

UNIFORM ELECTRONIC WILLS ACT*

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-TWENTY-EIGHTH YEAR
ANCHORAGE, ALASKA
JULY 12 - JULY 18, 2019

WITHOUT PREFATORY NOTE OR COMMENTS

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

July 17, 2019

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UNIFORM ELECTRONIC WILLS ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Electronic Wills Act.

SECTION 2. DEFINITIONS. In this [act]:

(1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

[(2) “Electronic presence” means 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.]

(3) “Electronic will” means a will executed electronically in compliance with Section 5(a).

(4) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(5) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to affix to or logically associate with the record an electronic symbol or process.

(6) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(7) “Will” includes a codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate

succession.

SECTION 3. LAW APPLICABLE TO ELECTRONIC WILLS; PRINCIPLES OF EQUITY. An electronic will is a will for all purposes of the law of this state. The law of this state applicable to wills and principles of equity apply to an electronic will, except as modified by this [act].

SECTION 4. CHOICE OF LAW REGARDING EXECUTION. A will executed electronically but not in compliance with Section 5 is an electronic will under this [act] if executed in compliance with the law of the jurisdiction where:

- (1) the testator is physically located when the will is signed; or
- (2) the testator is domiciled or resides when the will is signed or when the testator dies.

SECTION 5. EXECUTION OF ELECTRONIC WILL.

(a) [Except as provided in Section 6, an] [An] electronic will must be:

- (1) a record that is readable as text at the time of signing under paragraph (2);
- (2) signed by:

(A) the testator; or

(B) another individual in the testator's name, in the testator's physical

presence, and by the testator's direction; and

(3) [either:

(A)] signed by at least two individuals[, each of whom is a resident of a state and physically located in a state at the time of signing and] who signed within a reasonable time after witnessing, in the physical [or electronic] presence of the testator:

[(A)] [(i)] the signing of the electronic will under paragraph (2); or

[(B)] [(ii)] the testator's acknowledgment of the signing of the electronic

will under paragraph (2) or acknowledgement of the electronic will [or;

(B) acknowledged by the testator before and in the physical [or electronic] presence of a notary public or other individual authorized by law to notarize records electronically].

(b) Intent of a testator that the record under subsection (a)(1) be the testator's electronic will may be established by extrinsic evidence.

Legislative Note: *A state that has not adopted the Uniform Probate Code should conform Section 5 to its will execution statute.*

A state that enacts Section 6 (harmless error) should include the bracketed language at the beginning of subsection (a).

A state that wishes to permit an electronic will only when the testator and witnesses are in the same physical location should omit the bracketed words "or electronic" from subsection (a)(3) and Section 8(d) and should omit Section 8(c).

A state that has adopted or follows the rule of Uniform Probate Code Section 2-502 and validates by statute an unattested but notarized will should include subsection (a)(3)(B). Other states also may include that provision for an electronic will because an electronic notarization may provide more protection for a will than a paper notarization.

[SECTION 6. HARMLESS ERROR.

Alternative A

A record readable as text that is not executed in compliance with Section 5(a) is deemed to comply with Section 5(a) if the proponent of the record establishes by clear and convincing evidence that the decedent intended the record to be:

- (1) the decedent's will;
- (2) a partial or complete revocation of a will;
- (3) an addition to or modification of a will; or
- (4) a partial or complete revival of a formerly revoked will or part of a will.

Alternative B

[Section 2-503 of the Uniform Probate Code or comparable provision of state law]

applies to a will executed electronically.

End of Alternatives]

***Legislative Note:** A state that has enacted the harmless error rule for a non-electronic will, Uniform Probate Code Section 2-503, should enact Alternative B. A state that has not enacted a harmless error rule may not want to add one solely for an electronic will, but otherwise should enact Alternative A.*

SECTION 7. REVOCATION.

(a) An electronic will may revoke a previous will or part of a previous will.

(b) An electronic will or part of an electronic will is revoked by:

(1) any subsequent will that revokes the electronic will or part expressly or by inconsistency; or

(2) a physical act, if it is established by a preponderance of the evidence that the testator performed the act with the intent of revoking the will or part or that another individual performed the act in the testator's physical presence and by the testator's direction.

