

The Uniform Electronic Wills Act

Background:

- The Uniform Electronic Wills Act was approved by the Uniform Law Commission in 2019
- Since then, it has been enacted in 5 states/territories: Colorado, North Dakota, the U.S. Virgin Islands, Utah, and Washington
- It has been introduced in 4 other jurisdictions: the District of Columbia, Georgia, Massachusetts, and New Jersey
- Minnesota Uniform Law Commissioners, in conjunction with the Minnesota State Bar Association, are seeking to enact the Uniform Electronic Wills Act in Minnesota in 2023

Summary:

- Essentially, the Uniform Electronic Wills Act permits a testator to execute an electronic will and allows probate courts to give electronic wills legal effect
- The testator's signature must be witnessed contemporaneously, either in person or remotely by use of electronic means
- The pandemic showed how important it is for a testator to be able to sign a traditional "paper will" in front of remote witnesses viewing electronically, keeping everyone safe
- While a notarized signature is not required, Minnesota enacted the Revised Uniform Law on Notarial Acts in 2018; Minn. Stat. Sec. 358.645 provides a secure procedure for notarization by a remote online notary public

If Enacted, the Uniform Electronic Wills Act Will:

- Encourage more people to make a will
- Solve interstate recognition problems
- Modernize the law and prepare Minnesota for the future if another pandemic arises

Support:

- The Probate and Trust Section of the Minnesota State Bar Association tailored the uniform act to fit with current Minnesota law, amending the Uniform Probate Code
- The Legislative Committee of the MSBA has approved enactment of the law in the form proposed by the Probate and Trust Section
- The Uniform Law Commission has reviewed the MSBA draft and agreed that it incorporates the uniform act
- Steve Nys is Co-Chair of the Probate and Trust Section's Legislative Committee, and led the bar committee that tailored the uniform act for enactment in Minnesota
- Mr. Nys has volunteered to testify in favor of the act

ULC Lead is Commissioner Michele Timmons

