

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0589.01 Jerry Barry x4341

HOUSE BILL 24-1248

HOUSE SPONSORSHIP

Snyder,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE "UNIFORM NON-TESTAMENTARY ELECTRONIC
102 ESTATE PLANNING DOCUMENTS ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Colorado Commission on Uniform State Laws. The bill enacts the "Uniform Non-Testamentary Electronic Estate Planning Documents Act". The bill clarifies when and how electronic documents may be used in estate planning documents other than wills.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 24 to title
3 15 as follows:

4 **ARTICLE 24**

5 **Uniform Non-Testamentary Electronic Estate Planning**
6 **Documents Act**

7 **PART 1**

8 **GENERAL PROVISIONS AND DEFINITIONS**

9 **15-24-101. Short title.** THIS ARTICLE 24 MAY BE CITED AS THE
10 "UNIFORM NON-TESTAMENTARY ELECTRONIC ESTATE PLANNING
11 DOCUMENTS ACT".

12 **15-24-102. Definitions.** IN THIS ARTICLE 24:

13 (1) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING
14 ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL,
15 ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

16 (2) "ELECTRONIC RECORD" MEANS A RECORD CREATED,
17 GENERATED, SENT, COMMUNICATED, RECEIVED, OR STORED BY
18 ELECTRONIC MEANS.

19 (3) "ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SYMBOL OR
20 PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH A RECORD AND
21 EXECUTED OR ADOPTED BY A PERSON WITH THE INTENT TO SIGN THE
22 RECORD.

23 (4) "INFORMATION" INCLUDES DATA, TEXT, IMAGES, CODES,
24 COMPUTER PROGRAMS, SOFTWARE, AND DATABASES.

25 (5) "NON-TESTAMENTARY ESTATE PLANNING DOCUMENT" MEANS
26 A RECORD RELATING TO ESTATE PLANNING THAT IS READABLE AS TEXT AT
27 THE TIME OF SIGNING AND IS NOT A WILL OR CONTAINED IN A WILL. THE

1 TERM:

2 (a) IN THIS ARTICLE 24, IS LIMITED TO A RECORD THAT CREATES,

3 EXERCISES, MODIFIES, RELEASES, OR REVOKES:

4 (I) A TRUST INSTRUMENT;

5 (II) A TRUST POWER THAT UNDER THE TERMS OF THE TRUST

6 REQUIRES A SIGNED RECORD;

7 (III) A CERTIFICATION OF A TRUST PURSUANT TO SECTION

8 15-5-1013;

9 (IV) A POWER OF ATTORNEY THAT IS DURABLE PURSUANT TO THE

10 "UNIFORM POWER OF ATTORNEY ACT", PART 7 OF ARTICLE 14 OF THIS

11 TITLE 15;

12 (V) AN AGENT'S CERTIFICATION PURSUANT TO SECTION 15-14-719

13 OF THE VALIDITY OF A POWER OF ATTORNEY AND THE AGENT'S

14 AUTHORITY;

15 (VI) A POWER OF APPOINTMENT;

16 (VII) AN ADVANCE DIRECTIVE, INCLUDING A HEALTH-CARE POWER

17 OF ATTORNEY, DIRECTIVE TO PHYSICIANS, NATURAL DEATH STATEMENT,

18 LIVING WILL, AND MEDICAL OR PHYSICIAN ORDER FOR LIFE-SUSTAINING

19 TREATMENT;

20 (VIII) A RECORD DIRECTING DISPOSITION OF AN INDIVIDUAL'S

21 BODY AFTER DEATH;

22 (IX) A NOMINATION OF A GUARDIAN FOR THE SIGNING INDIVIDUAL;

23 (X) A NOMINATION OF A GUARDIAN FOR A MINOR CHILD OR

24 DISABLED ADULT CHILD;

25 (XI) A MENTAL HEALTH TREATMENT DECLARATION;

26 (XII) A DISCLAIMER PURSUANT TO THE "UNIFORM DISCLAIMER OF

27 PROPERTY INTERESTS ACT", PART 12 OF ARTICLE 11 OF THIS TITLE 15; AND

1 (XIII) A SEPARATE WRITING OR MEMORANDUM PURSUANT TO
2 SECTION 15-11-513;