SECTION 8. ELECTRONIC WILL ATTESTED AND MADE SELF-PROVING AT TIME OF EXECUTION.

(a) An electronic will may be simultaneously executed, attested, and made self-proving by acknowledgment of the testator and affidavits of the witnesses.

(b) If both the attesting witnesses are physically present in the same location as the testator at the time of signing under Section 5(a)(2), the acknowledgment and affidavits under subsection (a) must be:

(1) made before an officer authorized to administer oaths under law of the state in which execution occurs; and

(2) evidenced by the officer's certificate under official seal affixed to or logically associated with the electronic will.

(c) [If one or both the attesting witnesses are not physically present in the same location as the testator at the time of signing under Section 5(a)(2), the acknowledgment and affidavits under subsection (a) must be:

(1) made before an officer authorized under [insert citation to Revised Uniform Law on Notarial Acts Section 14A (2018) or comparable provision of state law]; and

(2) evidenced by the officer's certificate under official seal affixed to or logically associated with the electronic will.

(d) The acknowledgment and affidavits under subsection (a) must be in substantially the following form:

I, _____, the testator, sign this instrument and, being
(name)

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

Testator

We, _____ and _____,
(name) (name)

witnesses, sign this instrument and, being sworn, declare to the undersigned officer that the testator signed this instrument as the testator's electronic will, that the testator signed it willingly or willingly directed another individual to sign for the testator, and that each of us, in the physical [or electronic] presence of the testator, signs this electronic will as witness to the

testator's signing, and to the best of our knowledge the testator is [18] years of age or older, of sound mind, and under no constraint or undue influence.

Witness

Witness

State of _____

[County] of _____

Subscribed, sworn to, and acknowledged before me by _____,
(name)

the testator, and subscribed and sworn to before me by _____ and
(name)

_____, witnesses, this _____ day of _____, _____.
(name)

(Seal)

(Signed)

(Official capacity of officer)

[d][e] A signature physically or electronically affixed to an affidavit affixed to or logically associated with an electronic will under this [act] is deemed a signature of the electronic will for the purpose of Section 5(a).

Legislative Note: A state that has not adopted the Uniform Probate Code should conform Section 8 to its self-proving affidavit statute. The statements that the requirements for a valid will are met and the language required for the notary's certification should conform with the requirements under state law.

A state that has authorized webcam notarization by adopting the 2018 version of the Revised Uniform Law on Notarial Acts (RULONA) to should cite to Section 14A of the RULONA statute in subsection (c)(1). A state that has adopted a non-uniform law allowing webcam notarization should cite to the relevant section of state law in subsection (c)(1).

A state that does not permit an electronic will to be executed without all witnesses physically present should omit subsection (c) and should omit the words “or electronic” in subsection (d) and Section 5(a)(3).

SECTION 9. CERTIFICATION OF PAPER COPY. An individual may create a certified paper copy of an electronic will by affirming under penalty of perjury that a paper copy of an electronic will is a complete, true, and accurate copy of the electronic will. If the electronic will was made self-proving, the certified paper copy of the will must include the self-proving affidavit.

***Legislative Note:** A state may need to change its probate court rules to expand the definition of what may be filed with the court to include electronic filings.*

Court procedural rules may require that a certified paper copy be filed within a prescribed number of days of the filing of the application for probate. A state may want to include procedural rules specifically for electronic wills.

SECTION 10. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 11. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 12. APPLICABILITY. This [act] applies to the will of a decedent who dies on or after [the effective date of this act].

SECTION 13. EFFECTIVE DATE. This [act] takes effect

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the
Colorado Uniform Electronic Wills Act**

