

FINAL BILL REPORT

SSB 5787

C 188 L 24
Synopsis as Enacted

Brief Description: Enacting the uniform electronic estate planning documents act.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Pedersen, Padden, Mullet, Nobles and Salomon; by request of Uniform Law Commission).

Senate Committee on Law & Justice
House Committee on Civil Rights & Judiciary

Background: Estate Planning Documents. A testamentary document generally refers to a will that creates, extinguishes, or transfers interest in, or the right to, an asset or property upon a person's death. A nontestamentary document generally refers to a document other than a will that creates, extinguishes, or transfers interest in, or the right to, property.

Uniform Electronic Transactions Act. In 1999, the Uniform Law Commission (ULC) adopted the Uniform Electronic Transactions Act (UETA) with a stated goal of removing barriers to electronic commerce by validating and effectuating electronic records and electronic signatures. The UETA establishes the general rule that a signature, contract, or other record related to a transaction may not be denied legal effect or enforceability solely because it is in electronic form.

Electronic Estate Planning Documents Act. In 2022, the ULC adopted the Uniform Electronic Estate Planning Documents Act (UEEPDA) with a stated goal to clarify the electronic execution of certain types of estate planning documents, including trusts and powers of attorney. The UEEPDA expressly authorizes the use of electronic documents and electronic signatures for trusts, powers of attorney, and other types of estate planning documents.

Summary: The use of an electronic nontestamentary estate planning document or electronic signatures on nontestamentary estate planning documents is optional.

Neither an electronic nontestamentary estate planning document nor an electronic signature

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on a nontestamentary estate planning document may be denied legal effect or enforceability solely because of their electronic form. All requirements for written nontestamentary estate planning documents or written signatures on nontestamentary estate planning documents are satisfied by their electronic forms. Acceptance of such electronic documents or signatures may be enforced by court order.

An electronic nontestamentary estate planning document or electronic signature on a nontestamentary estate planning document may be attributable to an act of the person in any manner.

A signature or record related to an electronic nontestamentary estate planning document may be notarized, acknowledged, verified, or made under oath by an authorized individual. A nontestamentary estate planning document may be validated by electronic signature, electronic witnessing, or electronic attestation of an individual whose presence may be electronic.

Retention requirements for electronic nontestamentary estate planning documents are satisfied by retaining, transmitting, copying, or filing an electronic record that accurately reflects the information in the document after it was first generated in final form as an electronic record or as a certified paper copy, and the electronic record remains accessible as required by applicable law. An electronic record retained in this manner satisfies requirements that a nontestamentary estate planning document be presented or retained in its original form.

Evidence relating to an electronic nontestamentary estate planning document or an electronic signature on a nontestamentary estate planning document may not be excluded in a proceeding solely because of their electronic form.

The UETA applies to nonjudicial settlement agreements in disputes involving trusts and estates.

Votes on Final Passage:

Senate	49	0
House	92	1

Effective: June 6, 2024