

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 468 By: Howard of the Senate
3 and
4 Kannady of the House
5

6 An Act relating to estate planning; creating the
7 Uniform Electronic Estate Planning Documents Act;
8 providing short title; defining terms; construing
9 provisions; stating scope of act; providing
10 exception; providing for applicability of principles
11 of law and equity; clarifying that use of electronic
12 record or signature not required; prohibiting certain
13 waiver; requiring recognition of electronic non-
14 testamentary estate planning document or signature;
15 establishing attribution and effect of electronic
16 record and signature; establishing requirements for
17 notarization and acknowledgement; authorizing
18 electronic witnessing and attestation for certain
19 documents; establishing requirements for retention of
20 certain electronic records; providing exception;
21 allowing additional requirements imposed by
22 governmental agency; authorizing creation of
23 certified paper copy of certain electronic documents;
24 providing for admissibility of certain electronic
documents or signatures; providing for uniformity of
application and construction; clarifying relation to
certain federal provisions; specifying applicability
of provisions to certain electronic documents;
providing for severability; and providing for
codification.

21 AUTHOR: Add the following House Coauthor: Swope

22 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
23 and insert:
24

1 "An Act relating to estate planning; creating the
2 Oklahoma Uniform Electronic Estate Planning Documents
3 Act; defining terms; providing when an electronic
4 will is valid; providing requirements for an
5 electronic will; providing that the intent of a
6 testator's electronic will may be established by
7 extrinsic evidence; providing for revocation;
8 providing that an electronic will may be
9 simultaneously executed, attested, and made self-
10 proving by acknowledgment of the testator and
11 affidavits of the witnesses; providing requirements
12 for acknowledgment and affidavits; providing sample
13 acknowledgment and affidavit form; providing for
14 electronic signature; providing for a certified paper
15 copy of an electronic will; providing for applying
16 and construing act; providing when act is applicable;
17 creating the Uniform Electronic Estate Planning
18 Documents Act; providing short title; defining terms;
19 construing provisions; stating scope of act;
20 providing exception; providing for applicability of
21 principles of law and equity; clarifying that use of
22 electronic record or signature is not required;
23 prohibiting certain waiver; requiring recognition of
24 electronic non-testamentary estate planning document
or signature; establishing attribution and effect of
electronic record and signature; establishing
requirements for notarization and acknowledgement;
authorizing electronic witnessing and attestation for
certain documents; establishing requirements for
retention of certain electronic records; providing
exception; allowing additional requirements imposed
by governmental agency; authorizing creation of
certified paper copy of certain electronic documents;
providing for admissibility of certain electronic
documents or signatures; providing for uniformity of
application and construction; clarifying relation to
certain federal provisions; specifying applicability
of provisions to certain electronic documents;
providing for severability; providing for
codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 901 of Title 84, unless there is
3 created a duplication in numbering, reads as follows:

4 Sections 1 through 10 of this act shall be known and may be
5 cited as the "Oklahoma Uniform Electronic Estate Planning Documents
6 Act".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 902 of Title 84, unless there is
9 created a duplication in numbering, reads as follows:

10 As used in the Uniform Electronic Estate Planning Documents Act:

11 1. "Communication technology" means an electronic device or
12 process that:

- 13 a. allows two or more individuals to communicate with
14 each other simultaneously by sight and sound, or
- 15 b. when necessary and consistent with other applicable
16 law, facilitates communication with a remotely located
17 individual who has a vision, hearing, or speech
18 impairment;

19 2. "Electronic" means relating to technology having electrical,
20 digital, magnetic, wireless, optical, electromagnetic, or similar
21 capabilities;

22 3. "Electronic presence" means the relationship of two or more
23 individuals in different locations communicating in real time by
24

1 means of communication technology, to the same extent as if the
2 individuals were physically present in the same location;

3 4. "Electronic will" means a will executed electronically in
4 compliance with subsection A of Section 5 of this act;

5 5. "Record" means information that is inscribed on a tangible
6 medium or that is stored in an electronic or other medium and is
7 retrievable in perceivable form;

8 6. "Sign" means, with present intent to authenticate or adopt a
9 record:

10 a. to execute or adopt a tangible symbol, or

11 b. to affix to or logically associate with the record an
12 electronic symbol or process;

13 7. "State" means a state of the United States, the District of
14 Columbia, Puerto Rico, the United States Virgin Islands, or any
15 territory or insular possession subject to the jurisdiction of the
16 United States. The term includes property located within the
17 reservation of a federally recognized Indian tribe; and

18 8. "Will" includes a codicil and any testamentary instrument
19 that merely appoints an executor, revokes or revises another will,
20 nominates a guardian, or expressly excludes or limits the right of
21 an individual or class to succeed to property of the decedent
22 passing by intestate succession.