By John R. Valentine and Michael R. Stiff

Date: October 2, 2019

UEWA Section	Section 3
Section Title	Law Applicable to Electronic Wills; Principles of Equity
UEWA Statutory Language	An electronic will is a will for all purposes of the law of this state. The law of this state applicable to wills and principles of equity apply to an electronic will, except as modified by this [act].
Uniform Law Commission Comment	<p>The first sentence of this Section is didactic, and emphatically ensures that an electronic will is treated as a traditional one for all purposes.</p> <p>In this Section “law” means both common law and statutory law. Law other than this act continues to supply rules and guidance related to wills, unless the act modifies a state’s other law related to wills.</p> <p>The common law requires that a testator intend that the writing be the testator’s will. The Restatement explains, “To be a will, the document must be executed by the decedent with testamentary intent, i.e., the decedent must intend the document to be a will or to become operative at the decedent’s death.” RESTATEMENT (THIRD) OF PROPERTY: WILLS & DON. TRANS. § 3.1, comment (g) (1999). A number of protective doctrines attempt to ensure that a document being probated as a will reflects the intent of the testator.</p> <p>Wills statutes typically include capacity requirements related to mental capacity and age. A minor cannot execute a valid will. <i>See</i> RESTATEMENT (THIRD) OF PROPERTY: WILLS & DON. TRANS. § 8.1 (mental capacity), § 8.2 (age) (2003). Other requirements for validity may be left to the common law. A writing that appears to be a will may be challenged based on allegations of undue influence, duress, or fraud. <i>See</i> RESTATEMENT (THIRD) OF PROPERTY: WILLS & DON. TRANS. § 8.3 (Undue Influence, Duress, or Fraud) (2003). The statutory and common law requirements that apply to wills in general also apply to electronic wills.</p> <p>Laws related to qualifications to serve as a witness also apply to electronic wills. For some of those requirements <i>see, e.g.</i>, Uniform Probate Code § 2-505.</p>
Current Colorado Law	None
Arizona A.R.S. § 14-2518. Electronic will; requirements; interpretation	B. Except as provided in this section and sections 14-2519, 14-2520, 14-2521, 14-2522 and 14-2523, any question raised about the force, effect, validity and interpretation of an electronic will shall

	be determined in the same manner as a question regarding a paper will executed pursuant to section 14-2502.
<p>Indiana Indiana Code. Ann. § 29-1-21-1. Purpose</p>	<p>The purpose of this chapter is to provide rules for the valid execution, attestation, self-proving, and probate of wills that are prepared and signed electronically. This chapter shall be applied fairly and flexibly so that a testator whose identify can be verified, who has testamentary capacity, and who is acting free from duress and undue influence may execute a valid electronic will consistent with the testator’s intent. If an electronic will is properly and electronically signed by the testator and by the witnesses and is maintained as an electronic record or as a complete converted copy in compliance with this chapter, all the normal presumptions that apply to a traditional paper will that is validly signed and executed apply to an electronic will.</p>
<p>Indiana Code. Ann. § 29-1-21-2. Electronic wills exclusively governed by chapter – Exception</p>	<p>(a) Except as provided in subsection (b), electronic wills are exclusively governed by this chapter.</p> <p>(b) If this chapter does not provide an explicit definition, form, rule, or statute concerning the creation, execution, probate, interpretation, storage, or use of an electronic will, the applicable statute from this article shall apply to the electronic will.</p>
<p>Nevada Nevada Revised Statutes § 133.085. Electronic will</p>	<p>3. Except as otherwise provided in NRS 133.085 to 133.088, inclusive, and 133.300 to 133.340, inclusive, all questions relating to the force, effect, validity and interpretation of an electronic will that complies with the provisions of NRS 133.085 to 133.088, inclusive, and 133.300 to 133.340, inclusive, must be determined in the same manner as a will executed in accordance with NRS 133.040.</p>
<p>Colorado Subcommittee Comment</p>	
<p>Colorado Subcommittee Recommendation</p>	

**Colorado Bar Association Trusts & Estates Section
Electronic Wills Subcommittee**

Minutes of September 4, 2019

If you would like to join the meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/131931325>

You can also dial in using your phone.

United States: [+1 \(408\) 650-3123](tel:+14086503123)

Access Code: 131-931-325

PARTICIPANTS

In Person:	By Phone:
Herb Tucker	
Melissa Anderson	
Susan Boothby	
Michael Stiff	
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Wilton "Four" Cogswell	
Mimi Goodman	
Pete Bullard	
Stan Kent	
Michael Stiff	
Gordon Williams	
Michael Kirtland	
John Ferguson	
David Carlson	
Richard Hess	

This meeting was held at the CBA Offices, 1290 Broadway, Suite 1700 in Denver.

The meeting was called to order at 12:30 p.m. by the Chair and adjourned at 1:30 p.m.

