

Meeting Notes
Oregon Law Commission
Electronic Wills Work Group
September 28, 2026

I. Call to Order

In attendance: Lane Shetterly, Eric Foster, Ben Orzeske, Channa Newell, Victoria Blatchly, Andrea Meyer, Stephanie Carter, Jeff Petty, Lori Anne Sills, Kris Kolta, Matt Schrumpf, Tara Hendison

The work group reviewed the September 15 version of the electronic wills draft, focusing on version two, which integrates the proposed provisions into Oregon's existing probate statutes.

II. Discussion

a. Execution and Proof of Electronic Wills

The principal change from the prior draft replaces “simultaneously” with “contemporaneously” for signing the declaration and affidavit in connection with the electronic will. Section 1 adds electronic will execution requirements, including a record readable as text, the testator's signature, and signatures by two witnesses in the testator's physical or electronic presence within a reasonable time after witnessing the signing.

Witness residency and physical location requirements were revised from the Uniform Act to reference the United States and federally recognized Indian tribes, and electronic presence was aligned with the remote notarization standard of simultaneous communication by sight and sound. The discussion supported leaving “contemporaneously” undefined, relying on its ordinary meaning of “at or near the same time” and possible clarification through legislative history.

Section 2 permits acceptance of a declaration and affidavit meeting the prescribed form and contemporaneous signing requirements, while providing a separate notice and objection process for affidavits that do not meet those requirements. The declaration and affidavit remain separate from the electronic will, and their signatures do not substitute for signatures on the will itself. Later affidavits are permitted, including those signed after the testator's death, while witnesses must still sign the will within a reasonable time.

The work group supported omitting additional language preserving the right to bring a will contest because admission through the affidavit process does not decide a will contest.

b. Definitions and Related Provisions

The work group directed that subsection 33 defining “will” be reverted to its existing language, removing the proposed express definition of electronic wills. Section 4 requires a certified paper copy of an electronic will to include any accompanying declaration of the testator and affidavit of attesting witnesses, regardless of when those documents were executed.

The draft addresses choice of law for execution and retains Oregon’s existing approach to revocation, adding “deleted” as an electronic means of revocation. The petition provisions distinguish electronic wills from original paper wills, and the initial electronic probate filing would include a PDF of the electronic will rather than a certified paper copy.

c. Simple Estate Affidavits

Section 8 permits electronic wills in simple estate proceedings only when accompanied by proof satisfying the prescribed declaration, affidavit, and contemporaneous signing requirements. Questions were raised about court staff’s ability to determine contemporaneous signing, and a rebuttable presumption based on matching execution dates was suggested. The discussion clarified that a record may not exist when notarization occurs in person, even if witnesses participate electronically.

Options included retaining eligibility for simple estate proceedings, excluding electronic wills pending later review by the OLC Simple Estate Affidavit Criteria Work Group, and delaying operation of the simple estate provisions. Access-to-justice concerns were raised, and the issue remained unresolved when the work group resumed its review of the draft.

d. Conforming Amendments and Applicability

The work group reviewed conforming amendments concerning bar retention of digitized wills, exclusion of electronic wills from harmless error provisions, custodians’ duties, and destruction of digitized copies. After discussion about the limited reach of probate definitions, the express reference to electronic wills in the fiduciary access to digital assets provision was retained for now.

The applicability provision covers wills of decedents who die on or after the effective date, potentially including qualifying wills executed earlier.

III. Scheduling

The next meeting is scheduled for October 26, with the goal of completing the draft. Members were invited to send suggestions on contemporaneous signing to the chair, drafter, and Amy Zubko so that revised language could be prepared for review.