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 903 of Title 84, unless there is
3 created a duplication in numbering, reads as follows:

4 An electronic will is a will for all purposes of the laws of
5 this state. The laws of this state applicable to wills and
6 principles of equity apply to an electronic will, except as modified
7 by this act.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 904 of Title 84, unless there is
10 created a duplication in numbering, reads as follows:

11 A will executed electronically but not in compliance with
12 subsection A of Section 5 of this act is an electronic will under
13 this act if executed in compliance with the law of the jurisdiction
14 where the testator is:

- 15 1. Physically located when the will is signed; or
- 16 2. Domiciled or resides when the will is signed or when the
17 testator dies.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 905 of Title 84, unless there is
20 created a duplication in numbering, reads as follows:

21 A. Subject to subsection D of Section 7 of this act, an
22 electronic will must be:

- 23 1. A record that is readable as text at the time of signing
24 under paragraph 2 of this subsection;

1 2. Signed by:

2 a. the testator, or

3 b. another individual in the testator's name, in the
4 testator's physical presence and by the testator's
5 direction in a manner recognized by Oklahoma law; and

6 3. Signed in the physical or electronic presence of the
7 testator by at least two individuals, each of whom is a resident of
8 a state and physically located in a state at the time of signing,
9 within a reasonable time after witnessing:

10 a. the signing of the will under paragraph 2 of this
11 subsection, or

12 b. the testator's acknowledgment of the signing of the
13 will under paragraph 2 of this subsection or
14 acknowledgement of the will.

15 B. Intent of a testator that the record under paragraph 1 of
16 subsection A of this section be the testator's electronic will may
17 be established by extrinsic evidence.

18 SECTION 6. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 906 of Title 84, unless there is
20 created a duplication in numbering, reads as follows:

21 A. An electronic will may revoke all or part of a previous
22 will.

23 B. All or part of an electronic will is revoked by:
24

1 1. A subsequent will that revokes all or part of the electronic
2 will expressly or by inconsistency; or

3 2. A physical act, if it is established by a preponderance of
4 the evidence that the testator, with the intent of revoking all or
5 part of the will, performed the act or directed another individual
6 who performed the act in the testator's physical presence.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 907 of Title 84, unless there is
9 created a duplication in numbering, reads as follows:

10 A. An electronic will may be simultaneously executed, attested,
11 and made self-proving by acknowledgment of the testator and
12 affidavits of the witnesses.

13 B. The acknowledgment and affidavits under subsection A of this
14 section must be:

15 1. Made before an officer authorized to administer oaths under
16 law of the state in which execution occurs or before an officer
17 authorized under and in the manner provided by the Oklahoma Remote
18 Online Notary Act; and

19 2. Evidenced by the officer's certificate under official seal
20 affixed to or logically associated with the electronic will.

21 C. The acknowledgment and affidavits under subsection A of this
22 section must be in substantially the following form:

23 I, _____, the testator, and, being sworn,
24 declare to the
(name)

1 undersigned officer that I sign this instrument as my electronic
2 will, I willingly sign it or willingly direct another individual to
3 sign it for me, I execute it as my voluntary act for the purposes
4 expressed in this instrument, and I am 18 years of age or older, of
5 sound mind, and under no constraint or undue influence.

6 _____
7 Testator City and state where located when signing

8 We, _____ and _____,
9 (name) (name)

10 witnesses, being sworn, declare to the undersigned officer that the
11 testator signed this instrument as the testator's electronic will,
12 that the testator willingly signed it or willingly directed another
13 individual to sign for the testator, and that each of us, in the
14 physical [or electronic] presence of the testator, signs this
15 instrument as witness to the testator's signing, and to the best of
16 our knowledge the testator is 18 years of age or older, of sound
17 mind, and under no constraint or undue influence.