3 (b) EXCLUDES ALL OTHER NON-TESTAMENTARY ESTATE PLANNING
4 DOCUMENTS, INCLUDING:

5 (I) A DEED OF REAL PROPERTY, INCLUDING A BENEFICIARY DEED
6 PURSUANT TO PART 4 OF ARTICLE 15 OF THIS TITLE 15;

7 (II) A CERTIFICATE OF TITLE FOR A MOTOR VEHICLE, WATERCRAFT,
8 OR AIRCRAFT; AND

9 (III) SUBJECT TO SECTION 15-24-201 (2)(b)(III), ANY RECORD OF
10 A MULTIPLE-PARTY AGREEMENT OR OTHER CONTRACTUAL ARRANGEMENT
11 NOT IDENTIFIED IN SUBSECTION (5)(a) OF THIS SECTION.

12 (6) "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR
13 NONPROFIT ENTITY, GOVERNMENT OR GOVERNMENTAL SUBDIVISION,
14 AGENCY, OR INSTRUMENTALITY, OR OTHER LEGAL ENTITY.

15 (7) "POWER OF ATTORNEY" MEANS A RECORD THAT GRANTS
16 AUTHORITY TO AN AGENT TO ACT IN PLACE OF THE PRINCIPAL, EVEN IF THE
17 TERM IS NOT USED IN THE RECORD.

18 (8) "RECORD" MEANS INFORMATION:

19 (a) INSCRIBED ON A TANGIBLE MEDIUM; OR

20 (b) STORED IN AN ELECTRONIC OR OTHER MEDIUM AND
21 RETRIEVABLE IN PERCEIVABLE FORM.

22 (9) "SECURITY PROCEDURE" MEANS A PROCEDURE TO VERIFY THAT
23 AN ELECTRONIC SIGNATURE, RECORD, OR PERFORMANCE IS THAT OF A
24 SPECIFIC PERSON OR TO DETECT A CHANGE OR ERROR IN AN ELECTRONIC
25 RECORD. THE TERM INCLUDES A PROCEDURE THAT USES AN ALGORITHM,
26 CODE, IDENTIFYING WORD OR NUMBER, ENCRYPTION, OR CALLBACK OR
27 OTHER ACKNOWLEDGMENT PROCEDURE.

1 (10) "SETTLOR" MEANS A PERSON, INCLUDING A TESTATOR, THAT
2 CREATES OR CONTRIBUTES PROPERTY TO A TRUST.

3 (11) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR
4 ADOPT A RECORD:

5 (a) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

6 (b) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN
7 ELECTRONIC SIGNATURE.

8 (12) "STATE" MEANS A STATE OF THE UNITED STATES, THE
9 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
10 ISLANDS, OR OTHER TERRITORY OR POSSESSION SUBJECT TO THE
11 JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES A FEDERALLY
12 RECOGNIZED INDIAN TRIBE.

13 (13) "TERMS OF A TRUST" MEANS THE MANIFESTATION OF THE
14 SETTLOR'S INTENT REGARDING A TRUST'S PROVISIONS AS:

15 (a) EXPRESSED IN THE TRUST INSTRUMENT; OR

16 (b) MAY BE ESTABLISHED BY OTHER EVIDENCE IN A JUDICIAL
17 PROCEEDING OR IN A NONJUDICIAL SETTLEMENT AGREEMENT PURSUANT
18 TO SECTION 15-5-111 OR BY ALTERNATE DISPUTE RESOLUTION PURSUANT
19 TO SECTION 15-5-113.

20 (14) "TRUST INSTRUMENT" MEANS AN INSTRUMENT EXECUTED BY
21 THE SETTLOR THAT CONTAINS TERMS OF THE TRUST, INCLUDING ANY
22 AMENDMENTS.

23 (15) "WILL" INCLUDES A CODICIL AND A TESTAMENTARY
24 INSTRUMENT THAT MERELY APPOINTS AN EXECUTOR, REVOKES OR REVISES
25 ANOTHER WILL, NOMINATES A GUARDIAN, OR EXPRESSLY EXCLUDES OR
26 LIMITS THE RIGHT OF AN INDIVIDUAL OR CLASS TO SUCCEED TO PROPERTY
27 OF THE DECEDENT PASSING BY INTESTATE SUCCESSION.

1 (II) "UNIFORM ELECTRONIC WILLS ACT", PART 13 OF ARTICLE 11
2 OF THIS TITLE 15; OR

3 (III) TERMS OF A RECORD THAT EVIDENCES AN AGREEMENT OR
4 OTHER ARRANGEMENT GOVERNING THE TRANSFER OF PROPERTY AT A
5 PARTY'S DEATH.

6 **15-24-202. Principles of law and equity.** THE LAW OF THIS STATE
7 AND PRINCIPLES OF EQUITY APPLICABLE TO A NON-TESTAMENTARY ESTATE
8 PLANNING DOCUMENT APPLY TO AN ELECTRONIC NON-TESTAMENTARY
9 ESTATE PLANNING DOCUMENT EXCEPT AS MODIFIED BY THIS ARTICLE 24.

10 **15-24-203. Use of electronic record or signature not required.**

11 (1) THIS ARTICLE 24 DOES NOT REQUIRE A NON-TESTAMENTARY ESTATE
12 PLANNING DOCUMENT OR SIGNATURE ON A NON-TESTAMENTARY ESTATE
13 PLANNING DOCUMENT TO BE CREATED, GENERATED, SENT,
14 COMMUNICATED, RECEIVED, STORED, OR OTHERWISE PROCESSED OR USED
15 BY ELECTRONIC MEANS OR IN ELECTRONIC FORM.

16 (2) A PERSON IS NOT REQUIRED TO HAVE A NON-TESTAMENTARY
17 ESTATE PLANNING DOCUMENT IN ELECTRONIC FORM OR SIGNED
18 ELECTRONICALLY EVEN IF THE PERSON PREVIOUSLY CREATED OR SIGNED
19 A NON-TESTAMENTARY ESTATE PLANNING DOCUMENT BY ELECTRONIC
20 MEANS.

21 (3) A PERSON MAY NOT WAIVE THE PROVISIONS OF THIS SECTION.

22 **15-24-204. Recognition of electronic non-testamentary estate**
23 **planning document and electronic signature.** (1) A
24 NON-TESTAMENTARY ESTATE PLANNING DOCUMENT OR A SIGNATURE ON
25 A NON-TESTAMENTARY ESTATE PLANNING DOCUMENT MAY NOT BE DENIED
26 LEGAL EFFECT OR ENFORCEABILITY SOLELY BECAUSE IT IS IN ELECTRONIC
27 FORM.

1 (2) IF ANOTHER LAW OF THIS STATE REQUIRES A
2 NON-TESTAMENTARY ESTATE PLANNING DOCUMENT TO BE IN WRITING, AN
3 ELECTRONIC RECORD OF THE DOCUMENT SATISFIES THE REQUIREMENT.

4 (3) IF ANOTHER LAW OF THIS STATE REQUIRES A SIGNATURE ON A
5 NON-TESTAMENTARY ESTATE PLANNING DOCUMENT, AN ELECTRONIC
6 SIGNATURE SATISFIES THE REQUIREMENT.

7 **15-24-205. Attribution and effect of electronic record and**
8 **electronic signature.** (1) AN ELECTRONIC NON-TESTAMENTARY ESTATE
9 PLANNING DOCUMENT OR ELECTRONIC SIGNATURE ON AN ELECTRONIC
10 NON-TESTAMENTARY ESTATE PLANNING DOCUMENT IS ATTRIBUTABLE TO
11 A PERSON IF IT WAS THE ACT OF THE PERSON. THE ACT OF THE PERSON MAY
12 BE SHOWN IN ANY MANNER, INCLUDING BY SHOWING THE EFFICACY OF A
13 SECURITY PROCEDURE APPLIED TO DETERMINE THE PERSON TO WHICH THE
14 ELECTRONIC RECORD OR ELECTRONIC SIGNATURE WAS ATTRIBUTABLE.

