

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-0250.01 Conrad Imel x2313

HOUSE BILL 19-1229

HOUSE SPONSORSHIP

Roberts and Snyder, Arndt, Bird, Buckner, Duran, Kennedy

SENATE SPONSORSHIP

Gardner and Lee,

House Committees

State, Veterans, & Military Affairs
Finance
Appropriations

Senate Committees

Finance
Appropriations

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.*

SENATE
2nd Reading Unamended
May 2, 2019

HOUSE
Amended 3rd Reading
April 26, 2019

HOUSE
Amended 2nd Reading
April 25, 2019

administrator within the judicial department, and destruction of the original document. The bill creates a process for the state court administrator to provide access to electronic documents and sets requirements for the storage and deletion of electronic documents.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 23 to title
3 15 as follows:

4 **ARTICLE 23**

5 **Colorado Electronic Preservation of**
6 **Abandoned Estate Planning Documents Act**

7 **15-23-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 23 IS
8 THE "COLORADO ELECTRONIC PRESERVATION OF ABANDONED ESTATE
9 PLANNING DOCUMENTS ACT".

10 **15-23-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY
11 FINDS AND DECLARES THAT:

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

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

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

21 (d) ECONOMICS DICTATE AND TECHNOLOGY PERMITS CONVERSION
22 OF ORIGINAL ESTATE PLANNING DOCUMENTS INTO ELECTRONIC VERSIONS
23 OF THE ORIGINALS AS RELIABLE SUBSTITUTES FOR THE ORIGINALS; AND

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 ANY
17 WILL DOCUMENT, INCLUDING, BUT NOT LIMITED TO WILLS, AS DEFINED IN
18 SECTION 15-10-201 (59); CODICILS; HOLOGRAPHIC WILLS; DOCUMENTS
19 PURPORTING TO BE WILLS; INSTRUMENTS THAT REVOKE OR REVISE A
20 TESTAMENTARY INSTRUMENT; TESTAMENTARY INSTRUMENTS THAT
21 MERELY APPOINT A PERSONAL REPRESENTATIVE; OTHER TESTAMENTARY
22 INSTRUMENTS, SUCH AS MEMORANDA DISTRIBUTING TANGIBLE PERSONAL
23 PROPERTY, AS DESCRIBED IN SECTION 15-11-513; AND TESTAMENTARY
24 APPOINTMENTS OF GUARDIAN AS DESCRIBED IN SECTION 15-14-202 (1).

25 ■ ■

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

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

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

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

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

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

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

17 (c) FOR AN ENTITY, A RECORD OF A WRITING STATING THAT THE
18 INDIVIDUAL MAKING THE REQUEST ON BEHALF OF THE ENTITY IS AN
19 OFFICER OF THE ENTITY AND PROOF OF IDENTITY FOR THE INDIVIDUAL IN
20 THE SAME MANNER AS PROVIDED IN SUBSECTION (16)(a) OF THIS SECTION;
21 AND

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

27 (17) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A

1 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
2 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

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

5 **15-23-104. Applicability.** (1) SUBJECT TO SUBSECTION (2) OF
6 THIS SECTION, THIS ARTICLE 23 APPLIES TO AN ORIGINAL ESTATE PLANNING
7 DOCUMENT CREATED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS
8 ARTICLE 23.

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

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

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

20 **15-23-105. Transfer of possession to creator.** (1) BEFORE
21 FILING AN ELECTRONIC ESTATE PLANNING DOCUMENT WITH THE STATE
22 COURT ADMINISTRATOR AS PROVIDED IN THIS ARTICLE 23, THE CUSTODIAN
23 SHALL ATTEMPT TO TRANSFER POSSESSION OF THE ORIGINAL ESTATE
24 PLANNING DOCUMENT TO THE CREATOR AFTER A DILIGENT SEARCH.