18 _____
19 Witness signature

20 _____
21 Name and Residence (printed)

22 _____
23 City and state where located when signing

24 _____
25 Witness signature

1 electronic will. If the electronic will is made self-proving, the
2 certified paper copy of the will must include the self-proving
3 affidavits.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 909 of Title 84, unless there is
6 created a duplication in numbering, reads as follows:

7 A. In applying and construing this uniform act, consideration
8 must be given to the need to promote uniformity of the law with
9 respect to its subject matter among states that enact it.

10 B. Nothing in this act is intended to alter Oklahoma law
11 regarding testamentary instruments executed under other provisions
12 of Title 84 of the Oklahoma Statutes.

13 SECTION 10. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 910 of Title 84, unless there is
15 created a duplication in numbering, reads as follows:

16 This act applies to the will of a decedent who dies on or after
17 the effective date of this act.

18 SECTION 11. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 911 of Title 84, unless there is
20 created a duplication in numbering, reads as follows:

21 Sections 11 through 27 of this act shall be known and may be
22 cited as the "Uniform Electronic Estate Planning Documents Act".
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1 SECTION 12. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 912 of Title 84, unless there is
3 created a duplication in numbering, reads as follows:

4 As used in the Uniform Electronic Estate Planning Documents Act:

5 1. "Electronic" means relating to technology having electrical,
6 digital, magnetic, wireless, optical, electromagnetic, or similar
7 capabilities;

8 2. "Electronic record" means a record created, generated, sent,
9 communicated, received, or stored by electronic means;

10 3. "Electronic signature" means an electronic symbol or process
11 attached to or logically associated with a record and executed or
12 adopted by a person with the intent to sign the record;

13 4. "Information" includes data, text, images, codes, computer
14 programs, software, and databases;

15 5. "Non-testamentary estate planning document" means a record
16 relating to estate planning that is readable as text at the time of
17 signing and is not a will or contained in a will. Non-testamentary
18 estate planning document includes:

19 a. a record readable as text at the time of signing that
20 creates, exercises, modifies, releases, or revokes:

- 21 (1) a trust instrument,
22 (2) a trust power that under the terms of the trust
23 requires a signed record,
24 (3) a memorandum or certification of a trust,

- 1 (4) a durable power of attorney,
- 2 (5) an agent's certification of the validity of a
- 3 power of attorney and the agent's authority,
- 4 (6) a power of appointment,
- 5 (7) an advance directive including a health-care
- 6 power of attorney, directive to physicians,
- 7 natural death statement, living will, and medical
- 8 or physician order for life-sustaining treatment,
- 9 (8) a record directing disposition of an individual's
- 10 body after death,
- 11 (9) a nomination of a guardian for the signing
- 12 individual,
- 13 (10) a nomination of a guardian for a minor child or
- 14 disabled adult child,
- 15 (11) a mental health treatment declaration, or
- 16 (12) any other record intended to carry out an
- 17 individual's intent regarding property or health
- 18 care while incapacitated or on death, and

19 b. Non-testamentary estate planning document does not
20 include a deed of real property or certificate of
21 title for a motor vehicle, watercraft, or aircraft;

22 6. "Person" means an individual, estate, business or nonprofit
23 entity, government or governmental subdivision, agency, or
24 instrumentality, or other legal entity;

1 7. "Power of attorney" means a record that grants authority to
2 an agent to act in place of the principal, even if the term is not
3 used in the record;

4 8. "Record" means information:
5 a. inscribed on a tangible medium, or
6 b. stored in an electronic or other medium and
7 retrievable in perceivable form;

8 9. "Security procedure" means a procedure to verify that an
9 electronic signature, record, or performance is that of a specific
10 person or to detect a change or error in an electronic record,
11 including a procedure that uses an algorithm, code, identifying word
12 or number, encryption, callback, or other acknowledgment procedure;

13 10. "Settlor" means a person, including a testator, that
14 creates or contributes property to a trust;

15 11. "Sign" means, with present intent to authenticate or adopt
16 a record:

17 a. execute or adopt a tangible symbol, or
18 b. attach to or logically associate with the record an
19 electronic signature;

20 12. "State" means a state of the United States, the District of
21 Columbia, Puerto Rico, the United States Virgin Islands, or other
22 territory or possession subject to the jurisdiction of the United
23 States. The term includes a federally recognized Indian tribe;

24 13. "Terms of a trust" means:

1 a. except as provided in subparagraph b of this
2 paragraph, the manifestation of the settlor's intent
3 regarding a trust's provisions as:

