

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB468 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Chris Kannady

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 468

6 By: Howard of the Senate

7 and

8 Kannady of the House

9 FLOOR SUBSTITUTE

10 An Act relating to estate planning; creating the
11 Oklahoma Uniform Electronic Estate Planning Documents
12 Act; defining terms; providing when an electronic
13 will is valid; providing requirements for an
14 electronic will; providing that the intent of a
15 testator's electronic will may be established by
16 extrinsic evidence; providing for revocation;
17 providing that an electronic will may be
18 simultaneously executed, attested, and made self-
19 proving by acknowledgment of the testator and
20 affidavits of the witnesses; providing requirements
21 for acknowledgment and affidavits; providing sample
22 acknowledgment and affidavit form; providing for
23 electronic signature; providing for a certified paper
24 copy of an electronic will; providing for applying
and construing act; providing when act is applicable;
creating the Uniform Electronic Estate Planning
Documents Act; providing short title; defining terms;
construing provisions; stating scope of act;
providing exception; providing for applicability of
principles of law and equity; clarifying that use of
electronic record or signature is not required;
prohibiting certain waiver; requiring recognition of
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

1 retention of certain electronic records; providing
2 exception; allowing additional requirements imposed
3 by governmental agency; authorizing creation of
4 certified paper copy of certain electronic documents;
5 providing for admissibility of certain electronic
6 documents or signatures; providing for uniformity of
7 application and construction; clarifying relation to
8 certain federal provisions; specifying applicability
9 of provisions to certain electronic documents;
10 providing for severability; providing for
11 codification; and providing an effective date.

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

SECTION 1. 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:

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

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

As used in the Uniform Electronic Estate Planning Documents Act:

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

- a. allows two or more individuals to communicate with
each other simultaneously by sight and sound, or

1 b. when necessary and consistent with other applicable
2 law, facilitates communication with a remotely located
3 individual who has a vision, hearing, or speech
4 impairment;

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

8 3. "Electronic presence" means the relationship of two or more
9 individuals in different locations communicating in real time by
10 means of communication technology, to the same extent as if the
11 individuals were physically present in the same location;

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

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

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

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

20 b. to affix to or logically associate with the record an
21 electronic symbol or process;

22 7. "State" means a state of the United States, the District of
23 Columbia, Puerto Rico, the United States Virgin Islands, or any
24 territory or insular possession subject to the jurisdiction of the

1 United States. The term includes property located within the
2 reservation of a federally recognized Indian tribe; and

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

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

11 An electronic will is a will for all purposes of the laws of
12 this state. The laws of this state applicable to wills and
13 principles of equity apply to an electronic will, except as modified
14 by this act.

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

18 A will executed electronically but not in compliance with
19 subsection A of Section 5 of this act is an electronic will under
20 this act if executed in compliance with the law of the jurisdiction
21 where the testator is:

- 22 1. Physically located when the will is signed; or
- 23 2. Domiciled or resides when the will is signed or when the
24 testator dies.

1 SECTION 5. 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 A. Subject to subsection D of Section 7 of this act, an
5 electronic will must be:

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

8 2. Signed by:

9 a. the testator, or

10 b. another individual in the testator's name, in the
11 testator's physical presence and by the testator's
12 direction in a manner recognized by Oklahoma law;

13 and

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

18 a. the signing of the will under paragraph 2 of this
19 subsection, or

20 b. the testator's acknowledgment of the signing of the
21 will under paragraph 2 of this subsection or
22 acknowledgement of the will.

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

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

7 A. An electronic will may revoke all or part of a previous
8 will.

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

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

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

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

19 A. An electronic will may be simultaneously executed, attested,
20 and made self-proving by acknowledgment of the testator and
21 affidavits of the witnesses.

22 B. The acknowledgment and affidavits under subsection A of this
23 section must be:
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1 1. Made before an officer authorized to administer oaths under
2 law of the state in which execution occurs or before an officer
3 authorized under and in the manner provided by the Oklahoma Remote
4 Online Notary Act; and

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

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

9 I, _____, the testator, and, being sworn,
10 declare to the _____
(name)

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

16 _____
Testator City and state where located when signing

17 We, _____ and _____,
18 (name) (name)

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

1 our knowledge the testator is 18 years of age or older, of sound
2 mind, and under no constraint or undue influence.