- Request was made for word versions of the E-Wills Act to be made available to subcommittee members via CBA site.
- Discussion of prefatory note and the rationale behind e-wills. Discussion of other states that have passed e-will statutes including Indiana, Florida, Nevada and Arizona.
- Discussion of 2018 Harvard Law Review Article, *More Data, More Problems*, 131 Harv. L. Rev. 1714 (2018) and three types of e-wills "offline", "harddrive" and "online/qualified custodian".

- Discussion of the concept that Custodians of E-Wills & Electronic Record are “Information Fiduciaries”. Jack Blakin, Essay, “*Free Speech in an Algorithmic Society: Big Data, Private Governance and New School Speech Regulation*,” 51 U.C. Davis L. Rev. 1149 (2018); Robert Sitkoff, “*The Economic Structure of Fiduciary Law*,” 91 B.U. L. Rev. 1039 (2011).
- Discussion of decoupling e-wills and remote notarization. NAELA opposed to remote notarization.
- Discussion of common law “e-wills” case and admission to probate under harmless error doctrine (Colorado “writing intended as will”).
- Discussion of “qualified custodians” and possible utilization of Colorado judicial database being formed for purposes of Abandoned Estate Planning Documents laws.
- Begin review of Section 2 definitions. Table revising definitions until review of entire Act.

AGENDA FOR OCTOBER MEETING

- Update on Colorado Commission on Uniform Laws meeting held on September 25th
- Prohibit Qualified Custodians from monetizing users’ private and confidential information.
- Continue Review of Section 2 Definitions.

The next meeting will be on October 2, 2019 at 12:30 p.m. to 1:30 p.m. at the CBA Offices, 1290 Broadway, Suite 1700 in Denver.

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the
Colorado Uniform Electronic Wills Act**

By Herb E. Tucker

Date: October 2, 2019

UEWA Section	Section 2 Paragraph (1)
Section Title	Definitions – Electronic
UEWA Statutory Language	“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
Uniform Law Commission Comment	None.
Current Colorado Law C.R.S. § 15-1-502 (11) (RUFDA)	“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
C.R.S. § 15-23-103(7) (CEPAEPDA)	C.R.S. § 15-23-103(7) same definition.
Florida Fla. Stat. § 732.521 Fla. Stat. § 668.50(e) Fla. Stat. § 668.50(g)	“Electronic record” has the same meaning as provided in s. 668.50. (e) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. (g) “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.
Indiana Ind. Code Ann. § 29-1-21-3(7)	“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
Colorado Subcommittee Comment	
Colorado Subcommittee Recommendation	

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the
Colorado Uniform Electronic Wills Act**

UEWA Section	Section 2 Paragraph (2)
Section Title	Definitions – Electronic Presence
UEWA Statutory Language	[“Electronic Presence” means 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.] (See Comment below.)
Uniform Law Commission Comment	<p>Paragraph 2 Electronic Presence. An electronic will may be executed with the testator and all of the necessary witnesses present in one physical location. In that case the state’s rules concerning presence for non-electronic wills, which may require line-of-sight presence or conscious presence, will apply. <i>See</i> Section 3. The act does not provide a separate definition of physical presence, and a state’s existing rules for presence will apply to determine physical presence.</p> <p>An electronic will is also valid if the witnesses are in the electronic presence of the testator, <i>see</i> Section 5, and the definition provides the rules for electronic presence. Electronic presence will make it easier for testators in remote locations and testators with limited mobility to execute their wills. The witnesses and testator must be able to communicate in “real time,” a term that means “the actual time during which something takes place.” MERRIAM-WEBSTER DICTIONARY. The term is used in connection with electronic communication to mean that the people communicating do so without a delay in the exchange of information. For statutes using the term “real-time,” <i>see</i>, e.g., CONN. GEN. STAT. ANN. § 16A-47b (2019) (real-time energy reports); COLO. REV. STAT. ANN. § 24-33.5-2102(h) (2019) (“communicate in real-time during an incident”); FLA. STAT. ANN. § 117.201(2) (2019) (in definition of “audio-visual communication technology” for online notarizations); ILL. STAT. ch. 220 § 5/16-107 (2019) (real-time pricing for utilities).</p> <p>A state that wants to permit electronic wills only if executed with everyone physically present can delete the bracketed provisions that permit electronic presence.</p> <p>In the definition of electronic presence, “to the same extent” includes accommodations for people who are differently-abled. The definition does not provide specific accommodations due to</p>

