

Minutes
Oregon Law Commission
Workgroup on Electronic Wills
June 23, 2025

I. Welcome, Discussion of Timeline, and Next Steps

In Attendance: Amy Zubko, Lane Shetterly, Eric Foster, Cara Goldfarb, Gabriel Hanson, Jeff Petty, Channa Newell, Larraina Erland, Kris Kolta, Andrea Meyer, Susan Cook, Victoria Blachly, Matthew Schrupf, Theresa Hollis, Tara Hendison, Stephanie Carter, Lori Anne Sills

Overview of LC 4792: Lori Anne Sills provided a summary of the working draft LC 4792 to the workgroup. The draft was distributed to the workgroup members in advance of the meeting for review. In its current version, it mainly follows the Uniform Law Commission's (ULC) Electronic Wills Act. The language has been revised to match Oregon's style and format, along with some cross-references to current statutes. Lane Shetterly offered the workgroup context regarding the procedures for adopting ULC's acts.

Timeline: Lane Shetterly identified that the workgroup does not anticipate pursuing the adoption of this proposal in the 2026 legislative session. Given that 2026 is a short session with limited bill consideration, introducing the proposal at that time may prove challenging. Deferring introduction is intended to alleviate time pressure during the drafting process and to increase the likelihood of thoughtful engagement and successful advancement in a future, full-length session.

II. Review and Discussion of Working Draft LC 4792:

Section 1 Short Title:

No discussion.

Section 2 General Definitions:

The definitions in this section reflect those in the Uniform Law Commission's (ULC) Act, with some adjustments made to align with Oregon's current statutory process for paper wills.

- Lori Anne Sills identified a potential issue with the definition of "electronic presence," subsection 2, which includes a reference to "in real time." This terminology emerged as a concern in earlier work on the Remote Notarization Act, prompting a review of the actions taken in that case to prevent future confusion. The ULC notes that if it is required for an E will to be executed with the witness in the physical presence of the testator, then section 2, subsection 2 should be omitted.

- The terminology of “tangible medium” found in the definition of “record,” subsection 4, has a confusing application to electronic documents and may need to be adjusted. The work group plans to revisit this in future sessions.
- Eric Foster noted that the definition of “will”, subsection 7, differs from the existing statutory definition of “will” located in ORS 111.005(31). The workgroup reached consensus that the draft definition would need to be revised to align with the existing definition. However, the discussion also explored the potential location of this legislation when codified, and whether it would be included in ORS chapter 112, in which case the draft definition of “will” could be removed. If that is not the case, there will need to be a review of the usage of “will” in ORS chapters 111 through 117 to determine any conflicts. Additionally, Lori Anne identified that this issue may have already been addressed in the amendments included in the working draft.

Section 3 Law Applicable to Electronic Wills:

Matt Schruppf noted that the usage of “principles of equity” in this context only referred to electronic wills. The work group considered that the terminology could likely be removed as it is already implied in ORS 111.095. This reinforces the workgroup's intention not to create any significant differences in the way courts treat electronic and paper wills.

Section 4 Choice of Law:

The workgroup discussed concerns regarding section 5, subsection 2 of the draft, specifically whether its provisions diverge from Oregon’s current statutory process for paper wills, as outlined in ORS 112.255. Discussion of any inconsistencies in this section confirmed the workgroup's intention that electronic wills should align closely with existing Oregon law governing traditional paper wills. Lori Anne Sills recommended that if the workgroup intends for this proposal to be included in ORS Chapter 112, then section 4 of the draft could be removed to prevent any conflicts.

Section 5 Execution of Electronic Wills:

This section introduces several policy decisions that require resolution for further drafts. Lori Anne Sills noted that they will primarily address whether Electronic Wills will be allowed to be created with electronic witnessing. Currently, Oregon law does not allow for the electronic witnessing of traditional wills under ORS 42.141. This policy decision also extends to whether to allow the electronic presence of notaries when executing a will.

III. Workgroup Meeting Scheduling:

August Workgroup Meeting: Amy Zubko discussed scheduling a follow-up workgroup meeting in August to discuss further the topics raised.