25 (2) (a) IF THE ATTEMPT TO TRANSFER THE ORIGINAL DOCUMENT TO
26 THE CREATOR AFTER A DILIGENT SEARCH IS NOT SUCCESSFUL, THE
27 CUSTODIAN SHALL SEND A LETTER TO THE LAST MAILING ADDRESS OF THE

1 CREATOR KNOWN TO THE CUSTODIAN BY FIRST-CLASS MAIL OR CERTIFIED
2 MAIL RETURN RECEIPT REQUESTED, NOTIFYING THE CREATOR THAT IF THE
3 CREATOR DOES NOT TAKE POSSESSION OF THE ORIGINAL DOCUMENT
4 WITHIN NINETY DAYS AFTER THE DATE OF MAILING, THE CUSTODIAN WILL
5 FILE AN ELECTRONIC COPY OF THE ORIGINAL DOCUMENT WITH THE STATE
6 COURT ADMINISTRATOR AND DESTROY THE ORIGINAL DOCUMENT.

7 (b) IN THE CASE OF AN ORIGINAL DOCUMENT FOUND IN A SAFE
8 DEPOSIT BOX, THE CUSTODIAN MAY SEND THE LETTER REQUIRED BY THIS
9 SUBSECTION (2) ADDRESSED TO THE CREATOR "IN CARE OF" THE LESSEE OR
10 LESSEES OF THE SAFE DEPOSIT BOX AT THE MAILING ADDRESS OF THE
11 LESSEE OR LESSEES LAST KNOWN TO THE CUSTODIAN.

12 **15-23-106. Preservation of an abandoned original estate**
13 **planning document after diligent search.** IF THE CREATOR OF AN
14 ORIGINAL ESTATE PLANNING DOCUMENT CANNOT BE LOCATED OR DOES
15 NOT TAKE POSSESSION OF THE ORIGINAL DOCUMENT AS PROVIDED IN
16 SECTION 15-23-105 AND IF THE CUSTODIAN IS NEITHER ABLE NOR
17 REQUIRED TO TRANSFER POSSESSION OF THE ORIGINAL DOCUMENT TO
18 SOMEONE OTHER THAN THE CREATOR UNDER APPLICABLE LAW OTHER
19 THAN THIS ARTICLE 23, THE ORIGINAL DOCUMENT IS DEEMED ABANDONED
20 FOR THE PURPOSES OF THIS ARTICLE 23, AND THE CUSTODIAN MAY
21 PRESERVE THE ORIGINAL DOCUMENT ELECTRONICALLY AS PROVIDED IN
22 THIS ARTICLE 23.

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

1 REMAINS PRIVILEGED.

2 **15-23-108. Exculpation of custodian.** A CUSTODIAN IS NOT
3 LIABLE TO A PERSON FOR AN ACTION TAKEN UNDER THIS ARTICLE 23 OR
4 FOR A FAILURE TO ACT AS PROVIDED IN THIS ARTICLE 23 UNLESS THE
5 ACTION OR FAILURE TO ACT IS SHOWN TO HAVE RESULTED FROM THE
6 CUSTODIAN'S BAD FAITH, GROSS NEGLIGENCE, OR INTENTIONAL
7 MISCONDUCT.

8 **15-23-109. Electronic conversion and filing.** (1) IF THE
9 CREATOR DOES NOT TAKE POSSESSION OF THE ORIGINAL ESTATE PLANNING
10 DOCUMENT WITHIN NINETY DAYS AFTER THE DATE OF MAILING THE LETTER
11 REQUIRED IN SECTION 15-23-105 (2), THE CUSTODIAN MAY CREATE AN
12 ELECTRONIC ESTATE PLANNING DOCUMENT, WHICH MUST BE IN COLOR AND
13 IN A FORMAT AND USING THE TECHNOLOGY PRESCRIBED BY THE STATE
14 COURT ADMINISTRATOR, AND MAY FILE THE ELECTRONIC DOCUMENT WITH
15 THE STATE COURT ADMINISTRATOR.

