

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend Title 18 of the District of Columbia Official Code to enact the Uniform Electronic Wills Act, to provide that an electronic will executed in compliance with specified statutory procedures is a will under the law of the District for all purposes, to provide for a rule of harmless error, to provide that an electronic will may revoke, and may be revoked by, a paper will, to provide a procedure whereby an electronic will may be simultaneously executed, attested, and made self-proving, and to permit a testator to create a certified paper copy of an electronic will; and to amend Title 21 of the District of Columbia Official Code to permit the removal of a guardian or conservator for neglect and financial exploitation of the ward or individual for whom the conservator has been appointed, to prohibit the appointment of a guardian or conservator removed for abuse of their powers, neglect, or financial exploitation for 5 years and require the guardian or conservator to demonstrate rehabilitation to the court's satisfaction, and to permit the court to report any misconduct by a guardian or conservator to an appropriate professional licensing authority.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Uniform Electronic Wills Amendment Act of 2022".

Sec. 2. Title 18 of the District of Columbia Code is amended as follows:

(a) The table of contents is amended by adding at the end the phrase "Chapter 9. Uniform Electronic Wills Act."

(b) Section 18-103 is amended by striking the phrase "section 18-107" and inserting the phrase "§ 18-107 or Chapter 9 of this title" in its place.

(c) A new Chapter 9 is added to read as follows:

"Chapter 9. Uniform Electronic Wills Act.

"§ 18-901. Short title.

"§ 18-902. Definitions.

"§ 18-903. Law applicable to electronic will; principles of equity.

"§ 18-904. Choice of law regarding execution.

"§ 18-905. Execution of electronic will.

"§ 18-906. Harmless error.

“§ 18-907. Revocation.

“§ 18-908. Electronic will attested and made self-proving at time of execution.

“§ 18-909. Certification of paper copy.

“§ 18-910. Uniformity of application and construction.

“§ 18-911. Transitional provision.

“§ 18-901. Short title.

“This chapter may be cited as the Uniform Electronic Wills Act.

“§ 18-902. Definitions.

“For the purposes of this chapter, the term:

“(1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

“(3) “Electronic will” means a will executed electronically in compliance with § 18-905(a).

“(4) “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.

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

“(A) To execute or adopt a tangible symbol; or

“(B) To affix to or logically associate with the record an electronic symbol or process.

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

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

“§ 18-903. Law applicable to electronic will; principles of equity.

“An electronic will is a will for all purposes of the law of the District of Columbia. The law of the District of Columbia applicable to wills and principles of equity apply to an electronic will, except as modified by this chapter.

“§ 18-904. Choice of law regarding execution.

“A will executed electronically but not in compliance with § 18-905(a) is an electronic will under this chapter if executed in compliance with the law of the jurisdiction where the testator is:

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

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

“§ 18-905. Execution of electronic will.

“(a) Subject to § 18-908(d) and except as provided in § 18-906, an electronic will shall be:

“(1) A record that is readable as text at the time of signing under paragraph (2) of this subsection;

“(2) Signed by:

“(A) The testator; or

“(B) Another individual in the testator’s name, in the testator’s physical presence and by the testator’s direction; and

“(3) Signed in the physical or electronic presence of the testator by at least 2 individuals, each of whom is a resident of a state and physically located in a state at the time of signing and within a reasonable time after witnessing:

“(A) The signing of the will under paragraph (2) of this subsection; or

“(B) The testator’s acknowledgment of the signing of the will under paragraph (2) of this subsection or acknowledgment of the will.

“(b) The intent of a testator that the record under subsection (a)(1) of this section be the testator’s electronic will may be established by extrinsic evidence.

“§ 18-906. Harmless error.

“A record readable as text not executed in compliance with § 18-905(a) is deemed to comply with § 18-905(a) if the proponent of the record establishes by clear and convincing evidence that the decedent intended the record to be:

“(1) The decedent’s will;

“(2) A partial or complete revocation of the decedent’s will;

“(3) An addition to or modification of the decedent’s will; or

“(4) A partial or complete revival of the decedent’s formerly revoked will or part of the will.

“§ 18-907. Revocation.

“(a) An electronic will may revoke all or part of a previous will.

“(b) All or part of an electronic will is revoked by:

“(1) A subsequent will that revokes all or part of the electronic will expressly or by inconsistency; or

“(2) A physical act, if it is established by a preponderance of the evidence that the testator, with the intent of revoking all or part of the will, performed the act or directed another individual who performed the act in the testator’s physical presence.

