

Meeting Notes  
Oregon Law Commission  
Workgroup on Electronic Wills  
September 26, 2025

**I. Welcome, Discussion of Timeline, and Next Steps**

**In Attendance:** Lane Shetterly, Amy Zubko, Gabriel Hanson, Eric Foster, Theresa Hollis, Silvia Camacho-Scyoc, Heather Gilmore, Jeff Petty, Channa Newell, Victoria Blachly, Tara Hendison, Lori Anne Sills, Kris Kolta, Matthew Schrumpf, Lorraina Erland, Susan Cook

**Introduction of Guests in Attendance:** Judge Diana Kiesel (Pierce County Superior Court, Washington State, SCJA – Guardian and Probate Committee Chair) Ben Orzeske (Uniform Law Commission), Susan Gary (Uniform Law Commission), Andrea Valdez (Superior Court Judges' Association, Washington State), Lauren Keller (Student, Willamette University School of Law)

**II. Discussion of Current Questions and Other State's Models:**

Lane Shetterly introduced the guests at the meeting this week, Judge Kiesel, who joined the group from Pierce County in Washington State, Susan Gary, the reporter for the Uniform Electronic Wills Act.

**Experience in Washington State:** Judge Kiesel shared that Washington has allowed E-wills since 2022 (legislation passed in 2021), and so far it had been rarely utilized. Of note, Washington added a custodian guardian provision to the Act in Washington. This requirement is not part of the Uniform Act.

Judge Kiesel shared that she has come across only one attorney in King County willing to act as a custodian, possibly stemming from concerns over undue influence and malpractice. Further, court clerks in Washington likely do not have procedures for E wills, and if it were to come through, an E Will would likely go through the lost will procedure. Judge Kiesel shared that procedure is to get declarations from the witnesses and locate the notary.

Further, in 2024, Washington passed the non-testimony will act, which as far as Judge Kiesel knows is also not being utilized.

Susan Gary addressed three areas: the qualified custodian requirement, security concerns, and finally execution and harmless error.

**Qualified custodian requirement** (there are three other states that have a similar qualified custodian requirement): Most of these states allow a business to be the custodian, however in Washington the requirements for qualified custodian are more narrowly drafted and only allow a trust to act in this capacity. Further, while Arizona has had the statute in place for a

longer period of time, Arizonans do not seem to be utilizing the Act as much as expected, possibly due to the qualified custodian requirement as well.

**Security Concerns:** Susan Gary shared that the Uniform Law Commission specifically did not endorse a certain vendor or process but rather provided a framework. Further, she shared that an electronic will has a number of safeguards that aren't typically available for paper will creation. There is metadata for the document itself, and the fact that it was notarized through remote notarization means it is "locked." In that respect E wills are harder to tamper with than a physical document.

**Execution of a will and validation of a will.** Generally, a paper will will avoid probate if a self-proving affidavit is included. If the witnesses and the testator are in the same location, an electronic will, unlike a paper will, must be signed and witnessed at the same time. If, however, one or more witnesses are not in the same location and one is remote, a separate process for verifying the identification of each of the parties is required.

Under the Uniform Act, this may be done through the remote notarization process. Similar to paper will notarizations, the notary must be trained and registered with the Secretary of State. The process is recorded, and the remote notary is obligated to retain the recording for 10 years. The E will must be held in a tamper-proof digital format. Professor Gary shared that custodianship of the will is up to the individual states. The work group requested a demonstration of this process.

**Harmless Error:** Susan Gary also shared that ULC drafting committee's goal was to ensure that the will accurately reflects the testator's intent.

Lane Shetterly clarified that the harmless error does imply a complete probate process, with notification to heirs and beneficiaries.

Victoria Blachly asked if stringent security protocols are in place, would an electronic will be inaccessible especially for older individuals. As possibly has been the case for various companies attempting to provide for E will processes.

**Age of Users:** Ben Orzeske pointed out that the information surrounding the adoption and use of electronic wills might be skewed because younger people are currently using the electronic will drafting process. He pointed to several companies that advertised electronic will services including life insurance companies. Additionally, Ben shared that there is an alternative to the custodian requirement as it's possible to have multiple copies of the original will shared with the court, held by an attorney, or the testator. Electronic will are somewhat unique in that the term original will does not really matter, it's more about having at least one authentic copy of the electronic will that could be shared or registered on the state or county level and also shared concerns over how the Washington state legislation allows for anyone who can be a trustee to serve as an E will custodian. Ben was asked if there had been any litigation that interpreted the Uniform E-Will Act and he did not have any examples.

Judge Kiesel commented that it is likely that younger parties are utilizing electronic wills, and that means that the work is important, as it will likely become more popular or standard in the future. She also shared her opinion that that E Wills might also provide access to individuals with disabilities.

Matthew Schrumpf asked if a testator chose not to use a notary, then would the will not meet the requirements of a self-proving will until the witnesses signs with a notary and goes through the whole remote notarization process or goes through the process of proving the will when the time comes, i.e., interviewing witnesses testifying to capacity.

Matthew asked if proving a will or disproving it comes down to metadata. It seemed to be a consensus that this was not overly concerning, as this concern is not dissimilar from fraud concerns for paper wills, for example using an expert to confirm a signature.

Jeff Petty shared his interest in further discussion regarding the existing requirement to file the original copy of the will with the court. Jeff mentioned he had additional questions, but the group ran out of time.

Lane Shetterly wrapped up the conversation for time.