	the concern that any attempt at specificity would be too restrictive and to keep the standards current with advances in technology.
Current Colorado Law C.R.S. § 24-33.5-2102(h)	Going beyond the critical 911 call, it is important to use any available and proven technology that enables emergency services personnel and school officials to communicate in real-time during an incident; and
Arizona A.R.S. § 14-2518	An electronic will must meet all of the following requirements: 1. Be created and maintained in an electronic record. 2. Contain the electronic signature of the testator or the testator’s electronic signature made by some other individual in the testator’s conscious presence and by the testator’s direction. 3. Contain the electronic signatures of at least two persons, each of whom met both the following requirements: (a) Was physically present with the testator when the testator electronically signed the will, acknowledged the testator’s signature or acknowledged the will. (b) Electronically signed the will within a reasonable time after the person witnessed the testator signing the will, acknowledging the testator’s signature or acknowledging the will as described in subdivision (a) of this paragraph.
Florida Fla. Stat. § 732.521	“Audio-video communication technology” has the same meaning as provided in s. 117.201.
Fla. Stat. § 117.201	“Audio-video communication technology” means technology in compliance with applicable law which enables real-time, two-way communication using electronic means in which participants are able to see, hear, and communicate with one another.
Indiana Ind. Code Ann. § 29-1-21-3	(1) “Actual presence means that: (A) a witness; or (B) another individual who observes the execution of the electronic will; Is physically present in the same physical location as the testator. The term does not include any form of observation or interaction that is conducted by means of audio, visual, or audiovisual telecommunication or similar technological means.
Nevada N.R.S. § 133.088(1)(a)	(a) A person shall be deemed to be in the presence of or appearing before another person if such persons are in: (1) The same physical location; or (2) Different physical locations but can communicate with each other by means of audio-video communication.

Colorado Subcommittee Comment	
Colorado Subcommittee Recommendation	

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the
Colorado Uniform Electronic Wills Act**

UEWA Section	Section 2 Paragraph (3)
Section Title	Definitions – Electronic Will
UEWA Statutory Language	“Electronic will” means a will executed electronically in compliance with Section 5(a) (Execution of E-Will)
Uniform Law Commission Comment	None.
Current Colorado Law C.R.S § 15-10-201(59)	(59) “Will” includes any codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession. “Will” does not include a designated beneficiary agreement that is executed pursuant to Article 22 of this title.
C.R.S. § 15-1-1502(11) (RUFADAA)	C.R.S. § 15-1-502 (11) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
C.R.S. § 15-23-103(7) (CEPAEPDA)	C.R.S. § 15-23-103(7). Same definition.
Arizona A.R.S. § 14-2518	A. An electronic will must meet all of the following requirements: 1. Be created and maintained in an electronic record. 2. Contain the electronic signature of the testator or the testator’s electronic signature made by some other individual in the testator’s conscious presence and by the testator’s direction. 3. Contain the electronic signatures of at least two persons, each of whom met both of the following requirements: (a) Was physical present with the testator when the testator electronically signed the will, acknowledged the testator’s signature or acknowledged the will. (b) Electronically signed the will within a reasonable time after the person witnessed the testator signing the will, acknowledging the testator’s signature or acknowledging the will as described in subdivision (a) of this paragraph.

<p>Arizona A.R.S. § 14-2519</p>	<p>“Self-Proved Electronic Will” In addition to the requirements of section 14-2504, to be self-proved, an electronic will must meet all of the following requirements:</p> <ol style="list-style-type: none"> 1. Contain the electronic signature and electronic seal of a notary public placed on the will in accordance with applicable law. 2. The electronic will designates a qualified custodian to maintain custody of the electronic will. 3. Before being offered for probate or being reduced to a certified paper copy, the electronic will is under the custody of a qualified custodian at all times.
<p>Florida Fla. Stat. § 732.521(4)</p>	<p>(4) “Electronic will” means a testamentary instrument, including a codicil, executed with an electronic signature by a person in the manner prescribed by this code which disposes of the person’s property on or after his or her death and includes an instrument which merely appoints a personal representative or guardian or revokes or revises another will.</p>
<p>Indiana Ind. Code Ann. § 29-1-21-3(10)</p>	<p>(10) Electronic will” means the will of a testator that:</p> <ol style="list-style-type: none"> (A) is initially created and maintained as an electronic record; (B) contains the electronic signatures of: <ol style="list-style-type: none"> (i) the testator; and (ii) the attesting witnesses and (C) contains the date and times of the electronic signatures described by clause (B)(i) and (B)(ii). <p>The term may include a codicil that amends an electronic will or a traditional paper will if the codicil is executed in accordance with the requirements of this chapter.</p>

