

---

**BILL REQUEST - CODE REVISER'S OFFICE**

---

BILL REQ. #: Z-0895.2/20 2nd draft

ATTY/TYPIST: KS:jlb

BRIEF DESCRIPTION: Enacting the uniform electronic wills act.

1 AN ACT Relating to the uniform electronic wills act; amending RCW  
2 11.12.020, 11.12.030, and 11.12.040; adding a new chapter to Title 11  
3 RCW; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and  
6 cited as the uniform electronic wills act.

7 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
8 section apply throughout this chapter unless the context clearly  
9 requires otherwise.

10 (1) "Electronic" means relating to technology having electrical,  
11 digital, magnetic, wireless, optical, electromagnetic, or similar  
12 capabilities.

13 (2) "Electronic presence" means the relationship of two or more  
14 individuals in different locations communicating in real time to the  
15 same extent as if the individuals were physically present in the same  
16 location.

17 (3) "Electronic will" means a will executed electronically in  
18 compliance with section 5(1) of this act.

1 (4) "Record" means information that is inscribed on a tangible  
2 medium or that is stored in an electronic or other medium and is  
3 retrievable in perceivable form.

4 (5) "Sign" means, with present intent to authenticate or adopt a  
5 record:

6 (a) To execute or adopt a tangible symbol; or

7 (b) To affix to or logically associate with the record an  
8 electronic symbol or process.

9 (6) "State" means a state of the United States, the District of  
10 Columbia, Puerto Rico, the United States Virgin Islands, or any  
11 territory or insular possession subject to the jurisdiction of the  
12 United States. The term includes a federally recognized Indian tribe.

13 (7) "Will" includes a codicil and any testamentary instrument  
14 that merely appoints an executor, revokes or revises another will,  
15 nominates a guardian, or expressly excludes or limits the right of an  
16 individual or class to succeed to property of the decedent passing by  
17 intestate succession.

18 NEW SECTION. **Sec. 3.** LAW APPLICABLE TO ELECTRONIC WILL;  
19 PRINCIPLES OF EQUITY. An electronic will is a will for all purposes  
20 of the law of this state. The law of this state applicable to wills  
21 and principles of equity apply to an electronic will, except as  
22 modified by this chapter.

23 NEW SECTION. **Sec. 4.** CHOICE OF LAW REGARDING EXECUTION. A will  
24 executed electronically but not in compliance with section 5(1) of  
25 this act is an electronic will under this chapter if executed in  
26 compliance with the law of the jurisdiction where the testator is:

27 (1) Physically located when the will is signed; or

28 (2) Domiciled or resides when the will is signed or when the  
29 testator dies.

30 NEW SECTION. **Sec. 5.** EXECUTION OF ELECTRONIC WILL. (1) Subject  
31 to section 7(4) of this act, an electronic will must be:

32 (a) A record that is readable as text at the time of signing  
33 under (b) of this subsection;

34 (b) Signed by:

35 (i) The testator; or

36 (ii) Another individual in the testator's name, in the testator's  
37 physical presence, and by the testator's direction; and

1 (c) Signed in the physical or electronic presence of the testator  
2 by at least two individuals, within a reasonable time after  
3 witnessing:

4 (i) The signing of the will under (b) of this subsection; or

5 (ii) The testator's acknowledgment of the signing of the will  
6 under (b) of this subsection or acknowledgment of the will.

7 (2) Intent of a testator that the record under subsection (1)(a)  
8 of this section be the testator's electronic will may be established  
9 by extrinsic evidence.

10 NEW SECTION. **Sec. 6.** REVOCATION. (1) An electronic will may  
11 revoke all or part of a previous will.

12 (2) All or part of an electronic will is revoked by:

13 (a) A subsequent will that revokes all or part of the electronic  
14 will expressly or by inconsistency; or

15 (b) A physical act, if it is established by a preponderance of  
16 the evidence that the testator, with the intent of revoking all or  
17 part of the will, performed the act or directed another individual  
18 who performed the act in the testator's physical presence.

19 NEW SECTION. **Sec. 7.** ELECTRONIC WILL ATTESTED AND MADE SELF-  
20 PROVING AT TIME OF EXECUTION. (1) An electronic will may be  
21 simultaneously executed, attested, and made self-proving by  
22 acknowledgment of the testator and affidavits of the witnesses.

23 (2) The acknowledgment and affidavits under subsection (1) of  
24 this section must be:

25 (a)(i) Made before an officer authorized to administer oaths  
26 under law of the state in which execution occurs or, if fewer than  
27 two attesting witnesses are physically present in the same location  
28 as the testator at the time of signing under section 5(1)(b) of this  
29 act, before an officer authorized under RCW 42.45.280; and

30 (ii) Evidenced by the officer's certificate under official seal  
31 affixed to or logically associated with the electronic will; or

32 (b) An unsworn declaration made pursuant to chapter 5.50 RCW.

33 (3)(a) If made before an officer authorized to administer oaths,  
34 the acknowledgment and affidavits under subsection (1) of this  
35 section must be in substantially the following form:

36 I, ..... (name), the testator, and, being sworn, declare to the  
37 undersigned officer that I sign this instrument as my electronic  
38 will, I willingly sign it or willingly direct another individual to

1 sign it for me, I execute it as my voluntary act for the purposes  
2 expressed in this instrument, and I am eighteen years of age or  
3 older, of sound mind, and under no constraint or undue influence.

4 ..... (signature)

5 Testator

6 We, ..... (name) and ..... (name), witnesses, being sworn,  
7 declare to the undersigned officer that the testator signed this  
8 instrument as the testator's electronic will, that the testator  
9 willingly signed it or willingly directed another individual to sign  
10 for the testator, and that each of us, in the physical or electronic  
11 presence of the testator, signs this instrument as witness to the  
12 testator's signing, and to the best of our knowledge the testator is  
13 eighteen years of age or older, of sound mind, and under no  
14 constraint or undue influence.