- 4 (1) expressed in the trust instrument, or
- 5 (2) established by other evidence that would be
6 admissible in a judicial proceeding; or

7 b. the trust's provisions as established, determined, or
8 amended by:

- 9 (1) a trustee or other person in accordance with
10 applicable law,
- 11 (2) a court order, or
- 12 (3) a nonjudicial settlement agreement;

13 14. "Trust instrument" means an instrument executed by the
14 settlor or other person authorized by law that contains terms of the
15 trust including any amendments; and

16 15. "Will" includes a codicil and a testamentary instrument
17 that appoints an executor, revokes or revises another will,
18 nominates a guardian, or expressly excludes or limits the right of
19 an individual or class to succeed to property of the decedent
20 passing by intestate succession.

21 SECTION 13. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 913 of Title 84, unless there is
23 created a duplication in numbering, reads as follows:

1 This act shall be construed and applied to facilitate electronic
2 estate planning documents and signatures consistent with other law
3 and be consistent with reasonable practices concerning electronic
4 documents and signatures and continued expansion of those practices.

5 SECTION 14. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 914 of Title 84, unless there is
7 created a duplication in numbering, reads as follows:

8 A. Except as provided in subsection B of this section, this act
9 shall apply to an electronic non-testamentary estate planning
10 document and an electronic signature on a non-testamentary estate
11 planning document.

12 B. This act shall not apply to a non-testamentary estate
13 planning document if the document precludes use of an electronic
14 record or electronic signature.

15 C. This act shall not affect the validity of an electronic
16 record or electronic signature that is valid under the Uniform
17 Electronic Transactions Act, Section 15-101 et seq. of Title 12A of
18 the Oklahoma Statutes or other law of this state authorizing the use
19 of electronic records or electronic signatures.

20 SECTION 15. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 915 of Title 84, unless there is
22 created a duplication in numbering, reads as follows:

23 The law of this state and principles of equity applicable to a
24 non-testamentary estate planning document shall apply to an

1 | electronic non-testamentary estate planning document except as
2 | modified by this act.

3 | SECTION 16. NEW LAW A new section of law to be codified
4 | in the Oklahoma Statutes as Section 916 of Title 84, unless there is
5 | created a duplication in numbering, reads as follows:

6 | A. This act shall not require a non-testamentary estate
7 | planning document or signature on a non-testamentary estate planning
8 | document to be created, generated, sent, communicated, received,
9 | stored, or otherwise processed or used by electronic means or in
10 | electronic form.

11 | B. A person shall not be required to have a non-testamentary
12 | estate planning document in electronic form or signed electronically
13 | even if the person previously created or signed a non-testamentary
14 | estate planning document by electronic means.

15 | C. No person shall waive the provisions of this section.

16 | SECTION 17. NEW LAW A new section of law to be codified
17 | in the Oklahoma Statutes as Section 917 of Title 84, unless there is
18 | created a duplication in numbering, reads as follows:

19 | A. A non-testamentary estate planning document or a signature
20 | on a non-testamentary estate planning document may not be denied
21 | legal effect or enforceability solely because it is in electronic
22 | form.

23 |

24 |

1 B. If other laws of this state require a non-testamentary
2 estate planning document to be in writing, an electronic record of
3 the document shall satisfy such requirement.

4 C. If other laws of this state require a signature on a non-
5 testamentary estate planning document, an electronic signature shall
6 satisfy such requirement.

7 SECTION 18. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 918 of Title 84, unless there is
9 created a duplication in numbering, reads as follows:

10 A. An electronic non-testamentary estate planning document or
11 electronic signature on an electronic non-testamentary estate
12 planning document is attributable to a person if it was the act of
13 the person. The act of the person may be shown in any manner
14 including by showing the efficacy of a security procedure applied to
15 determine the person to which the electronic record or electronic
16 signature was attributable.

17 B. The effect of attribution to a person under subsection A of
18 this section of a document or signature is determined from the
19 context and surrounding circumstances at the time of its creation,
20 execution, or adoption and as provided by law.

21 SECTION 19. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 919 of Title 84, unless there is
23 created a duplication in numbering, reads as follows:

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1 If the laws of this state require a signature or record to be
2 notarized, acknowledged, verified, or made under oath, the
3 requirement shall be satisfied with respect to an electronic non-
4 testamentary estate planning document if an individual authorized to
5 perform the notarization, acknowledgment, verification, or oath
6 attaches or logically associates the individual's electronic
7 signature on the document together with all other information
8 required to be included under law.