3 _____
Witness signature

4
5 _____
Name and Residence (printed)

6 _____
City and state where located when signing

7
8 _____
Witness signature

9 _____
Name and Residence (printed)

10
11 _____
City and state where located when signing

12 Certificate of officer:

13 State of _____

14 County of _____

15 Subscribed, sworn to, and acknowledged before me by

16 _____,
(name)

17 the testator, and subscribed and sworn to before me by

18 _____ and
(name)

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

20
21 (Seal)

22 _____
(Signed)

23 _____
(Capacity of officer)

24

1 D. A signature physically or electronically affixed to an
2 affidavit that is affixed to or logically associated with an
3 electronic will under this act is deemed a signature of the
4 electronic will under subsection A of Section 5 of this act.

5 SECTION 8. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 908 of Title 84, unless there is
7 created a duplication in numbering, reads as follows:

8 An individual may create a certified paper copy of an electronic
9 will by affirming under penalty of perjury that a paper copy of the
10 electronic will is a complete, true, and accurate copy of the
11 electronic will. If the electronic will is made self-proving, the
12 certified paper copy of the will must include the self-proving
13 affidavits.

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

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

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

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

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

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

9 Sections 11 through 27 of this act shall be known and may be
10 cited as the "Uniform Electronic Estate Planning Documents Act".

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

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

15 1. "Electronic" means relating to technology having electrical,
16 digital, magnetic, wireless, optical, electromagnetic, or similar
17 capabilities;

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

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

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

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

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

- 7 (1) a trust instrument,
8 (2) a trust power that under the terms of the trust
9 requires a signed record,
10 (3) a memorandum or certification of a trust,
11 (4) a durable power of attorney,
12 (5) an agent's certification of the validity of a
13 power of attorney and the agent's authority,
14 (6) a power of appointment,
15 (7) an advance directive including a health-care
16 power of attorney, directive to physicians,
17 natural death statement, living will, and medical
18 or physician order for life-sustaining treatment,
19 (8) a record directing disposition of an individual's
20 body after death,
21 (9) a nomination of a guardian for the signing
22 individual,
23 (10) a nomination of a guardian for a minor child or
24 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;

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

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

8. "Record" means information:

- a. inscribed on a tangible medium, or
- b. stored in an electronic or other medium and retrievable in perceivable form;

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

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

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

- 3 a. execute or adopt a tangible symbol, or
- 4 b. attach to or logically associate with the record an
5 electronic signature;

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

10 13. "Terms of a trust" means:

- 11 a. except as provided in subparagraph b of this
12 paragraph, the manifestation of the settlor's intent
13 regarding a trust's provisions as:

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

- 17 b. the trust's provisions as established, determined, or
18 amended by:

- 19 (1) a trustee or other person in accordance with
20 applicable law,
- 21 (2) a court order, or
- 22 (3) a nonjudicial settlement agreement;

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

4 15. "Will" includes a codicil and a testamentary instrument
5 that appoints an executor, revokes or revises another will,
6 nominates a guardian, or expressly excludes or limits the right of
7 an individual or class to succeed to property of the decedent
8 passing by intestate succession.

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

12 This act shall be construed and applied to facilitate electronic
13 estate planning documents and signatures consistent with other law
14 and be consistent with reasonable practices concerning electronic
15 documents and signatures and continued expansion of those practices.

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

19 A. Except as provided in subsection B of this section, this act
20 shall apply to an electronic non-testamentary estate planning
21 document and an electronic signature on a non-testamentary estate
22 planning document.

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

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

9 SECTION 15. 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 The law of this state and principles of equity applicable to a
13 non-testamentary estate planning document shall apply to an
14 electronic non-testamentary estate planning document except as
15 modified by this act.