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

19 (a) EXAMINE THE ORIGINAL ESTATE PLANNING DOCUMENT;

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

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

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

1 (3) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE 23 TO THE
2 CONTRARY, A CUSTODIAN SUBJECT TO THE COLORADO RULES OF
3 PROFESSIONAL CONDUCT SHALL COMPLY WITH THE RULES AS THEY MAY
4 RELATE TO A FILING PURSUANT TO THIS ARTICLE 23 PRIOR TO FILING AN
5 ELECTRONIC ESTATE PLANNING DOCUMENT WITH THE STATE COURT
6 ADMINISTRATOR.

7 **15-23-110. Penalty of perjury.** THE ACT OF SUBMITTING A FILING
8 STATEMENT TO THE STATE COURT ADMINISTRATOR PURSUANT TO SECTION
9 15-23-111 OR SUBMITTING A REQUEST TO THE STATE COURT
10 ADMINISTRATOR PURSUANT TO SECTION 15-23-119, 15-23-120, OR
11 15-23-122 CONSTITUTES THE AFFIRMATION OR ACKNOWLEDGMENT OF THE
12 SUBMITTER, UNDER THE PENALTY OF PERJURY, THAT THE FILING
13 STATEMENT OR REQUEST IS THE SUBMITTER'S ACT AND DEED, OR THAT THE
14 SUBMITTER IN GOOD FAITH BELIEVES THAT THE FILING STATEMENT OR
15 REQUEST IS THE ACT AND DEED OF THE INDIVIDUAL ON WHOSE BEHALF THE
16 SUBMITTER IS ACTING; THAT THE SUBMITTER AND THE INDIVIDUAL ON
17 WHOSE BEHALF THE SUBMITTER IS ACTING IN GOOD FAITH BELIEVES THE
18 INFORMATION PROVIDED AND DECLARATIONS MADE IN THE FILING
19 STATEMENT OR REQUEST ARE TRUE; AND THAT THE FILING STATEMENT OR
20 REQUEST COMPLIES WITH THE REQUIREMENTS OF THIS ARTICLE 23.

21 **15-23-111. Filing statement.** (1) A CUSTODIAN SHALL SUBMIT A
22 FILING STATEMENT FOR EACH ELECTRONIC ESTATE PLANNING DOCUMENT
23 FOR EACH CREATOR SUBMITTED TO THE STATE COURT ADMINISTRATOR
24 PURSUANT TO THIS ARTICLE 23.

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

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

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

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

8 (III) THE CUSTODIAN HAS NEITHER BEEN ABLE NOR REQUIRED TO
9 TRANSFER POSSESSION OF THE ORIGINAL DOCUMENT TO SOMEONE OTHER
10 THAN THE CREATOR UNDER APPLICABLE LAW OTHER THAN THIS ARTICLE
11 23;

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

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

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

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

20 (f) REGARDING THE CUSTODIAN:

