

# Legislative Analysis



## ELECTRONIC WILLS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5795 (proposed substitute H-1)**

**Sponsor: Rep. Graham Filler**

**Committee: Judiciary**

**Complete to 6-9-20**

Analysis available at  
<http://www.legislature.mi.gov>

## SUMMARY:

House Bill 5795 would amend the Estates and Protected Individuals Code (EPIC) to allow for an electronic will and for a certified paper copy of that electronic will to be made.

With some exceptions, for a will to be valid, Michigan law requires that the document meet all of the following:

- Be in writing.
- Be signed by the testator (the one making the will) or be signed in his or her name by another individual in his or her conscious presence and at his or her direction.
- Be signed by at least two individuals. A witness must sign the will within a reasonable time after witnessing the testator sign it or the testator's acknowledgment of that signature or of the will.

The bill would amend EPIC to include as a valid will, as an alternative to being in writing, a *record* that is readable as text at the time the testator or person directed by the testator and the witnesses *sign* the will. In addition, the witnesses could sign the will either in person or in *electronic presence*.

*Record* would mean information that is inscribed on a tangible medium or that is stored in an *electronic* or other medium and is retrievable in perceivable form.

*Electronic* would mean relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

*Electronic presence* would mean the relationship of two or more individuals in different locations communicating in real time to the same extent as if they were physically present in the same location.

*Sign* would mean to do either of the following with present intent to authenticate or adopt a record:

- Execute or adopt a tangible symbol.
- Affix to or logically associate with the record an electronic symbol or process.

The bill would also add a new section to EPIC to allow an individual to create a certified paper copy of an electronic will by affirming under penalty of perjury that the paper copy of the electronic will is a complete, true, and accurate copy of it. If the electronic copy is made self-proving, the certified paper copy would have to include the self-proving affidavits. ("Self-proving" refers to including with the will separate affidavits, or statements, signed by the testator and the witnesses in the presence of a notary public. The affidavits confirm that each

signed the will and that it is, in fact, the testator's will.) As used in this new section, "electronic will" would mean readable as text and signed with an electronic symbol or process, as described above.

MCL 700.2502 and proposed MCL 700.2504a

**FISCAL IMPACT:**

House Bill 5795 would have no fiscal impact on the state or on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.