

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

REVISED

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

LLS NO. 21-0195.01 Conrad Imel x2313

HOUSE BILL 21-1004

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A BILL FOR AN ACT

101 **CONCERNING THE "COLORADO UNIFORM ELECTRONIC WILLS 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>.)

Colorado Commission on Uniform State Laws. The bill enacts the "Colorado Uniform Electronic Wills Act". The bill declares that an electronic will is a will for all purposes of Colorado law. The bill specifies the requirements for:

- Executing and revoking an electronic will;
- Simultaneously executing, attesting, and making an electronic will; and
- Certifying a paper copy of an electronic will.

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
January 14, 2021

HOUSE
3rd Reading Unamended
January 14, 2021

HOUSE
2nd Reading Unamended
January 13, 2021

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 15 to article
3 12 of title 15 as follows:

4 PART 15

5 COLORADO UNIFORM ELECTRONIC WILLS ACT

6 **15-12-1501. Short title.** THIS PART 15 MAY BE CITED AS THE
7 "COLORADO UNIFORM ELECTRONIC WILLS ACT".

8 **15-12-1502. Definitions.** IN THIS PART 15:

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

12 (2) "ELECTRONIC PRESENCE" MEANS THE RELATIONSHIP OF TWO OR
13 MORE INDIVIDUALS IN DIFFERENT LOCATIONS COMMUNICATING IN REAL
14 TIME TO THE SAME EXTENT AS IF THE INDIVIDUALS WERE PHYSICALLY
15 PRESENT IN THE SAME LOCATION.

16 (3) "ELECTRONIC WILL" MEANS A WILL EXECUTED
17 ELECTRONICALLY IN COMPLIANCE WITH SECTION 15-12-1505 (1).

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

21 (5) (a) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE
22 OR ADOPT A RECORD, AND SUBJECT TO SUBSECTION (5)(b) OF THIS
23 SECTION, TO EXECUTE OR ADOPT A TANGIBLE SYMBOL OR TO AFFIX TO OR
24 LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SYMBOL OR
25 PROCESS.

26 (b) AN ELECTRONIC SYMBOL OF A TESTATOR OR WITNESS MUST BE

1 AN ELECTRONIC IMAGE OF THE TESTATOR'S OR WITNESS'S SIGNATURE IN
2 THE TESTATOR'S OR WITNESS'S HANDWRITING AFFIXED TO THE ELECTRONIC
3 WILL.

4 (6) "STATE" MEANS A STATE OF THE UNITED STATES, THE
5 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
6 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE
7 JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES A FEDERALLY
8 RECOGNIZED INDIAN TRIBE.

9 (7) "WILL" HAS THE MEANING SET FORTH IN SECTION 15-10-201
10 (59).

11 **15-12-1503. Law applicable to electronic wills - principles of**
12 **equity.** AN ELECTRONIC WILL IS A WILL FOR ALL PURPOSES OF THE LAW OF
13 THIS STATE. THE LAW OF THIS STATE APPLICABLE TO WILLS AND
14 PRINCIPLES OF EQUITY APPLY TO AN ELECTRONIC WILL, EXCEPT AS
15 MODIFIED BY THIS PART 15.

16 **15-12-1504. Choice of law regarding execution.** (1) A WILL
17 EXECUTED ELECTRONICALLY BUT NOT IN COMPLIANCE WITH SECTION
18 15-12-1505 (1) IS AN ELECTRONIC WILL UNDER THIS PART 15 IF EXECUTED
19 IN COMPLIANCE WITH THE LAW OF THE JURISDICTION WHERE THE
20 TESTATOR IS:

- 21 (a) PHYSICALLY LOCATED WHEN THE WILL IS SIGNED; OR
22 (b) DOMICILED OR RESIDES WHEN THE WILL IS SIGNED OR WHEN
23 THE TESTATOR DIES.

