



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5795 (Substitute H-1 as passed by the House)
Sponsor: Representative Graham Filler
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety

Date Completed: 12-1-20

CONTENT

The bill would amend the Estates and Protected Individuals Code (EPIC) to modify provisions governing the creation of a valid will to allow for the creation of an electronic will and allow an individual to create a certified paper copy of an electronic will.

Creating a Valid Will

Under EPIC, except as provided otherwise, a will is valid only if it is all of the following:

- In writing.
- Signed by the testator or in the testator's name by some other individual in the testator's conscious presence and by the testator's direction.
- Signed by at least two individuals, each of whom signed within a reasonable time after he or she witnessed either the signing of the will or the testator's acknowledgment of that signature or acknowledgment of the will.

Instead, under the bill, a will would be valid only if it were all of the following:

- Either in writing *or a record that was readable as text at the time of the signing*.
- Signed by the testator or in the testator's name by some other individual in the testator's conscious presence and by the testator's direction.
- Signed by at least two individuals, *either in person or in electronic presence*, each of whom signed within a reasonable time after he or she witnessed either the signing of the will or the testator's acknowledgment of that signature or acknowledgment of the will.

"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.

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

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

"Electronic presence" would mean 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.

Certified Paper Copy of Electronic Will

The bill would allow an individual to 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 were made self-proving, the certified paper copy of the will would have to include the self-proving affidavits.

"Electronic will" would mean a will that is both of the following:

- Readable (as described above).
- Signed (as defined above).

MCL 700.2502 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Michael Siracuse

SAS\S1920\s5795sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.