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

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

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

- 1 (I) THE NAME AND DATE OF THE ELECTRONIC DOCUMENT;
- 2 (II) THE CATEGORY OF THE ORIGINAL DOCUMENT, AS DESCRIBED
3 IN SECTION 15-23-103 (13), THAT HAS BEEN CONVERTED TO AN
4 ELECTRONIC DOCUMENT; AND
- 5 (III) THE NUMBER OF PAGES OF THE ELECTRONIC DOCUMENT;
- 6 (h) A DECLARATION THAT THE CUSTODIAN, OR IF AN ENTITY, THE
7 OFFICER OF THE CUSTODIAN, SUBMITTING THE FILING STATEMENT HAS:
- 8 (I) EXAMINED THE ORIGINAL ESTATE PLANNING DOCUMENT;
- 9 (II) BASED UPON THAT EXAMINATION, BELIEVES THAT THE
10 DOCUMENT IS AN ORIGINAL ESTATE PLANNING DOCUMENT OF THE
11 CREATOR, AS THOSE TERMS ARE DEFINED IN SECTION 15-23-103;
- 12 (III) COMPARED THE ELECTRONIC ESTATE PLANNING DOCUMENT
13 WITH THE ORIGINAL ESTATE PLANNING DOCUMENT; AND
- 14 (IV) BASED UPON THAT COMPARISON, BELIEVES THAT THE
15 ELECTRONIC ESTATE PLANNING DOCUMENT IS A TRUE AND CORRECT COPY
16 OF THE ORIGINAL ESTATE PLANNING DOCUMENT;
- 17 (i) (I) A DECLARATION THAT, IF THE CUSTODIAN IS SUBJECT TO THE
18 COLORADO RULES OF PROFESSIONAL CONDUCT, THE CUSTODIAN HAS
19 COMPLIED WITH THE RULES AS THEY MAY RELATE TO THIS FILING;
- 20 (II) FOR THE PURPOSE OF THE DECLARATION MADE PURSUANT TO
21 THIS SUBSECTION (2)(i), THE STATE COURT ADMINISTRATOR SHALL REFER
22 TO THE COLORADO RULES OF PROFESSIONAL CONDUCT AS THE "COLORADO
23 RULES OF PROFESSIONAL CONDUCT ADOPTED BY THE SUPREME COURT OF
24 COLORADO";
- 25 (j) A DECLARATION THAT THE CUSTODIAN HAS COMPLIED WITH ALL
26 APPLICABLE LAW OTHER THAN THIS ARTICLE 23; AND
- 27 (k) A DECLARATION THAT THE ACT OF SUBMITTING A FILING

1 STATEMENT TO THE STATE COURT ADMINISTRATOR SUBJECTS THE
2 SUBMITTER AND THE INDIVIDUAL ON WHOSE BEHALF THE SUBMITTER IS
3 ACTING TO THE PENALTY OF PERJURY, PURSUANT TO SECTION 15-23-110,
4 FOR THE INFORMATION PROVIDED AND DECLARATIONS MADE IN THE FILING
5 STATEMENT, WHETHER OR NOT THE INDIVIDUAL IS NAMED IN THE FILING
6 STATEMENT AS THE ONE SUBMITTING THE FILING STATEMENT.

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

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

14 **15-23-112. Reliance on filing statement.** THE STATE COURT
15 ADMINISTRATOR MAY RELY ON INFORMATION PROVIDED AND
16 DECLARATIONS MADE IN A FILING STATEMENT AND HAS NO DUTY TO MAKE
17 FURTHER INQUIRY.

18 **15-23-113. Fees - disposition - appropriation - cash fund.**

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

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

23 (b) A REQUEST FOR RETRIEVAL; AND

24 (c) A REQUEST FOR DELETION.

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

27 (3) THE STATE COURT ADMINISTRATOR SHALL TRANSMIT FEES

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

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

16 **15-23-114. Duties of the state court administrator.** (1) THE
17 STATE COURT ADMINISTRATOR SHALL PROVIDE THE FORMS REQUIRED TO
18 ADMINISTER THE PROVISIONS OF THIS ARTICLE 23.

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

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

27 (a) PROVIDE THE CUSTODIAN WITH A DATE-STAMPED COPY OF THE

1 FILING STATEMENT ACKNOWLEDGING RECEIPT OF THE FILING STATEMENT
2 AND THE ATTACHED ELECTRONIC ESTATE PLANNING DOCUMENT;

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

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

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

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

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

24 (b) AN INTERAGENCY AGREEMENT ENTERED INTO PURSUANT TO
25 THIS SUBSECTION (4) MUST REQUIRE ANY PARTIES TO THE AGREEMENT TO
26 DELIVER ANY INFORMATION OR ELECTRONIC RECORD MAINTAINED BY THE
27 DEPARTMENT PURSUANT TO THE AGREEMENT TO THE STATE COURT