“§ 18-908. Electronic will attested and made self-proving at time of execution.

“(a) An electronic will may be simultaneously executed, attested, and made self-proving by acknowledgment of the testator and affidavits of the witnesses.

“(b) The acknowledgement and affidavits under subsection (a) of this section shall be:

“(1) Made before an officer authorized to administer oaths under law of the state in which execution occurs or, if fewer than two attesting witnesses are physically present in the same location as the testator at the time of signing under § 18-905(a)(2), before an officer authorized under § 1-1231.13a.; and

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“(2) Evidence by the officer’s certificate under official seal affixed to or logically associated with the electronic will.

“(c) The acknowledgement and affidavits under subsection (a) of this section shall be in substantially the following form:

“I, \_\_\_\_\_, the testator, and, being sworn, declare to the  
(Name)

undersigned officer that I sign this instrument as my electronic will, I willingly sign it or willingly direct another individual to sign it for me, I execute it as my voluntary act for the purposes expressed in this instrument, and I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

“\_\_\_\_\_”

“Testator

“We, \_\_\_\_\_ and \_\_\_\_\_,  
 “(Name) (Name)

witnesses, being sworn, declare to the undersigned officer that the testator signed this instrument as the testator's electronic will, that the testator willingly signed it or willingly directed another individual to sign for the testator, and that each of us, in the physical or electronic presence of the testator, signs this instrument as witness to the testator's signing, and to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

“\_\_\_\_\_”

“Witness

“\_\_\_\_\_

“Witness

“Certificate of officer:

“State of

“Subscribed, sworn to, and acknowledged before me by

“(Name)

“the testator, and subscribed and sworn to before me by \_\_\_\_\_ and  
(Name)

“\_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

“(Name)

“(Signed)

“(Capacity of officer)

“(d) A signature physically or electronically affixed to an affidavit that is affixed to or logically associated with an electronic will under this chapter is deemed a signature of the electronic will under § 18-905(a).

“§ 18-909. Certification of paper copy.

“An individual may create a certified paper copy of an electronic will by affirming under penalty of perjury that a paper copy of the electronic will is a complete, true, and accurate copy of the electronic will. If the electronic will is made self-proving, the certified paper copy of the will shall include the self-proving affidavits.

“§ 18-910. Uniformity of application and construction.

“In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

“§ 18-911. Transitional provision.

“This chapter applies to the will of a decedent who dies on or after May 27, 2020.”.

Sec. 3. Title 21 of the District of Columbia Official Code is amended as follows:

(a) Section 21-2049 is amended as follows:

(1) Subsection (a)(3) is amended as follows:

(A) Subparagraph (A) is amended by striking the phrase “his or her duties” and inserting the phrase “the guardian’s duties” in its place.

(B) Subparagraph (B) is amended by striking the phrase “his or her powers” and inserting the phrase “their powers” in its place.

(C) A new subparagraph (B-i) is added to read as follows:

“(B-i) Abuse, neglect, or financial exploitation of the ward;”.

(2) A new subsection (d) is added to read as follows:

“(d)(1) A guardian previously removed pursuant to subsection (a)(3)(B-i) of this section shall not be subsequently appointed as a guardian of another ward for a minimum of 5 years after last removal and until satisfactorily proving their rehabilitation and fitness as determined by the court.

“(2) In the event that a removed guardian holds a professional license, the court may report the misconduct to the appropriate licensing authority.”.

(b) Section 21-2061 is amended to read as follows:

“§ 21-2061. Death, resignation, or removal of conservator.

“(a)(1) The court may, upon notice and hearing, remove a conservator for abuse, neglect, or financial exploitation of an individual for whom the conservator has been appointed or for any other good cause.

“(2) The court may accept the resignation of a conservator.

“(b)(1) Upon the conservator’s death, resignation, or removal, the court may appoint another conservator, who shall succeed to the title and powers of the previous conservator.

“(2)(A) A conservator removed for abuse, neglect, or financial exploitation of an individual for whom the conservator has been appointed shall not be subsequently appointed as a conservator for another person for a minimum of 5 years after last removal and until satisfactorily proving their rehabilitation and fitness as determined by the court.

“(B) In the event that a removed conservator holds a professional license, the court may report the misconduct to the appropriate licensing authority.”.

**Sec. 4. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

**Sec. 5. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia