

# SENATE . . . . . No.

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***Diana DiZoglio***

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to Massachusetts uniform electronic wills.

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PETITION OF:

NAME:

*Diana DiZoglio*

DISTRICT/ADDRESS:

*First Essex*

# SENATE . . . . . No.

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By Ms. DiZoglio, a petition (accompanied by bill) (subject to Joint Rule 12) of Diana DiZoglio for legislation relative to Massachusetts uniform electronic wills. The Judiciary.

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## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Ninety-Second General Court  
(2021-2022)  
\_\_\_\_\_

An Act relative to Massachusetts uniform electronic wills.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1            Title II of the Massachusetts General Laws shall be amended by inserting after chapter  
2    191B the following new chapter:-

3            Chapter 191C. Massachusetts Uniform Electronic Wills Act

4            SECTION 1. SHORT TITLE. This chapter may be cited as the Massachusetts Uniform  
5    Electronic Wills Act.

6            SECTION 2. DEFINITIONS. As used in this chapter, the following words and phrases  
7    shall have the following meanings:-

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

10           (2) “Electronic will” means a will executed electronically in compliance with Section  
11    5(a).

(3) “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.

(4) “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.

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

(6) “Will” has the meaning set forth in Section 1-201(57) of the Massachusetts Uniform Probate Code.

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

SECTION 4. CHOICE OF LAW REGARDING EXECUTION. A will executed electronically but not in compliance with Section 5(a) is an electronic will under this chapter if executed in compliance with the law of the jurisdiction where the testator is:

(1) physically located when the will is signed; or

(2) domiciled or resides when the will is signed or when the testator dies.

SECTION 5. EXECUTION OF ELECTRONIC WILL.

(a) Subject to Section 7(b), an electronic will must be:

(1) a record that is readable as text at the time of signing under subsection (a)(2);

(2) signed by the testator or in the testator's name by some other individual in the testator's conscious presence and by the testator's direction; and

(3) signed by at least 2 individuals, each of whom witnessed either the signing of the will as described in subsection (a)(2) or the testator's acknowledgment of that signature or acknowledgement of the will.

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

## SECTION 6. REVOCATION.

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

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

(1) a subsequent will that revokes all or part of the electronic will expressly or by inconsistency; or

(2) a physical act if the testator, with the intent of revoking all or part of the will, performed the act or directed another individual who performed the act in the testator's conscious presence.

## SECTION 7. SELF-PROVED ELECTRONIC WILL.

(a) An electronic will may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state in which execution occurs and evidenced by the officer's certificate, under official seal, affixed to or logically associated with the electronic will, in substantially the following form:

I, \_\_\_\_\_, the testator, sign my name to this instrument this \_\_\_\_ day of \_\_\_\_\_, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my electronic will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_

Testator

We, \_\_\_\_\_, \_\_\_\_\_, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as [his] [her] electronic will and that [he] [she] signs it willingly (or willingly directs another to sign for [him] [her]), and that each of us, in the presence and hearing of the testator, hereby signs this electronic will as witness to the testator's signing, and that 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

The State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed, sworn to and acknowledged before me by \_\_\_\_\_, the testator, and  
subscribed and sworn to before me by \_\_\_\_\_, and \_\_\_\_\_, witness, this  
\_\_\_\_\_ day of \_\_\_\_\_.

(Seal)

(Signed) \_\_\_\_\_

(Official capacity of officer)

(b) A signature physically or electronically affixed to an affidavit that is affixed to or logically associated with an electronic will under this Act is deemed a signature of the electronic will under Section 5(a).

SECTION 8. 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 the electronic will is a complete, true, and accurate copy of the electronic will. If the electronic will is made self-proving, the certified paper copy of the will must include the self-proving affidavits.

89           SECTION 9. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying  
90   and construing this uniform act, consideration must be given to the need to promote uniformity  
91   of the law with respect to its subject matter among states that enact it.

92           SECTION 10. TRANSITIONAL PROVISION. This chapter applies to the will of a  
93   decedent who dies on or after the effective date of this chapter.

94           SECTION 11. EFFECTIVE DATE. This act shall take effect on January 1, 2023.