1 ADMINISTRATOR UPON REQUEST.

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

4 **15-23-115. Destruction of original estate planning document.**

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

10 **15-23-116. Authenticity of electronic estate planning**

11 **document.** AN ELECTRONIC ESTATE PLANNING DOCUMENT CERTIFIED
12 BY THE STATE COURT ADMINISTRATOR THAT IS MADE FROM AN ORIGINAL
13 ESTATE PLANNING DOCUMENT IS DEEMED TO BE THE ORIGINAL OF THE
14 DOCUMENT FOR ALL PURPOSES UNDER COLORADO LAW.

15

16 **15-23-117. Public record.** (1) THE INDEX OF CREATOR NAMES
17 CREATED PURSUANT TO SECTION 15-23-114 (2) IS A PUBLIC RECORD.

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

23 **15-23-118. Access to filing statement.** THE STATE COURT

24 ADMINISTRATOR SHALL PROVIDE AN INDIVIDUAL, ENTITY, COURT, OR
25 GOVERNMENT AGENCY THAT IS AUTHORIZED TO RECEIVE A COPY OF A
26 FILING STATEMENT PURSUANT TO SECTION 15-23-119 OR 15-23-120, AND
27 THAT HAS PROVIDED PROOF OF IDENTITY, ACCESS TO ANY FILING

1 STATEMENT FILED UNDER ANY NAMES OR ALIASES THAT ARE THE SUBJECT
2 OF AN INQUIRY.

3 **15-23-119. Access to electronic estate planning document prior**
4 **to notification of creator's death.** (1) UNTIL NOTIFIED OF A CREATOR'S
5 DEATH AS PROVIDED IN SECTION 15-23-120 (1)(b), THE STATE COURT
6 ADMINISTRATOR MAY PRESUME THAT THE CREATOR IS LIVING.

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

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

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

18 (I) A RECORD OF THE WRITING; AND

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

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

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

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

25 (III) PROOF OF IDENTITY OF THE AGENT;

26 (d) AN INDIVIDUAL OR ENTITY NOMINATED OR APPOINTED AS A
27 FIDUCIARY IN THE ELECTRONIC DOCUMENT OR APPOINTED BY A COURT,

1 UPON PRESENTATION OF:

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

4 (II) PROOF OF IDENTITY OF THE FIDUCIARY;

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

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

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

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

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

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

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

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

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

4 (a) "AUTHORIZED RECIPIENT" MEANS:

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

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

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

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

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

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

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

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

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

25 (C) PROOF OF IDENTITY OF THE FIDUCIARY; OR

26 (IV) AN INDIVIDUAL, ENTITY, COURT, OR GOVERNMENT AGENCY
27 AUTHORIZED TO RECEIVE A COPY OF ANY OR ALL OF THE CONTENTS OF A

1 COMPUTER FOLDER AS PROVIDED IN A COURT ORDER, UPON PRESENTATION
2 OF THE FOLLOWING:

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

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

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

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

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

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

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

26 (3) A REQUEST MADE PURSUANT TO THIS SECTION MUST BE MADE
27 ON A FORM PROVIDED BY THE STATE COURT ADMINISTRATOR THAT

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

8 **15-23-121. Action to establish a claim.** IF AN INDIVIDUAL,
9 ENTITY, OR GOVERNMENT AGENCY SUBMITS A REQUEST FOR RETRIEVAL OF
10 A COPY OF ANY OR ALL OF THE CONTENTS OF A COMPUTER FOLDER AS
11 PROVIDED IN THIS ARTICLE 23 AND THE REQUEST IS DENIED BY THE STATE
12 COURT ADMINISTRATOR OR IS NOT ACTED UPON BY THE STATE COURT
13 ADMINISTRATOR WITHIN NINETY DAYS AFTER ITS SUBMISSION, THE
14 INDIVIDUAL, ENTITY, OR GOVERNMENT AGENCY MAY FILE AN ACTION IN
15 THE PROBATE COURT OF THE CITY AND COUNTY OF DENVER, NAMING THE
16 STATE COURT ADMINISTRATOR AS RESPONDENT, TO RETRIEVE A COPY OF
17 ANY OR ALL OF THE CONTENTS OF THE COMPUTER FOLDER. THE
18 INDIVIDUAL, ENTITY, OR GOVERNMENT AGENCY MUST FILE THE ACTION
19 WITHIN NINETY DAYS AFTER THE DATE OF THE DENIAL BY THE STATE
20 COURT ADMINISTRATOR OR WITHIN ONE HUNDRED EIGHTY DAYS AFTER
21 THE DATE OF THE FILING OF THE REQUEST FOR RETRIEVAL IF THE STATE
22 COURT ADMINISTRATOR HAS FAILED TO ACT ON IT.

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

27 (I) A REQUEST BY A CREATOR OF THE DOCUMENT ON A NOTARIZED

1 FORM FURNISHED BY THE STATE COURT ADMINISTRATOR;

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

3 (III) PAYMENT OF A DELETION FEE.

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

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

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

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

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

1 FOLDER.

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

4 **13-3-101. State court administrator - repeal.** (11) THE STATE
5 COURT ADMINISTRATOR SHALL ADMINISTER THE "COLORADO ELECTRONIC
6 PRESERVATION OF ABANDONED ESTATE PLANNING DOCUMENTS ACT",
7 ARTICLE 23 OF TITLE 15.

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

10 **15-12-304. Informal probate - unavailable in certain cases.**

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

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

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

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

20 **15-12-402. Formal testacy or appointment proceedings -**
21 **petition - contents.** (1) Petitions for formal probate of a will, or for
22 adjudication of intestacy with or without request for appointment of a
23 personal representative, must be directed to the court, request a judicial
24 order after notice and hearing, and contain further statements as indicated
25 in this section. A petition for formal probate of a will ~~shall~~ MUST:

26 (c) State whether the original of the last will of the decedent, OR
27 A COPY OF THE DECEDENT'S ORIGINAL WILL CERTIFIED BY THE STATE

1 COURT ADMINISTRATOR PURSUANT TO ARTICLE 23 OF THIS TITLE 15, is in
2 the possession of the court or accompanies the petition.

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

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

12 **38-13-110. Report and payment or delivery of abandoned**
13 **property.** (1) (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
14 ARTICLE 13 TO THE CONTRARY, A HOLDER WHO QUALIFIES AS A
15 CUSTODIAN PURSUANT TO SECTION 15-23-103 (5) AND WHO COMPLIES
16 WITH THE PROVISIONS OF THE "COLORADO ELECTRONIC PRESERVATION OF
17 ABANDONED ESTATE PLANNING DOCUMENTS ACT", ARTICLE 23 OF TITLE
18 15, CONCERNING AN ORIGINAL ESTATE PLANNING DOCUMENT, AS DEFINED
19 IN SECTION 15-23-103 (13), IS NOT SUBJECT TO THE REQUIREMENTS OF
20 THIS ARTICLE 13 CONCERNING THAT ORIGINAL ESTATE PLANNING
21 DOCUMENT.

22 **SECTION 6. Act subject to petition - effective date.** (1) Except
23 as otherwise provided in subsection (2) of this section, this act takes
24 effect January 1, 2021; except that, if a referendum petition is filed
25 pursuant to section 1 (3) of article V of the state constitution against this
26 act or an item, section, or part of this act within the ninety-day period
27 after final adjournment of the general assembly, then the act, item,

1 section, or part will not take effect unless approved by the people at the
2 general election to be held in November 2020 and, in such case, will take
3 effect on the date of the official declaration of the vote thereon by the
4 governor.

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