

LC 4792

Bill

5/27/25 (LAS/)

2026 Regular Session

Digest: The Act allows a person to sign a will electronically if certain things are done. (Flesch Readability Score: 61.8).

Enacts the Uniform Electronic Wills Act to allow courts to recognize electronic wills.

Relating to wills; creating new provisions; and amending ORS 42.141, 112.235 and 112.238.

SECTION 1. Short title. Sections 2 to 10 of this 2026 Act may be cited as the Uniform Electronic Wills Act.

SECTION 2. Definitions. As used in sections 2 to 10 of this 2026 Act:

(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 section 5 (1) of this 2026 Act.

(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.

Legislative Note: A state that permits an electronic will only if executed with the witnesses in the physical presence of the testator should omit paragraph (2) and renumber the remaining paragraphs accordingly. See also the Legislative Note to Section 5.

SECTION 3. Law applicable to electronic will; principles of equity. An electronic will is a will for all purposes of the law of this state. The law of this state applicable to wills and principles of equity apply to an electronic will, except as modified by sections 2 to 10 of this 2026 Act.

SECTION 4. Choice of law regarding execution. A will executed electronically but not in compliance with section 5 (1) of this 2026 Act is an electronic will under sections 2 to 10 of this 2026 Act 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.

SECTION 5. Execution of electronic will. (1) Subject to section 8 (4) of this 2026 Act and except as provided in section 6 of this 2026 Act, an electronic will must be:

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

(b) 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

(c) Either:

(A) Signed in the physical or electronic presence of the testator by at least two 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:

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

(ii) The testator's acknowledgment of the signing of the will under paragraph (b) of this subsection or acknowledgment of the will; or

(B) Acknowledged by the testator before an in the physical or electronic presence of a notary public or other individual authorized by law to notarize records electronically.

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

Legislative Note: A state should conform Section 5 to its will-execution statute.

A state that enacts Section 6 (harmless error) should include the bracketed language at the beginning of subsection (a).

A state that permits an electronic will only when the testator and witnesses are in the same physical location, and therefore prohibits remote attestation, should omit the bracketed words "or electronic" from subsection (a)(3) and Section 8(c).

A state that has enacted Uniform Probate Code Section 2-502 or otherwise validates an unattested but notarized will should include subsection (a)(3)(B).

Alternative A

SECTION 6. Harmless error. A record readable as text not executed in compliance with Section 5(a) is deemed to comply with Section 5(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.

Alternative B

SECTION 6. Harmless error. ORS 112.238 applies to a will executed electronically.

Legislative Note: A state that has enacted Uniform Probate Code Section 2-503 or another harmless error rule for a non-electronic will, should enact Alternative B. A state that has not enacted a harmless error rule may not want to add a harmless error rule solely for an electronic will, but if it does, it should enact Alternative A.

SECTION 7. Revocation. (1) An electronic will may revoke all or part of a previous will.

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

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

(b) 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.

SECTION 8. Electronic will attested and made self-proving at time of execution. (1) An electronic will may be simultaneously executed, attested and made self-proving by acknowledgment of the testator and affidavits of the witnesses.

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

(a) Made before an officer authorized to administer oaths under law of the state in which the 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 section 5 (1)(b) of this 2026 Act, before an officer authorized under ORS 194.277; and

(b) Evidenced by the officer's certificate under official seal affixed to or logically associated with the electronic will.

(c) The acknowledgment and affidavits under subsection (1) of this section must be in substantially the following form:

:RULE.

I, :HR6.(name), the testator, and, being sworn, declare to the 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.

:AR.:HR15.:LEND.

:AR.(Signature/Date)

:NPAR.

We, :HR6.(name) and :HR6.(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 a 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.

:NPAR.

:RF8. Witnessed by::LEND.

:HR9. :HR8.:LEND.

(Signature of Witness/ (Printed Name of Witness):LEND.

Date) :LEND.

:HR9. :HR8.:LEND.

(Signature of Witness/ (Printed Name of Witness):LEND.

Date) :LEND.

:NPAR.

Certificate of Officer:

State of :HR6.

County of :HR6.

:NPAR.

Subscribed, sworn to and acknowledged before me by :HR8. (name) and by :HR8.(name), witnesses, this :HR6. day of :HR6., :HR4.

:HR8.

Signature of notarial officer:

Stamp (if required):

Title of office: :HR8.

My commission expires: :HR6.:LEND.

:NPAR.

(4) A signature physically or electronically affixed to an affidavit that is affixed to or logically associated with an electronic will under sections 2 to 10 of this 2026 Act is deemed a signature of the electronic will under section 5 (1) of this 2026 Act.

Legislative Note: A state that has not enacted the Uniform Probate Code should conform Section 8 to its self-proving affidavit statute. The statements that the requirements for a valid will are met and the language required for the notary's certification should conform with the requirements under state law.

A state that has authorized remote online notarization by enacting the 2018 version of the Revised Uniform Law on Notarial Acts should cite to Section 14A of that act in subsection (b)(1). A state that has adopted a non-uniform law allowing remote online notarization should cite to the relevant section of state law in subsection (b)(1).

A state that does not permit an electronic will to be executed without all witnesses being physically present should omit the bracketed language in subsection (b)(1) and the words "or electronic" in subsection (c) and Section 5(a)(3).

SECTION 9. 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 must include the self-proving affidavits.

Legislative Note: A state may need to change its probate court rules to expand the definition of what may be filed with the court to include electronic filings.

Court procedural rules may require that a certified paper copy be filed within a prescribed number of days of the filing of the application for probate. A state may want to include procedural rules specifically for electronic wills.

SECTION 10. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 11. ORS 112.235 is amended to read:

112.235. (1) Except as provided in ORS 112.238, a will shall be in writing and shall be executed in accordance with the following formalities:

(a) The testator, in the presence of each of the witnesses, shall:

(A) Sign the will;

(B) Direct one of the witnesses or some other person to sign the name of the testator and the signer's own name on the will; or

(C) Acknowledge the signature previously made on the will by the testator or at the testator's direction.

(b) At least two witnesses shall each:

(A)(i) See the testator sign the will;

(ii) Hear the testator acknowledge the signature on the will; or

(iii) Hear or observe the testator direct some other person to sign the name of the testator;

and

(B) Attest the will by signing the witness' name to the will within a reasonable time before the testator's death.

(2) The signature by a witness on an affidavit executed contemporaneously with execution of a will is considered a signature by the witness on the will in compliance with subsection (1)(b)(A)(iii) of this section if necessary to prove the will was duly executed in compliance with this section.

(3) A will executed in compliance with the Uniform International Wills Act **or the Uniform Electronic Wills Act** shall be deemed to have complied with the formalities of this section.

(4) As used in this section, <<writing>> does not include an electronic record, document or image, **other than an electronic will executed in compliance with the Uniform Electronic Wills Act.**

SECTION 12. ORS 112.238 is amended to read:

112.238. (1) Although a writing was not executed in compliance with ORS 112.235 **or, if the writing is an electronic will, the Uniform Electronic Wills Act**, the writing may be treated

as if it had been executed in compliance with ORS 112.235 **or the Uniform Electronic Wills Act** if the proponent of the writing establishes by clear and convincing evidence that the decedent intended the writing to constitute:

- (a) The decedent's will;
- (b) A partial or complete revocation of the decedent's will; or
- (c) An addition to or an alteration of the decedent's will.

(2) A writing described in subsection (1) of this section may be filed with the court for administration as the decedent's will pursuant to ORS 113.035. The proponent of the writing shall give notice of the filing of the petition under ORS 113.035 to those persons identified in ORS 113.035 (5), (7), (8) and (9). Persons receiving notice under this subsection shall have 20 days after the notice was given to file written objections to the petition. The court may make a determination regarding the decedent's intent after a hearing or on the basis of affidavits.

(3) The proponent of a writing described in subsection (1) of this section may file a petition with the court to establish the decedent's intent that the writing was to be a partial or complete revocation of the decedent's will or an addition to or an alteration of the decedent's will. The proponent shall give notice of the filing to any personal representative appointed by the court, the devisees named in any will admitted to probate and those persons identified in ORS 113.035 (5). Persons receiving notice under this subsection shall have 20 days after the notice was given to file written objections to the petition. The court may make a determination regarding the decedent's intent after a hearing or on the basis of affidavits.

(4)(a) If the court determines that clear and convincing evidence exists showing that a writing described in subsection (1) of this section was intended by the decedent to accomplish one of the purposes set forth in subsection (1) of this section, the court shall:

(A) Prepare written findings of fact in support of the determination; and

(B) Enter a limited judgment that admits the writing for probate as the decedent's will or otherwise acknowledges the validity and intent of the writing.

(b) A determination under this subsection does not preclude the filing of a will contest under ORS 113.075, except that the will may not be contested on the grounds that the will was not executed in compliance with ORS 112.235.

(5) The fee imposed and collected by the court for the filing of a petition under this section shall be in accordance with ORS 21.135.

SECTION 13. ORS 42.141 is amended to read:

42.141. (1) As used in this section:

(a) <<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.

(b) <<Law>> means statutes, administrative rules and any other form of regulation imposed by this state or a political subdivision of this state.

(2) A witness is in the presence of a person for purposes of witnessing the execution or acknowledgment of a writing if the witness is in the physical presence or the electronic presence of the person.

(3) A writing that a person executes or acknowledges in the electronic presence of a witness is validly witnessed if, in addition to any other execution formalities required by law, all of the following requirements are met:

- (a) The witness has satisfactory evidence of the identity of the person.

(b) While in the electronic presence of the witness, the person executes or acknowledges the writing and delivers or causes to be delivered by facsimile or electronic mail to the witness a copy of the executed signature page.

(c) While in the electronic presence of the person, the witness:

(A) Is located inside the boundaries of the United States;

(B) Attests to the execution or acknowledgment of the writing by signing the transmitted copy of the signature page; and

(C) Delivers or causes to be delivered by facsimile or electronic mail to the person the copy of the executed signature page, signed by the witness.

(d) The person signing the writing completes a declaration of electronic presence under penalty of perjury.

(e) The witness completes a declaration of remote attestation under penalty of perjury.

(4) A witness has satisfactory evidence of a person's identity for the purposes of subsection (3)(a) of this section if the person is personally known to the witness or if the witness can identify the person by means of one of the following forms of identification, presented by the person to the witness while the person is in the electronic presence of the witness:

(a) A United States passport or an officially recognized passport of a foreign country, or a driver license or identification card issued under ORS 807.400 or a comparable provision in another state, that is current or that expired not more than three years before the date the person executes or acknowledges the writing; or

(b) A military identification card, an identity card issued by a federally recognized Indian tribe or other document issued by the federal government or a state, county or local government that is current or that expired no more than three years before the date the person executes or acknowledges the writing.

(5)(a) The declarations under subsection (3)(d) and (e) of this section may be completed contemporaneously with the execution or acknowledgment of the writing or at any time thereafter.

(b) The declaration of electronic presence under subsection (3)(d) of this section must be substantially in the following form:

:RULE.

DECLARATION

(Electronic presence)

:NPAR.

:BULLET. <<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.

I, _____, signed the foregoing _____ (title of document) at _____ (city), _____ (state), on _____ (date) and in the electronic presence of _____ (witness name), whom I requested to become attesting witness.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is subject to penalty for perjury.

Signature

(print name, address, telephone number and e-mail address)

:RULE.

(c) The declaration of remote attestation under subsection (3)(e) of this section must be substantially in the following form:

:RULE.

DECLARATION

(Remote attestation)

:NPAR.

:BULLET. <<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.

I, _____ (witness name), was electronically present on _____ (date) when _____ (signer name) in my electronic presence signed the attached signature page to _____ (title of document) and, at the request of the foregoing signer, I signed my name as witness at the foregoing date.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is subject to penalty for perjury.

Witness signature

(print name, address, telephone number and e-mail address)

:RULE.

(6) A writing witnessed in compliance with subsection (3) of this section may be executed, acknowledged or witnessed in counterparts, which together shall be considered a single writing.

(7)(a) Subsection (3) of this section applies to the witnessing of any writing that is required by law to be executed or acknowledged in the presence of a witness.

(b) Notwithstanding paragraph (a) of this subsection, this section does not apply to:

(A) A notarial act performed by a notarial officer, as those terms are defined in ORS 194.215;

(B) The witnessing of the execution of a will under ORS 112.232 or 112.235 **or the Uniform Electronic Wills Act**; or

(C) The witnessing of signatures by the circulator of a petition pursuant to ORS chapter 198, 221, 248, 249, 250, 255, 261 or 545.

(8) Nothing in this section is intended to affect provisions of law regarding the execution of wills, including the application of ORS 112.238 to writings not executed in compliance with ORS 112.235.

SECTION 14. Transitional provision. Sections 2 to 10 of this 2026 Act applies to the will of a decedent who dies on or after the effective date of this 2026 Act.

SECTION 15. Captions. The section captions used in this 2025 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2025 Act.