINED BY THE DEPARTMENT PURSUANT TO THE AGREEMENT TO THE STATE COURT ADMINISTRATOR UPON REQUEST.

(5) THE STATE COURT ADMINISTRATOR SHALL ADOPT STANDARDS AND PROCEDURES FOR THE IMPLEMENTATION OF THIS ARTICLE 23.

15-23-115. Destruction of original estate planning document. SUBJECT TO APPLICABLE LAW OTHER THAN THIS ARTICLE 23, THE CUSTODIAN SHALL DESTROY THE ORIGINAL ESTATE PLANNING DOCUMENT AFTER COMPLYING WITH THE PROVISIONS OF THIS ARTICLE 23 AND RECEIVING THE DATE-STAMPED COPY OF THE FILING STATEMENT FROM THE STATE COURT ADMINISTRATOR PURSUANT TO SECTION 15-23-114 (3)(a).

15-23-116. Authenticity of electronic estate planning document. AN ELECTRONIC ESTATE PLANNING DOCUMENT CERTIFIED BY THE STATE COURT ADMINISTRATOR THAT IS MADE FROM AN ORIGINAL ESTATE PLANNING DOCUMENT IS DEEMED TO BE THE ORIGINAL OF THE DOCUMENT FOR ALL PURPOSES UNDER COLORADO LAW.

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

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

15-23-118. Access to filing statement. THE STATE COURT ADMINISTRATOR SHALL PROVIDE AN INDIVIDUAL, ENTITY, COURT, OR GOVERNMENT AGENCY THAT IS AUTHORIZED TO RECEIVE A COPY OF A FILING STATEMENT PURSUANT TO SECTION 15-23-119 OR 15-23-120, AND THAT HAS PROVIDED PROOF OF IDENTITY, ACCESS TO ANY FILING STATEMENT FILED UNDER ANY NAMES OR ALIASES THAT ARE THE SUBJECT OF AN INQUIRY.

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

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

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

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

(I) A RECORD OF THE WRITING; AND

(II) PROOF OF IDENTITY OF THE AUTHORIZED INDIVIDUAL;

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

(I) A RECORD OF THE POWER OF ATTORNEY;

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

(III) PROOF OF IDENTITY OF THE AGENT;

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

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

(II) PROOF OF IDENTITY OF THE FIDUCIARY;

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

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

(II) PROOF OF IDENTITY OF THE CONSERVATOR; OR

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

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

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

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

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

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

(a) "AUTHORIZED RECIPIENT" MEANS:

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

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

(B) PROOF OF THE IDENTITY OF THE FIDUCIARY;

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

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

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

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

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

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

(C) PROOF OF IDENTITY OF THE FIDUCIARY; OR

(IV) AN INDIVIDUAL, ENTITY, COURT, OR GOVERNMENT AGENCY AUTHORIZED TO RECEIVE A COPY OF ANY OR ALL OF THE CONTENTS OF A COMPUTER FOLDER AS PROVIDED IN A COURT ORDER, UPON PRESENTATION OF THE FOLLOWING:

(A) RECORD OF THE CERTIFIED COURT ORDER; AND

(B) PROOF OF IDENTITY OF THE AUTHORIZED INDIVIDUAL, OR OF THE INDIVIDUAL ACTING ON BEHALF OF THE AUTHORIZED ENTITY, COURT, OR GOVERNMENT AGENCY.

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

(I) A RECORD OF THE CREATOR'S CERTIFIED DEATH CERTIFICATE; OR

(II) A RECORD OF THE CERTIFIED COURT ORDER DETERMINING THAT A CREATOR IS DECEASED.

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

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

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

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

(3) A REQUEST MADE PURSUANT TO THIS SECTION MUST BE MADE ON A FORM PROVIDED BY THE STATE COURT ADMINISTRATOR THAT CONTAINS A DECLARATION THAT THE ACT OF SUBMITTING THE REQUEST TO THE STATE COURT ADMINISTRATOR SUBJECTS THE SUBMITTER AND THE INDIVIDUAL ON WHOSE BEHALF THE SUBMITTER IS ACTING TO THE PENALTY OF PERJURY PURSUANT TO SECTION 15-23-110 FOR THE INFORMATION PROVIDED AND THE DECLARATIONS MADE IN THE REQUEST FORM,

WHETHER OR NOT THE INDIVIDUAL IS NAMED IN THE REQUEST AS THE ONE SUBMITTING THE REQUEST.

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

15-23-122. Deletion of electronic estate planning documents and computer folders - error correction. (1) (a) THE STATE COURT ADMINISTRATOR SHALL DELETE AN ELECTRONIC ESTATE PLANNING DOCUMENT FILED PURSUANT TO THIS ARTICLE 23 UPON PRESENTATION OF:

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

(II) PROOF OF IDENTITY OF THE CREATOR; AND

(III) PAYMENT OF A DELETION FEE.

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

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

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

(3) THE STATE COURT ADMINISTRATOR MAY TAKE SUCH ACTIONS AS THE STATE COURT ADMINISTRATOR DEEMS NECESSARY TO CORRECT ANY TECHNOLOGICAL, TYPOGRAPHICAL, OR CLERICAL ERROR, AND, AT THE STATE COURT ADMINISTRATOR'S DISCRETION, HE OR SHE MAY DELETE A RECORD THAT A CUSTODIAN HAS FILED IN ERROR.

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

SECTION 2. In Colorado Revised Statutes, 13-3-101, **add** (14) as follows:

13-3-101. State court administrator - repeal. (14) THE STATE COURT ADMINISTRATOR SHALL ADMINISTER THE "COLORADO ELECTRONIC PRESERVATION OF ABANDONED ESTATE PLANNING DOCUMENTS ACT", ARTICLE 23 OF TITLE 15.

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

15-12-304. Informal probate - unavailable in certain cases. (1) APPLICATIONS FOR INFORMAL PROBATE THAT RELATE TO ANY OF THE FOLLOWING MUST BE DECLINED:

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

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

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

15-12-402. Formal testacy or appointment proceedings - petition - contents. (1) Petitions for formal probate of a will, or for adjudication of intestacy with or without request for appointment of a personal representative, must be directed to the court, request a judicial order after notice and hearing, and contain further statements as indicated in this section. A petition for formal probate of a will ~~shall~~ MUST:

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

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

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

38-13-110. Report and payment or delivery of abandoned property. (1) (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 13 TO THE CONTRARY, A HOLDER WHO QUALIFIES AS A CUSTODIAN PURSUANT TO SECTION 15-23-103 (5) AND WHO COMPLIES WITH THE PROVISIONS OF THE "COLORADO

ELECTRONIC PRESERVATION OF ABANDONED ESTATE PLANNING DOCUMENTS ACT", ARTICLE 23 OF TITLE 15, CONCERNING AN ORIGINAL ESTATE PLANNING DOCUMENT, AS DEFINED IN SECTION 15-23-103 (13), IS NOT SUBJECT TO THE REQUIREMENTS OF THIS ARTICLE 13 CONCERNING THAT ORIGINAL ESTATE PLANNING DOCUMENT.

SECTION 6. Act subject to petition - effective date. (1) Except as otherwise provided in subsection (2) of this section, this act takes effect January 1, 2021; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Section 5 of this act takes effect only if Senate Bill 19-088 does not become law.

Approved: May 22, 2019