15 ..... (signature)

16 Witness

17 ..... (signature)

18 Witness

19 Certificate of officer:

20 State of .....

21 County of .....

22 Subscribed, sworn to, and acknowledged before me by ..... (name),  
23 the testator, and subscribed and sworn to before me by ..... (name)  
24 and ..... (name), witnesses, this ..... day of ....., .....

25 (Seal) .....

26 (Signed)

27 .....

28 (Capacity of officer)

29 (b) If made pursuant to chapter 5.50 RCW, the acknowledgment and  
30 affidavits under subsection (1) of this section must be in  
31 substantially the following form:

32 I, ..... (name), the testator, declare under penalty of perjury  
33 under the law of Washington that the following is true and correct:  
34 That I sign this instrument as my electronic will, I willingly sign  
35 it or willingly direct another individual to sign it for me, I  
36 execute it as my voluntary act for the purposes expressed in this  
37 instrument, and I am eighteen years of age or older, of sound mind,  
38 and under no constraint or undue influence.

39 ..... (signature)

1 Testator

2 We, ..... (name) and ..... (name), witnesses, declare under  
3 penalty of perjury under the law of Washington that the following is  
4 true and correct: That the testator signed this instrument as the  
5 testator's electronic will, that the testator willingly signed it or  
6 willingly directed another individual to sign for the testator, and  
7 that each of us, in the physical or electronic presence of the  
8 testator, signs this instrument as witness to the testator's signing,  
9 and to the best of our knowledge the testator is eighteen years of  
10 age or older, of sound mind, and under no constraint or undue  
11 influence.

12 ..... (signature)

13 Witness

14 ..... (signature)

15 Witness

16 (4) A signature physically or electronically affixed to an  
17 affidavit that is affixed to or logically associated with an  
18 electronic will under this chapter is deemed a signature of the  
19 electronic will under section 5(1) of this act.

20 NEW SECTION. **Sec. 8.** CERTIFICATION OF PAPER COPY. An individual  
21 may create a certified paper copy of an electronic will by affirming  
22 under penalty of perjury that a paper copy of the electronic will is  
23 a complete, true, and accurate copy of the electronic will. If the  
24 electronic will is made self-proving, the certified paper copy of the  
25 will must include the self-proving affidavits.

26 NEW SECTION. **Sec. 9.** UNIFORMITY OF APPLICATION AND  
27 CONSTRUCTION. In applying and construing this uniform act,  
28 consideration must be given to the need to promote uniformity of the  
29 law with respect to its subject matter among states that enact it.

30 NEW SECTION. **Sec. 10.** TRANSITIONAL PROVISION. This chapter  
31 applies to the will of a decedent who dies on or after the effective  
32 date of this section.

33 **Sec. 11.** RCW 11.12.020 and 1990 c 79 s 1 are each amended to  
34 read as follows:

35 (1) (~~Every~~) Except as provided in chapter 11.--- RCW (the new  
36 chapter created in section 15 of this act), every will shall be in

1 writing signed by the testator or by some other person under the  
2 testator's direction in the testator's presence, and shall be  
3 attested by two or more competent witnesses, by subscribing their  
4 names to the will, or by signing an affidavit that complies with RCW  
5 11.20.020(2), while in the presence of the testator and at the  
6 testator's direction or request: PROVIDED, That a last will and  
7 testament, executed in the mode prescribed by the law of the place  
8 where executed or of the testator's domicile, either at the time of  
9 the will's execution or at the time of the testator's death, shall be  
10 deemed to be legally executed, and shall be of the same force and  
11 effect as if executed in the mode prescribed by the laws of this  
12 state.

13 (2) This section shall be applied to all wills, whenever  
14 executed, including those subject to pending probate proceedings.

15 **Sec. 12.** RCW 11.12.030 and 2010 c 8 s 2011 are each amended to  
16 read as follows:

17 ((Every)) Except as provided in chapter 11.--- RCW (the new  
18 chapter created in section 15 of this act), every person who shall  
19 sign the testator's or testatrix's name to any will by his or her  
20 direction shall subscribe his or her own name to such will and state  
21 that he or she subscribed the testator's name at his or her request:  
22 PROVIDED, That such signing and statement shall not be required if  
23 the testator shall evidence the approval of the signature so made at  
24 his or her request by making his or her mark on the will.

25 **Sec. 13.** RCW 11.12.040 and 1994 c 221 s 12 are each amended to  
26 read as follows:

27 (1) A will, or any part thereof, can be revoked:

28 (a) By a subsequent will that revokes, or partially revokes, the  
29 prior will expressly or by inconsistency; ((or))

30 (b) By being burnt, torn, canceled, obliterated, or destroyed,  
31 with the intent and for the purpose of revoking the same, by the  
32 testator or by another person in the presence and by the direction of  
33 the testator. If such act is done by any person other than the  
34 testator, the direction of the testator and the facts of such injury  
35 or destruction must be proved by two witnesses; or

36 (c) As provided in section 6 of this act.

1           (2) Revocation of a will in its entirety revokes its codicils,  
2 unless revocation of a codicil would be contrary to the testator's  
3 intent.

4           NEW SECTION.   **Sec. 14.**   EFFECTIVE DATE. This act takes effect  
5 January 1, 2022.

6           NEW SECTION.   **Sec. 15.**   CODIFICATION. Sections 1 through 10 of  
7 this act constitute a new chapter in Title 11 RCW.

--- END ---