15 (2) THE EFFECT OF ATTRIBUTION TO A PERSON PURSUANT TO
16 SUBSECTION (1) OF THIS SECTION OF A DOCUMENT OR SIGNATURE IS
17 DETERMINED FROM THE CONTEXT AND SURROUNDING CIRCUMSTANCES AT
18 THE TIME OF ITS CREATION, EXECUTION, OR ADOPTION AND AS PROVIDED
19 BY OTHER LAW.

20 **15-24-206. Notarization and acknowledgment.** IF ANOTHER LAW
21 OF THIS STATE REQUIRES A SIGNATURE OR RECORD TO BE NOTARIZED,
22 ACKNOWLEDGED, VERIFIED, OR MADE UNDER OATH, THE REQUIREMENT IS
23 SATISFIED WITH RESPECT TO AN ELECTRONIC NON-TESTAMENTARY ESTATE
24 PLANNING DOCUMENT IF AN INDIVIDUAL AUTHORIZED TO PERFORM THE
25 NOTARIZATION, ACKNOWLEDGMENT, VERIFICATION, OR OATH ATTACHES
26 OR LOGICALLY ASSOCIATES THE INDIVIDUAL'S ELECTRONIC SIGNATURE ON
27 THE DOCUMENT TOGETHER WITH ALL OTHER INFORMATION REQUIRED TO

1 BE INCLUDED UNDER THE OTHER LAW.

2 **15-24-207. Witnessing and attestation.** IF ANOTHER LAW OF THIS
3 STATE BASES THE VALIDITY OF A NON-TESTAMENTARY ESTATE PLANNING
4 DOCUMENT ON WHETHER IT IS SIGNED, WITNESSED, OR ATTESTED BY
5 ANOTHER INDIVIDUAL, THE SIGNATURE, WITNESSING, OR ATTESTATION OF
6 THAT INDIVIDUAL MAY BE ELECTRONIC.

7 **15-24-208. Retention of electronic record - original.**

8 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, IF ANOTHER
9 LAW OF THIS STATE REQUIRES AN ELECTRONIC NON-TESTAMENTARY
10 ESTATE PLANNING DOCUMENT TO BE RETAINED, TRANSMITTED, COPIED, OR
11 FILED, THE REQUIREMENT IS SATISFIED BY RETAINING, TRANSMITTING,
12 COPYING, OR FILING AN ELECTRONIC RECORD THAT:

13 (a) ACCURATELY REFLECTS THE INFORMATION IN THE DOCUMENT
14 AFTER IT WAS FIRST GENERATED IN FINAL FORM AS AN ELECTRONIC
15 RECORD OR PURSUANT TO SECTION 15-24-209; AND

16 (b) REMAINS ACCESSIBLE TO THE EXTENT REQUIRED BY THE OTHER
17 LAW.

18 (2) A REQUIREMENT PURSUANT TO SUBSECTION (1) OF THIS
19 SECTION TO RETAIN A RECORD DOES NOT APPLY TO INFORMATION THE
20 SOLE PURPOSE OF WHICH IS TO ENABLE THE RECORD TO BE SENT,
21 COMMUNICATED, OR RECEIVED.

22 (3) A PERSON MAY SATISFY SUBSECTION (1) OF THIS SECTION BY
23 USING THE SERVICES OF ANOTHER PERSON.

24 (4) IF ANOTHER LAW OF THIS STATE REQUIRES A
25 NON-TESTAMENTARY ESTATE PLANNING DOCUMENT TO BE PRESENTED OR
26 RETAINED IN ITS ORIGINAL FORM, OR PROVIDES CONSEQUENCES IF A
27 NON-TESTAMENTARY ESTATE PLANNING DOCUMENT IS NOT PRESENTED OR

1 RETAINED IN ITS ORIGINAL FORM, AN ELECTRONIC RECORD RETAINED IN
2 ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION SATISFIES THE OTHER
3 LAW.