9 SECTION 20. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 920 of Title 84, unless there is
11 created a duplication in numbering, reads as follows:

12 A. If the laws of this state base the validity of a non-
13 testamentary estate planning document on whether it is signed,
14 witnessed, or attested by another individual, the signature,
15 witnessing, or attestation of that individual may be electronic.

16 B. For the purposes of this subsection, "electronic presence"
17 means that two or more individuals in different locations are able
18 to communicate in real time to the same extent as if the individuals
19 were physically present in the same location. If the laws of this
20 state base the validity of a non-testamentary estate planning
21 document on whether it is signed, witnessed, or attested by another
22 individual in the presence of the individual signing the document,
23 the presence requirement shall be satisfied if the individuals are
24 in each other's electronic presence.

1 SECTION 21. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 921 of Title 84, unless there is
3 created a duplication in numbering, reads as follows:

4 A. Except as provided in subsection B of this section, if the
5 laws of this state require an electronic non-testamentary estate
6 planning document to be retained, transmitted, copied, or filed, the
7 requirement is satisfied by retaining, transmitting, copying, or
8 filing an electronic record that:

9 1. Accurately reflects the information in the document after it
10 was first generated in final form as an electronic record or under
11 Section 22 of this act; and

12 2. Remains accessible to the extent required by the other law.

13 B. A requirement under subsection A of this section to retain a
14 record does not apply to information the sole purpose of which is to
15 enable the record to be sent, communicated, or received.

16 C. A person may satisfy the requirements of subsection A of
17 this section by using the services of another person.

18 D. If the laws of this state require a non-testamentary estate
19 planning document to be presented or retained in its original form
20 or provides consequences if a non-testamentary estate planning
21 document is not presented or retained in its original form, an
22 electronic record retained in accordance with subsection A of this
23 section satisfies such requirement.

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1 E. The provisions of this section do not preclude a
2 governmental agency from specifying requirements for the retention
3 of a record subject to the agency's jurisdiction in addition to the
4 requirements provided in this section. For the purposes of this
5 section, "governmental agency" means an executive, legislative, or
6 judicial agency, department, board, commission, authority,
7 institution, or instrumentality of the federal government or of a
8 state or of a county, municipality, or other political subdivision
9 of a state.

10 SECTION 22. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 922 of Title 84, unless there is
12 created a duplication in numbering, reads as follows:

13 An individual may create a certified paper copy of an electronic
14 non-testamentary estate planning document by affirming under penalty
15 of perjury that the paper copy is a complete and accurate copy of
16 the document.

17 SECTION 23. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 923 of Title 84, unless there is
19 created a duplication in numbering, reads as follows:

20 Evidence relating to an electronic non-testamentary estate
21 planning document or an electronic signature on the document may not
22 be excluded in a proceeding solely because such evidence is in
23 electronic form.

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1 SECTION 24. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 924 of Title 84, unless there is
3 created a duplication in numbering, reads as follows:

4 In applying and construing this uniform act, a court shall
5 consider the promotion of uniformity of the law among jurisdictions
6 that enact it.

7 SECTION 25. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 925 of Title 84, unless there is
9 created a duplication in numbering, reads as follows:

10 This act modifies, limits, or supersedes the Electronic
11 Signatures in Global and National Commerce Act, 15 U.S.C. Section
12 7001 et seq., as amended, but does not modify, limit, or supersede
13 15 U.S.C. Section 7001(c), or authorize electronic delivery of any
14 of the notices described in 15 U.S.C. Section 7003(b).

15 SECTION 26. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 926 of Title 84, unless there is
17 created a duplication in numbering, reads as follows:

18 This act shall apply to an electronic non-testamentary estate
19 planning document created, signed, generated, sent, communicated,
20 received, or stored prior to, on, or after the effective date of
21 this act.

22 SECTION 27. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 927 of Title 84, unless there is
24 created a duplication in numbering, reads as follows:

1 If a provision of this act or its application to a person or
2 circumstance is held invalid, the invalidity does not affect another
3 provision or application that can be given effect without the
4 invalid provision.

5 SECTION 28. This act shall become effective November 1, 2024."
6 Passed the House of Representatives the 16th day of April, 2024.

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9 _____
10 Presiding Officer of the House of
Representatives

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11 Passed the Senate the ____ day of _____, 2024.

