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Senator Weiler and Representative Lisonbee, Chairs
Members of Judiciary Interim Committee

Re: Uniform Electronic Wills Act

Dear Chairs and Committee Members:

I am the Chair of the Ad Hoc Legislative Committee of the Estate Planning and Elder Law Sections of the Utah State Bar. This letter is to report to you on a poll of the members of those Sections for your consideration in reviewing a proposal by Representative V. Lowrey Snow to submit the Uniform Electronic Wills Act for potential adoption in Utah. This letter does not constitute a position on the part of the Utah Bar or of either Section, but is intended only as a report of the poll for your consideration.

The Uniform Act allows for electronic signing of wills and has two alternative provisions regarding witnessing. One alternative allows remote witnessing with the usual two witnesses, the other alternative requires the two witnesses to be with the testator. I understand that the version of the Act that Representative Snow would like to propose is the version allowing remote witnessing.

The poll was submitted by me to the members of the Elder Law Section and of the Estate Planning Section of the Bar for response between April 22 and 24, 2020. It included a copy of the Uniform Act with the Act's official commentary; it did not include the actual bill that may be proposed for Utah. The results of the poll were that, of those responding, a majority was in favor of the Act with remote witnessing, a minority was in favor of the Act but with in-person witnessing, and a minority would not support the Act at all. The results are tabulated below.

Estate Planning Section, 74 total responses

1. In favor of Act with remote witnessing: 56 responses (75.67%)
2. In favor of Act with in-person witnessing: 10 responses (13.51%)
3. In favor of not supporting the Act: 8 responses (10.81%)

Elder Law Section, 23 total responses

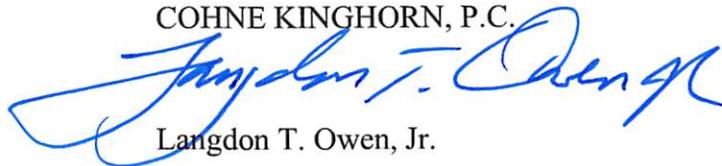
1. In favor of Act with remote witnessing: 18 responses (78.26%)
2. In favor of Act with in-person witnessing: 2 responses (8.69%)
3. In favor of not supporting the Act: 3 responses (13.04%)

The members who did not support the Act were concerned with the potential for fraud, undue influence, and similar abuses.

The poll was not scientific but was only meant to gauge generally the attitude of the members of the Sections about the concept of electronic wills. The membership of the Sections overlap, and most members of the Elder Law Section are also members of the Estate Planning Section, but the converse is not the case; thus, 21 of the Elder Law Section responses overlap those of the Estate Planning Section, resulting in 76 distinct individuals responding.

Sincerely,

COHNE KINGHORN, P.C.



Langdon T. Owen, Jr.

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