4 (5) THIS SECTION DOES NOT PRECLUDE A GOVERNMENTAL AGENCY
5 FROM SPECIFYING REQUIREMENTS FOR THE RETENTION OF A RECORD
6 SUBJECT TO THE AGENCY'S JURISDICTION IN ADDITION TO THOSE IN THIS
7 SECTION. IN THIS SECTION, "GOVERNMENTAL AGENCY" MEANS AN
8 EXECUTIVE, LEGISLATIVE, OR JUDICIAL AGENCY, DEPARTMENT, BOARD,
9 COMMISSION, AUTHORITY, INSTITUTION, OR INSTRUMENTALITY OF THE
10 FEDERAL GOVERNMENT OR OF A STATE OR OF A COUNTY, MUNICIPALITY,
11 OR OTHER POLITICAL SUBDIVISION OF A STATE.

12 **15-24-209. Certification of paper copy.** AN INDIVIDUAL MAY
13 CREATE A CERTIFIED PAPER COPY OF AN ELECTRONIC NON-TESTAMENTARY
14 ESTATE PLANNING DOCUMENT BY AFFIRMING UNDER PENALTY OF PERJURY
15 THAT THE PAPER COPY IS A COMPLETE AND ACCURATE COPY OF THE
16 DOCUMENT.

17 **15-24-210. Admissibility in evidence.** EVIDENCE RELATING TO
18 AN ELECTRONIC NON-TESTAMENTARY ESTATE PLANNING DOCUMENT OR
19 AN ELECTRONIC SIGNATURE ON THE DOCUMENT MAY NOT BE EXCLUDED
20 IN A PROCEEDING SOLELY BECAUSE IT IS IN ELECTRONIC FORM.

21 **15-24-211. Protection of persons without knowledge of**
22 **non-testamentary estate planning documents.** IF A PERSON ACTING IN
23 GOOD FAITH HAS NO ACTUAL KNOWLEDGE OF AN ELECTRONIC
24 NON-TESTAMENTARY ESTATE PLANNING DOCUMENT, THEN THE PERSON IS
25 NOT LIABLE FOR ACTS PERFORMED IN GOOD FAITH AND MAY PRESUME
26 THAT THE DOCUMENT DOES NOT EXIST.

27 PART 3

1 (Reserved)

2 PART 4

3 MISCELLANEOUS PROVISIONS

4 **15-24-401. Uniformity of application and construction.** IN
5 APPLYING AND CONSTRUING THIS UNIFORM ACT, A COURT SHALL CONSIDER
6 THE PROMOTION OF UNIFORMITY OF THE LAW AMONG JURISDICTIONS THAT
7 ENACT IT.

8 **15-24-402. Relation to electronic signatures in global and**
9 **national commerce act.** THIS ARTICLE 24 MODIFIES, LIMITS, OR
10 SUPERSEDES THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND
11 NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., AS AMENDED,
12 BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE 15 U.S.C. SECTION 7001(c),
13 OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED
14 IN 15 U.S.C. SECTION 7003(b).

15 **15-24-403. Transitional provision.** (1) THIS ARTICLE 24 APPLIES
16 TO AN ELECTRONIC NON-TESTAMENTARY ESTATE PLANNING DOCUMENT
17 CREATED, SIGNED, GENERATED, SENT, COMMUNICATED, RECEIVED, OR
18 STORED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE 24.

19 (2) THIS ARTICLE 24 APPLIES TO THE WILL OF A DECEDENT WHO
20 DIES ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE 24.

21 **SECTION 2. Act subject to petition - effective date.** This act
22 takes effect January 1, 2025; except that, if a referendum petition is filed
23 pursuant to section 1 (3) of article V of the state constitution against this
24 act or an item, section, or part of this act within the ninety-day period
25 after final adjournment of the general assembly, then the act, item,
26 section, or part will not take effect unless approved by the people at the

1 general election to be held in November 2024 and, in such case, will take
2 effect on the date of the official declaration of the vote thereon by the
3 governor.