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

19 A. This act shall not require a non-testamentary estate
20 planning document or signature on a non-testamentary estate planning
21 document to be created, generated, sent, communicated, received,
22 stored, or otherwise processed or used by electronic means or in
23 electronic form.

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1 B. A person shall not be required to have a non-testamentary
2 estate planning document in electronic form or signed electronically
3 even if the person previously created or signed a non-testamentary
4 estate planning document by electronic means.

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

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

9 A. A non-testamentary estate planning document or a signature
10 on a non-testamentary estate planning document may not be denied
11 legal effect or enforceability solely because it is in electronic
12 form.

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

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

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

22 A. An electronic non-testamentary estate planning document or
23 electronic signature on an electronic non-testamentary estate
24 planning document is attributable to a person if it was the act of

1 the person. The act of the person may be shown in any manner
2 including by showing the efficacy of a security procedure applied to
3 determine the person to which the electronic record or electronic
4 signature was attributable.

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

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

12 If the laws of this state require a signature or record to be
13 notarized, acknowledged, verified, or made under oath, the
14 requirement shall be satisfied with respect to an electronic non-
15 testamentary estate planning document if an individual authorized to
16 perform the notarization, acknowledgment, verification, or oath
17 attaches or logically associates the individual's electronic
18 signature on the document together with all other information
19 required to be included under law.

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

23 A. If the laws of this state base the validity of a non-
24 testamentary estate planning document on whether it is signed,

1 witnessed, or attested by another individual, the signature,
2 witnessing, or attestation of that individual may be electronic.

3 B. For the purposes of this subsection, "electronic presence"
4 means that two or more individuals in different locations are able
5 to communicate in real time to the same extent as if the individuals
6 were physically present in the same location. If the laws of this
7 state base the validity of a non-testamentary estate planning
8 document on whether it is signed, witnessed, or attested by another
9 individual in the presence of the individual signing the document,
10 the presence requirement shall be satisfied if the individuals are
11 in each other's electronic presence.

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

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

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

23 2. Remains accessible to the extent required by the other law.
24

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

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

6 D. If the laws of this state require a non-testamentary estate
7 planning document to be presented or retained in its original form
8 or provides consequences if a non-testamentary estate planning
9 document is not presented or retained in its original form, an
10 electronic record retained in accordance with subsection A of this
11 section satisfies such requirement.

12 E. The provisions of this section do not preclude a
13 governmental agency from specifying requirements for the retention
14 of a record subject to the agency's jurisdiction in addition to the
15 requirements provided in this section. For the purposes of this
16 section, "governmental agency" means an executive, legislative, or
17 judicial agency, department, board, commission, authority,
18 institution, or instrumentality of the federal government or of a
19 state or of a county, municipality, or other political subdivision
20 of a state.

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

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1 An individual may create a certified paper copy of an electronic
2 non-testamentary estate planning document by affirming under penalty
3 of perjury that the paper copy is a complete and accurate copy of
4 the document.

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

8 Evidence relating to an electronic non-testamentary estate
9 planning document or an electronic signature on the document may not
10 be excluded in a proceeding solely because such evidence is in
11 electronic form.

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

15 In applying and construing this uniform act, a court shall
16 consider the promotion of uniformity of the law among jurisdictions
17 that enact it.

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

21 This act modifies, limits, or supersedes the Electronic
22 Signatures in Global and National Commerce Act, 15 U.S.C. Section
23 7001 et seq., as amended, but does not modify, limit, or supersede
24

1 15 U.S.C. Section 7001(c), or authorize electronic delivery of any
2 of the notices described in 15 U.S.C. Section 7003(b).

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

6 This act shall apply to an electronic non-testamentary estate
7 planning document created, signed, generated, sent, communicated,
8 received, or stored prior to, on, or after the effective date of
9 this act.

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

13 If a provision of this act or its application to a person or
14 circumstance is held invalid, the invalidity does not affect another
15 provision or application that can be given effect without the
16 invalid provision.

17 SECTION 28. This act shall become effective November 1, 2024.

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19 59-2-10887 JL 04/09/24

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