24 **15-12-1505. Execution of electronic will.** (1) SUBJECT TO
25 SECTION 15-12-1508 (4), AND EXCEPT AS PROVIDED IN SECTION
26 15-12-1506, AN ELECTRONIC WILL MUST BE:

- 27 (a) A RECORD THAT IS READABLE AS TEXT AT THE TIME OF SIGNING

1 UNDER SUBSECTION (1)(b) OF THIS SECTION;

2 (b) SIGNED BY:

3 (I) THE TESTATOR; OR

4 (II) ANOTHER INDIVIDUAL IN THE TESTATOR'S NAME, IN THE
5 TESTATOR'S PHYSICAL PRESENCE, AND BY THE TESTATOR'S DIRECTION;

6 AND

7 (c) EITHER:

8 (I) SIGNED IN THE PHYSICAL OR ELECTRONIC PRESENCE OF THE
9 TESTATOR BY AT LEAST TWO INDIVIDUALS, EACH OF WHOM IS A RESIDENT
10 OF A STATE AND PHYSICALLY LOCATED IN A STATE AT THE TIME OF
11 SIGNING AND WITHIN A REASONABLE TIME AFTER WITNESSING:

12 (A) THE SIGNING OF THE WILL UNDER SUBSECTION (1)(b) OF THIS
13 SECTION; OR

14 (B) THE TESTATOR'S ACKNOWLEDGMENT OF THE SIGNING OF THE
15 WILL UNDER SUBSECTION (1)(b) OF THIS SECTION OR ACKNOWLEDGMENT
16 OF THE WILL; OR

17 (II) ACKNOWLEDGED BY THE TESTATOR BEFORE AND IN THE
18 PHYSICAL OR ELECTRONIC PRESENCE OF A NOTARY PUBLIC OR OTHER
19 INDIVIDUAL WHO IS AUTHORIZED BY COLORADO LAW TO NOTARIZE
20 RECORDS, AND WHO IS LOCATED IN COLORADO AT THE TIME THE NOTARIAL
21 ACT IS PERFORMED.

22 (2) INTENT OF A TESTATOR THAT THE RECORD UNDER SUBSECTION
23 (1)(a) OF THIS SECTION BE THE TESTATOR'S ELECTRONIC WILL MAY BE
24 ESTABLISHED BY EXTRINSIC EVIDENCE.

25 **15-12-1506. Harmless error.** SECTION 15-11-503 APPLIES TO A
26 WILL EXECUTED ELECTRONICALLY.

27 **15-12-1507. Revocation.** (1) AN ELECTRONIC WILL MAY REVOKE

1 ALL OR PART OF A PREVIOUS WILL.

2 (2) ALL OR PART OF AN ELECTRONIC WILL IS REVOKED BY:

3 (a) A SUBSEQUENT WILL THAT REVOKES ALL OR PART OF THE
4 ELECTRONIC WILL EXPRESSLY OR BY INCONSISTENCY; OR

5 (b) A PHYSICAL ACT, IF IT IS ESTABLISHED BY CLEAR AND
6 CONVINCING EVIDENCE THAT THE TESTATOR, WITH THE INTENT OF
7 REVOKING ALL OR PART OF THE WILL, PERFORMED THE ACT OR DIRECTED
8 ANOTHER INDIVIDUAL WHO PERFORMED THE ACT IN THE TESTATOR'S
9 PHYSICAL PRESENCE.

10 **15-12-1508. Electronic will attested and made self-proving at**
11 **time of execution.** (1) AN ELECTRONIC WILL MAY BE SIMULTANEOUSLY
12 EXECUTED, ATTESTED, AND MADE SELF-PROVING BY ACKNOWLEDGMENT
13 OF THE TESTATOR AND AFFIDAVITS OF THE WITNESSES.

14 (2) THE ACKNOWLEDGMENT AND AFFIDAVITS UNDER SUBSECTION
15 (1) OF THIS SECTION MUST BE:

16 (a) MADE IN THE PHYSICAL PRESENCE OF AN OFFICER AUTHORIZED
17 TO ADMINISTER OATHS UNDER LAW OF THE STATE IN WHICH THE TESTATOR
18 SIGNS PURSUANT TO SECTION 15-12-1505 (1)(b) OR, IF FEWER THAN TWO
19 ATTESTING WITNESSES ARE PHYSICALLY PRESENT IN THE SAME LOCATION
20 AS THE TESTATOR AT THE TIME OF SIGNING PURSUANT TO SECTION
21 15-12-1505 (1)(b), IN THE PHYSICAL OR ELECTRONIC PRESENCE OF A
22 NOTARY PUBLIC OR OTHER INDIVIDUAL WHO IS AUTHORIZED BY
23 COLORADO LAW TO NOTARIZE RECORDS, AND WHO IS LOCATED IN
24 COLORADO AT THE TIME THE NOTARIAL ACT IS PERFORMED; AND

25 (b) EVIDENCED BY THE OFFICER'S CERTIFICATE UNDER OFFICIAL
26 SEAL AFFIXED TO OR LOGICALLY ASSOCIATED WITH THE ELECTRONIC WILL.