<p>Nevada N.R.S. § 133.085</p>	<p>1. An electronic will is a will of a testator that:</p> <p>(a) Is created and maintained in an electronic record; and</p> <p>(b) Contains the date and the electronic signature of the testator and which includes, without limitation, at least one of the following:</p> <p>(1) An authentication characteristic of the testator;</p> <p>(2) The electronic signature and electronic seal of an electronic notary public, placed thereon in the presence of the testator and in whose presence the testator placed his or her electronic signature thereon; or</p> <p>(3) The electronic signatures of two or more attesting witnesses, placed thereon in the presence of the testator and in whose presence the testator placed his or her electronic signature thereon.</p>
<p>Colorado Subcommittee Comment</p>	
<p>Colorado Subcommittee Recommendation</p>	

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the
Colorado Uniform Electronic Wills Act**

UEWA Section	Section 2 Paragraph (4)
Section Title	Definitions – Record
UEWA Statutory Language	“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
Uniform Law Commission Comment	None
Current Colorado Law C.R.S. § 15-10-201(44.5) C.R.S. § 15-1-1502 (22) (RUFADAA) C.R.S. § 15-23-103(17) (CEPAEPDA)	“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. C.R.S. § 15-1-1502 (22). Same definition. C.R.S. § 15-23-103(17). Same definition.
Florida Fla. Stat. § 732.521(2)	“Electronic Record” has same meaning as provided in Section 668.50 above. (Same as Colorado law above)
Indiana Ind. Code Ann. § 29-1-21-3(8)	“Electronic record” has the meaning set forth in IC 26-2-8-102. The term may include one (1) or both of the following: (A) The document integrity evidence associated with the electronic will. (B) The identity verification evidence of the testator who executed the electronic will.
Colorado Subcommittee Comment	
Colorado Subcommittee Recommendation	

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the
Colorado Uniform Electronic Wills Act**

UEWA Section	Section 2 Paragraph (5)
Section Title	Definitions – Sign
UEWA Statutory Language	“Sign means, with present intent to authenticate or adopt a record: (A) to execute or adopt a tangible symbol; or (B) to affix to or logically associate with the record an electronic symbol or process.
Uniform Law Commission Comment	Paragraph 5. Sign. The term “logically associated” is used in the definition of sign, without further definition. Although Indiana has defined the term in its electronic wills statute, IND. CODE § 29-1-21-3(13) (defining logically associated as meaning that documents are “electronically connected, cross referenced, or linked in a reliable manner”), most statutes do not define the term. Most notably, the Uniform Electronic Transactions Act and the Revised Uniform Law on Notarial Acts (RULONA) use the term without defining it, due to the concern that an attempt at definition would be over- or under-inclusive as technology develops. Although often used in connection with a signature, the term is used in RULONA and in this act to refer both to a document that may be logically associated with another document as well as to a signature logically associated with a document. <i>See also</i> Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 <i>et seq.</i>
Current Colorado Law C.R.S. § 15-10-201(47.5)	(47.5) “Sign” means, with present intent to authenticate or adopt a record other than a will: (a) to execute or adopt a tangible symbol; or (b) to attached to or logically associate with the record an electronic symbol, sound or process. RULONA. Same definition.
Indiana Ind. Code Ann. § 29-1-21-3(13) § 29-1-21-3(14) § 29-1-21-3(15)	(13) “Logically associated” means electronically connected, cross referenced, or linked in a reliable manner. (14) “Sign” means valid use of a properly executed electronic signature. (15) “Signature” means the authorized use of the testator’s name to authenticate an electronic will. The term includes an electronic signature.