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14 _____
Presiding Officer of the Senate

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1 ENGROSSED SENATE
2 BILL NO. 468

By: Howard of the Senate

and

Kannady of the House

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6 An Act relating to estate planning; creating the
7 Uniform Electronic Estate Planning Documents Act;
8 providing short title; defining terms; construing
9 provisions; stating scope of act; providing
10 exception; providing for applicability of principles
11 of law and equity; clarifying that use of electronic
12 record or signature not required; prohibiting certain
13 waiver; requiring recognition of electronic non-
14 testamentary estate planning document or signature;
15 establishing attribution and effect of electronic
16 record and signature; establishing requirements for
17 notarization and acknowledgement; authorizing
18 electronic witnessing and attestation for certain
19 documents; establishing requirements for retention of
20 certain electronic records; providing exception;
21 allowing additional requirements imposed by
22 governmental agency; authorizing creation of
23 certified paper copy of certain electronic documents;
24 providing for admissibility of certain electronic
documents or signatures; providing for uniformity of
application and construction; clarifying relation to
certain federal provisions; specifying applicability
of provisions to certain electronic documents;
providing for severability; and providing for
codification.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 29. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 901 of Title 84, unless there is
created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Uniform
2 Electronic Estate Planning Documents Act".

3 SECTION 30. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 902 of Title 84, unless there is
5 created a duplication in numbering, reads as follows:

6 As used in the Uniform Electronic Estate Planning Documents Act:

7 1. "Electronic" means relating to technology having electrical,
8 digital, magnetic, wireless, optical, electromagnetic, or similar
9 capabilities;

10 2. "Electronic record" means a record created, generated, sent,
11 communicated, received, or stored by electronic means;

12 3. "Electronic signature" means an electronic symbol or process
13 attached to or logically associated with a record and executed or
14 adopted by a person with the intent to sign the record;

15 4. "Information" includes data, text, images, codes, computer
16 programs, software, and databases;

17 5. "Non-testamentary estate planning document" means a record
18 relating to estate planning that is readable as text at the time of
19 signing and is not a will or contained in a will. Non-testamentary
20 estate planning document includes:

21 a. a record readable as text at the time of signing that
22 creates, exercises, modifies, releases, or revokes:

23 (1) a trust instrument,
24

- (2) a trust power that under the terms of the trust requires a signed record,
 - (3) a memorandum or certification of a trust,
 - (4) a durable power of attorney,
 - (5) an agent's certification of the validity of a power of attorney and the agent's authority,
 - (6) a power of appointment,
 - (7) an advance directive including a health-care power of attorney, directive to physicians, natural death statement, living will, and medical or physician order for life-sustaining treatment,
 - (8) a record directing disposition of an individual's body after death,
 - (9) a nomination of a guardian for the signing individual,
 - (10) a nomination of a guardian for a minor child or disabled adult child,
 - (11) a mental health treatment declaration, or
 - (12) any other record intended to carry out an individual's intent regarding property or health care while incapacitated or on death, and
- b. Non-testamentary estate planning document does not include a deed of real property or certificate of title for a motor vehicle, watercraft, or aircraft;

1 6. "Person" means an individual, estate, business or nonprofit
2 entity, government or governmental subdivision, agency, or
3 instrumentality, or other legal entity;

4 7. "Power of attorney" means a record that grants authority to
5 an agent to act in place of the principal, even if the term is not
6 used in the record;

7 8. "Record" means information:

8 a. inscribed on a tangible medium, or

9 b. stored in an electronic or other medium and
10 retrievable in perceivable form;

11 9. "Security procedure" means a procedure to verify that an
12 electronic signature, record, or performance is that of a specific
13 person or to detect a change or error in an electronic record,
14 including a procedure that uses an algorithm, code, identifying word
15 or number, encryption, callback, or other acknowledgment procedure;

16 10. "Settlor" means a person, including a testator, that
17 creates or contributes property to a trust;

18 11. "Sign" means, with present intent to authenticate or adopt
19 a record:

20 a. execute or adopt a tangible symbol, or

21 b. attach to or logically associate with the record an
22 electronic signature;

23 12. "State" means a state of the United States, the District of
24 Columbia, Puerto Rico, the United States Virgin Islands, or other

1 territory or possession subject to the jurisdiction of the United
2 States. The term includes a federally recognized Indian tribe;

3 13. "Terms of a trust" means:

4 a. except as provided in subparagraph b of this
5 paragraph, the manifestation of the settlor's intent
6 regarding a trust's provisions as:

7 (1) expressed in the trust instrument, or

8 (2) established by other evidence that would be
9 admissible in a judicial proceeding; or

10 b. the trust's provisions as established, determined, or
11 amended by:

12 (1) a trustee or other person in accordance with
13 applicable law,

14 (2) a court order, or

15 (3) a nonjudicial settlement agreement;

16 14. "Trust instrument" means an instrument executed by the
17 settlor or other person authorized by law that contains terms of the
18 trust including any amendments; and

19 15. "Will" includes a codicil and a testamentary instrument
20 that appoints an executor, revokes or revises another will,
21 nominates a guardian, or expressly excludes or limits the right of
22 an individual or class to succeed to property of the decedent
23 passing by intestate succession.

1 SECTION 31. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 903 of Title 84, unless there is
3 created a duplication in numbering, reads as follows:

4 This act shall be construed and applied to facilitate electronic
5 estate planning documents and signatures consistent with other law
6 and be consistent with reasonable practices concerning electronic
7 documents and signatures and continued expansion of those practices.

8 SECTION 32. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 904 of Title 84, unless there is
10 created a duplication in numbering, reads as follows:

11 A. Except as provided in subsection B of this section, this act
12 shall apply to an electronic non-testamentary estate planning
13 document and an electronic signature on a non-testamentary estate
14 planning document.

15 B. This act shall not apply to a non-testamentary estate
16 planning document if the document precludes use of an electronic
17 record or electronic signature.

18 C. This act shall not affect the validity of an electronic
19 record or electronic signature that is valid under the Uniform
20 Electronic Transactions Act, Section 15-101 et seq. of Title 12A of
21 the Oklahoma Statutes or other law of this state authorizing the use
22 of electronic records or electronic signatures.

23
24

1 SECTION 33. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 905 of Title 84, unless there is
3 created a duplication in numbering, reads as follows:

4 The law of this state and principles of equity applicable to a
5 non-testamentary estate planning document shall apply to an
6 electronic non-testamentary estate planning document except as
7 modified by this act.

8 SECTION 34. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 906 of Title 84, unless there is
10 created a duplication in numbering, reads as follows:

11 A. This act shall not require a non-testamentary estate
12 planning document or signature on a non-testamentary estate planning
13 document to be created, generated, sent, communicated, received,
14 stored, or otherwise processed or used by electronic means or in
15 electronic form.

16 B. A person shall not be required to have a non-testamentary
17 estate planning document in electronic form or signed electronically
18 even if the person previously created or signed a non-testamentary
19 estate planning document by electronic means.

20 C. No person shall waive the provisions of this section.

21 SECTION 35. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 907 of Title 84, unless there is
23 created a duplication in numbering, reads as follows:

24

1 A. A non-testamentary estate planning document or a signature
2 on a non-testamentary estate planning document may not be denied
3 legal effect or enforceability solely because it is in electronic
4 form.

5 B. If other laws of this state require a non-testamentary
6 estate planning document to be in writing, an electronic record of
7 the document shall satisfy such requirement.

8 C. If other laws of this state require a signature on a non-
9 testamentary estate planning document, an electronic signature shall
10 satisfy such requirement.

11 SECTION 36. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 908 of Title 84, unless there is
13 created a duplication in numbering, reads as follows:

14 A. An electronic non-testamentary estate planning document or
15 electronic signature on an electronic non-testamentary estate
16 planning document is attributable to a person if it was the act of
17 the person. The act of the person may be shown in any manner
18 including by showing the efficacy of a security procedure applied to
19 determine the person to which the electronic record or electronic
20 signature was attributable.

21 B. The effect of attribution to a person under subsection A of
22 this section of a document or signature is determined from the
23 context and surrounding circumstances at the time of its creation,
24 execution, or adoption and as provided by law.

1 SECTION 37. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 909 of Title 84, unless there is
3 created a duplication in numbering, reads as follows:

4 If the laws of this state require a signature or record to be
5 notarized, acknowledged, verified, or made under oath, the
6 requirement shall be satisfied with respect to an electronic non-
7 testamentary estate planning document if an individual authorized to
8 perform the notarization, acknowledgment, verification, or oath
9 attaches or logically associates the individual's electronic
10 signature on the document together with all other information
11 required to be included under law.

12 SECTION 38. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 910 of Title 84, unless there is
14 created a duplication in numbering, reads as follows:

15 A. If the laws of this state base the validity of a non-
16 testamentary estate planning document on whether it is signed,
17 witnessed, or attested by another individual, the signature,
18 witnessing, or attestation of that individual may be electronic.

19 B. For the purposes of this subsection, "electronic presence"
20 means that two or more individuals in different locations are able
21 to communicate in real time to the same extent as if the individuals
22 were physically present in the same location. If the laws of this
23 state base the validity of a non-testamentary estate planning
24 document on whether it is signed, witnessed, or attested by another

1 individual in the presence of the individual signing the document,
2 the presence requirement shall be satisfied if the individuals are
3 in each other's electronic presence.

4 SECTION 39. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 911 of Title 84, unless there is
6 created a duplication in numbering, reads as follows:

7 A. Except as provided in subsection B of this section, if the
8 laws of this state require an electronic non-testamentary estate
9 planning document to be retained, transmitted, copied, or filed, the
10 requirement is satisfied by retaining, transmitting, copying, or
11 filing an electronic record that:

12 1. Accurately reflects the information in the document after it
13 was first generated in final form as an electronic record or under
14 Section 12 of this act; and

15 2. Remains accessible to the extent required by the other law.

16 B. A requirement under subsection A of this section to retain a
17 record does not apply to information the sole purpose of which is to
18 enable the record to be sent, communicated, or received.

19 C. A person may satisfy the requirements of subsection A of
20 this section by using the services of another person.

21 D. If the laws of this state require a non-testamentary estate
22 planning document to be presented or retained in its original form
23 or provides consequences if a non-testamentary estate planning
24 document is not presented or retained in its original form, an

1 electronic record retained in accordance with subsection A of this
2 section satisfies such requirement.

3 E. The provisions of this section do not preclude a
4 governmental agency from specifying requirements for the retention
5 of a record subject to the agency's jurisdiction in addition to the
6 requirements provided in this section. For the purposes of this
7 section, "governmental agency" means an executive, legislative, or
8 judicial agency, department, board, commission, authority,
9 institution, or instrumentality of the federal government or of a
10 state or of a county, municipality, or other political subdivision
11 of a state.

12 SECTION 40. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 912 of Title 84, unless there is
14 created a duplication in numbering, reads as follows:

15 An individual may create a certified paper copy of an electronic
16 non-testamentary estate planning document by affirming under penalty
17 of perjury that the paper copy is a complete and accurate copy of
18 the document.

19 SECTION 41. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 913 of Title 84, unless there is
21 created a duplication in numbering, reads as follows:

22 Evidence relating to an electronic non-testamentary estate
23 planning document or an electronic signature on the document may not
24

1 be excluded in a proceeding solely because such evidence is in
2 electronic form.

3 SECTION 42. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 914 of Title 84, unless there is
5 created a duplication in numbering, reads as follows:

6 In applying and construing this uniform act, a court shall
7 consider the promotion of uniformity of the law among jurisdictions
8 that enact it.

9 SECTION 43. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 915 of Title 84, unless there is
11 created a duplication in numbering, reads as follows:

12 This act modifies, limits, or supersedes the Electronic
13 Signatures in Global and National Commerce Act, 15 U.S.C. Section
14 7001 et seq., as amended, but does not modify, limit, or supersede
15 15 U.S.C. Section 7001(c), or authorize electronic delivery of any
16 of the notices described in 15 U.S.C. Section 7003(b).

17 SECTION 44. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 916 of Title 84, unless there is
19 created a duplication in numbering, reads as follows:

20 This act shall apply to an electronic non-testamentary estate
21 planning document created, signed, generated, sent, communicated,
22 received, or stored prior to, on, or after the effective date of
23 this act.

24

1 SECTION 45. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 917 of Title 84, unless there is
3 created a duplication in numbering, reads as follows:

4 If a provision of this act or its application to a person or
5 circumstance is held invalid, the invalidity does not affect another
6 provision or application that can be given effect without the
7 invalid provision.

8 Passed the Senate the 26th day of February, 2024.

9
10 _____
11 Presiding Officer of the Senate

12 Passed the House of Representatives the ____ day of _____,
13 2024.

14
15 _____
16 Presiding Officer of the House
17 of Representatives

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