

HOUSE BILL NO. 1077

Introduced by

Judiciary Committee

(At the request of the Commission on Uniform State Laws)

1 A BILL for an Act to create and enact chapter 30.1-37 of the North Dakota Century Code,
2 relating to the Uniform Electronic Wills Act; and to provide for application.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 30.1-37 of the North Dakota Century Code is created and enacted as
5 follows:

6 **30.1-37-01. Definitions.**

7 As used in this chapter:

- 8 1. "Electronic" means relating to technology having electrical, digital, magnetic, wireless,
9 optical, electromagnetic, or similar capabilities.
- 10 2. "Electronic will" means a will executed electronically in compliance with subsection 1
11 of section 30.1-37-04.
- 12 3. "Record" means information inscribed on a tangible medium or stored in an electronic
13 or other medium and is retrievable in perceivable form.
- 14 4. "Sign" means, with present intent to authenticate or adopt a record to:
15 a. Execute or adopt a tangible symbol; or
16 b. Affix to or logically associate with the record an electronic symbol or process.
- 17 5. "State" means a state of the United States, the District of Columbia, Puerto Rico, the
18 United States Virgin Islands, or any territory or insular possession subject to the
19 jurisdiction of the United States. The term includes a federally recognized Indian tribe.
- 20 6. "Will" includes a codicil and any testamentary instrument that merely appoints an
21 executor, revokes or revises another will, nominates a guardian, or expressly excludes
22 or limits the right of an individual or class to succeed to property of the decedent
23 passing by intestate succession.

1 **30.1-37-02. Law applicable to electronic will - Principles of equity.**

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

5 **30.1-37-03. Choice of law regarding execution.**

6 A will executed electronically but not in compliance with subsection 1 of section 30.1-37-04
7 is an electronic will under this chapter if executed in compliance with the law of the jurisdiction
8 where the testator is:

- 9 1. Physically located when the will is signed; or
10 2. Domiciled or resides when the will is signed or when the testator dies.

11 **30.1-37-04. Execution of electronic will.**

- 12 1. Subject to subsection 4 of section 30.1-37-06, an electronic will must be:
13 a. A record that is readable as text at the time of signing as provided under
14 subdivision b;
15 b. Signed by:
16 (1) The testator; or
17 (2) Another individual in the testator's name, in the testator's conscious
18 presence, and by the testator's direction; and
19 c. Either:
20 (1) Signed by at least two individuals, each of whom signed within a reasonable
21 time after witnessing:
22 (a) The signing of the will as provided under subdivision b; or
23 (b) The testator's acknowledgment of the signature as provided under
24 subdivision b or acknowledgment of the will; or
25 (2) Acknowledged by the testator before a notary public or other individual
26 authorized by law to take acknowledgments.
27 2. Intent of a testator that the record under subdivision a of subsection 1 be the testator's
28 electronic will may be established by extrinsic evidence.

29 **30.1-37-05. Revocation.**

- 30 1. An electronic will may revoke all or part of a previous will.
31 2. All or part of an electronic will is revoked by:

1 witness to the testator's signing, and that to the best of our knowledge the testator is
2 18 years of age or older, of sound mind, and under no constraint or undue influence.

3 _____
4 Witness

5 _____
6 Witness

7 Subscribed, sworn to, and acknowledged before me by _____, the testator,
8 and subscribed and sworn to before me by _____ and _____.
9 witnesses, this _____ day of _____.

10 (SEAL)

(Signed) _____

11 _____
12 (Official capacity of officer)

13 4. A signature physically or electronically affixed to an affidavit that is affixed to or
14 logically associated with an electronic will under this chapter is deemed a signature of
15 the electronic will under subsection 1 of section 30.1-37-04.

16 **30.1-37-07. Certification of paper copy.**

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

21 **SECTION 2. APPLICATION.** This Act applies to the will of a decedent who dies after
22 July 31, 2021.