<p>Nevada N.R.S. § 133.085</p>	<p>1. An electronic will is a will of a testator that:</p> <p>(a) Is created and maintained in an electronic record; and</p> <p>(b) Contains the date and the electronic signature of the testator and which includes, without limitation, at least one of the following:</p> <p>(1) An authentication characteristic of the testator;</p> <p>(2) The electronic signature and electronic seal of an electronic notary public, placed thereon in the presence of the testator and in whose presence the testator placed his or her electronic signature thereon; or</p> <p>(3) The electronic signatures of two or more attesting witnesses, placed thereon in the presence of the testator and in whose presence the testator placed his or her electronic signature thereon.</p>
<p>Colorado Subcommittee Comment</p>	
<p>Colorado Subcommittee Recommendation</p>	

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the
Colorado Uniform Electronic Wills Act**

UEWA Section	Section 2 Paragraph (6)
Section Title	Definitions – State
UEWA Statutory Language	“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.
Uniform Law Commission Comment	None.
Current Colorado Law C.R.S. § 15-10-201(49)	“State” means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, and territory or insular possession subject to the jurisdiction of the United States.
Colorado Subcommittee Comment	
Colorado Subcommittee Recommendation	

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the
Colorado Uniform Electronic Wills Act**

UEWA Section	Section 2 Paragraph (7)
Section Title	Definitions – Will
UEWA Statutory Language	“Will” includes a codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.
Uniform Law Commission Comment	Paragraph 8 (sic) Will. The act follows the Uniform Probate Code definition of will, which is not a definition but rather is an explanation that the term includes uses that do not involve the disposition of property.
Current Colorado Law C.R.S. § 15-10-201(59)	(59) “Will” includes any codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession. “Will” does not include a designated beneficiary agreement that is executed pursuant to article 22 of this title.
C.R.S. § 15-1-1502(27) (RUFADAA)	(27) “Will includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.
Arizona A.R.S. § 14.2518	A. An electronic will must meet all of the following requirements: 1. Be created and maintained in an electronic record. 2. Contain the electronic signature of the testator or the testator’s electronic signature made by some other individual in the testator’s conscious presence and by the testator’s direction. 3. Contain the electronic signatures of at least two persons, each of whom met both of the following requirements: (a) Was physical present with the testator when the testator electronically signed the will, acknowledged the testator’s signature or acknowledged the will. (b) Electronically signed the will within a reasonable time after the person witnessed the testator signing the will, acknowledging the testator’s signature or acknowledging the will as described in subdivision (a) of this paragraph.

<p>Arizona A.R.S. § 14-2519</p>	<p>“Self-Proved Electronic Will” In addition to the requirements of section 14-2504, to be self-proved, an electronic will must meet all of the following requirements:</p> <ol style="list-style-type: none"> 1. Contain the electronic signature and electronic seal of a notary public placed on the will in accordance with applicable law. 2. The electronic will designates a qualified custodian to maintain custody of the electronic will. 3. Before being offered for probate or being reduced to a certified paper copy, the electronic will is under the custody of a qualified custodian at all times.
<p>Indiana Ind. Code Ann. § 29-1-21-3(18)</p>	<p>(18) “Will” includes all wills, testaments, and codicils. The term includes:</p> <ol style="list-style-type: none"> (A) an electronic will; and (B) any testamentary instrument that: <ol style="list-style-type: none"> (i) appoints an executor; or (ii) revives or revokes another will.
<p>Nevada N.R.S. § 133.085</p>	<p>1. An electronic will is a will of a testator that:</p> <ol style="list-style-type: none"> (a) Is created and maintained in an electronic record; and (b) Contains the date and the electronic signature of the testator and which includes, without limitation, at least one of the following: <ol style="list-style-type: none"> (1) An authentication characteristic of the testator; (2) The electronic signature and electronic seal of an electronic notary public, placed thereon in the presence of the testator and in whose presence the testator placed his or her electronic signature thereon; or (3) The electronic signatures of two or more attesting witnesses, placed thereon in the presence of the testator and in whose presence the testator placed his or her electronic signature thereon.
<p>Colorado Subcommittee Comment</p>	
<p>Colorado Subcommittee Recommendation</p>	