27 (3) THE ACKNOWLEDGMENT AND AFFIDAVITS UNDER SUBSECTION

1 (1) OF THIS SECTION MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

2 I, _____, THE TESTATOR, AND, BEING SWORN, DECLARE TO THE
3 UNDERSIGNED OFFICER THAT I SIGN THIS INSTRUMENT AS MY ELECTRONIC
4 WILL, I WILLINGLY SIGN IT OR WILLINGLY DIRECT ANOTHER TO SIGN FOR
5 ME, I EXECUTE IT AS MY VOLUNTARY ACT FOR THE PURPOSES EXPRESSED
6 IN THIS INSTRUMENT, AND I AM EIGHTEEN YEARS OF AGE OR OLDER, OF
7 SOUND MIND, AND UNDER NO CONSTRAINT OR UNDUE INFLUENCE.

8 _____
9 TESTATOR

10 WE, _____, AND _____, WITNESSES, BEING SWORN, DECLARE
11 TO THE UNDERSIGNED OFFICER THAT THE TESTATOR SIGNED THIS
12 INSTRUMENT AS THE TESTATOR'S ELECTRONIC WILL, THAT THE TESTATOR
13 WILLINGLY SIGNED IT OR WILLINGLY DIRECTED ANOTHER INDIVIDUAL TO
14 SIGN FOR THE TESTATOR, AND THAT EACH OF US, IN THE PHYSICAL OR
15 ELECTRONIC PRESENCE OF THE TESTATOR, SIGNS THIS INSTRUMENT AS
16 WITNESS TO THE TESTATOR'S SIGNING, AND TO THE BEST OF OUR
17 KNOWLEDGE THE TESTATOR IS EIGHTEEN YEARS OF AGE OR OLDER, OF
18 SOUND MIND, AND UNDER NO CONSTRAINT OR UNDUE INFLUENCE.

19 _____
20 WITNESS

21 _____
22 WITNESS

23 CERTIFICATE OF OFFICER:

24 STATE OF _____

25 COUNTY OF _____

26 SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED BEFORE ME BY
27 _____, THE TESTATOR, AND SUBSCRIBED AND SWORN TO BEFORE

1 ME BY _____ AND _____, WITNESSES, THIS _____ DAY OF
2 _____, _____.

3 (SEAL)

4 _____
5 (SIGNED)

6 _____
7 (OFFICIAL CAPACITY OF OFFICER)

8 (4) A SIGNATURE PHYSICALLY OR ELECTRONICALLY AFFIXED TO AN
9 AFFIDAVIT THAT IS AFFIXED TO OR LOGICALLY ASSOCIATED WITH AN
10 ELECTRONIC WILL UNDER THIS ACT IS DEEMED A SIGNATURE OF THE
11 ELECTRONIC WILL UNDER SECTION 15-12-1505 (1).

12 **15-12-1509. Certification of paper copy.** AN INDIVIDUAL MAY
13 CREATE A CERTIFIED PAPER COPY OF AN ELECTRONIC WILL BY AFFIRMING
14 UNDER PENALTY OF PERJURY THAT A PAPER COPY OF THE ELECTRONIC
15 WILL IS A COMPLETE, TRUE, AND ACCURATE COPY OF THE ELECTRONIC
16 WILL. IF THE ELECTRONIC WILL IS MADE SELF-PROVING, THE CERTIFIED
17 PAPER COPY OF THE WILL MUST INCLUDE THE SELF-PROVING AFFIDAVITS.

18 **15-12-1510. Uniformity of application and construction.** IN
19 APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
20 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT
21 TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

22 **15-12-1511. Application of part.** THIS PART 15 APPLIES TO THE
23 WILL OF A DECEDENT WHO DIES ON OR AFTER THE EFFECTIVE DATE OF THIS
24 PART 15.

25 **SECTION 2.** In Colorado Revised Statutes, 24-21-514.5, **amend**
26 (2)(b)(II) as follows:

27 **24-21-514.5. Audio-video communication - definitions.**

1 (2) (b) A notary public shall not use a remote notarization system to
2 notarize:

3 (II) EXCEPT AS PROVIDED IN THE "COLORADO UNIFORM
4 ELECTRONIC WILLS ACT", PART 15 OF ARTICLE 12 OF TITLE 15, a will,
5 codicil, document purporting to be a will or codicil, or any
6 acknowledgment required under section 15-11-502 or 15-11-504.

7 **SECTION 3. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, or safety.