

Act No. 338
Public Acts of 2020
Approved by the Governor
December 29, 2020
Filed with the Secretary of State
December 29, 2020
EFFECTIVE DATE: December 29, 2020

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senator MacGregor

ENROLLED SENATE BILL No. 1189

AN ACT to amend 1998 PA 386, entitled “An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts,” by amending sections 1202 and 5108a (MCL 700.1202 and 700.5108a), as added by 2020 PA 246.

The People of the State of Michigan enact:

Sec. 1202. (1) Notwithstanding anything in this act to the contrary, the act of signing or witnessing the execution of a document or instrument under this act, including, but not limited to, a will under article II, a disclaimer under section 2903, a funeral representative designation, a parental appointment of a guardian of a minor under section 5202, an appointment of a guardian of a legally incapacitated individual under section 5301, a durable power of attorney under section 5501, or a patient advocate designation is satisfied by use of a 2-way real-time audiovisual technology if all of the following requirements are met:

(a) The 2-way real-time audiovisual technology must allow direct, contemporaneous interaction by sight and sound between the signatory and the witnesses.

(b) The interaction between the signatory and the witnesses must be recorded and preserved by the signatory or the signatory's designee for a period of at least 3 years.

(c) The signatory must affirmatively represent either that the signatory is physically situated in this state, or that the signatory is physically located outside the geographic boundaries of this state and that either of the following applies:

(i) The document or instrument is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of this state.

(ii) The document or instrument involves property located in the territorial jurisdiction of this state or a transaction substantially connected to this state.

(d) The signatory must affirmatively state during his or her interaction with the witnesses on the 2-way real-time audiovisual technology what document they are executing.

(e) Each title page and signature page of the document or instrument being witnessed must be shown to the witnesses on the 2-way real-time audiovisual technology in a manner clearly legible to the witnesses, and every page of the document or instrument must be numbered to reflect both the page number of the document or instrument and the total number of pages of the document or instrument.

(f) Each act of signing the document or instrument must be captured sufficiently up close on the 2-way real-time audiovisual technology for the witnesses to observe.

(g) The signatory or the signatory's designee must transmit by facsimile, mail, or electronic means a legible copy of the entire signed document or instrument directly to the witnesses within 72 hours after it is executed.

(h) Within 72 hours after receipt, the witnesses must sign the transmitted copy of the document or instrument as a witness and return the signed copy of the document or instrument to the signatory or the signatory's designee by facsimile, mail, or electronic means.

(i) The document or instrument is either of the following:

(i) In writing.

(ii) A record that is readable as text at the time of signing.

(2) The rights or interests of a person that relies in good faith and without actual notice that a document or instrument described in subsection (1) was executed on or after April 30, 2020 and before July 1, 2021, but was not executed in accordance with subsection (1) are not impaired, challenged, or terminated on that basis alone.

(3) Compliance with this section is presumed. A person challenging a document or instrument described in and executed in accordance with subsection (1) may overcome the presumption by establishing, by clear and convincing evidence, that the signatory or a witness intentionally failed to comply with the requirements under subsection (1).

(4) This section applies to a document or instrument described in subsection (1) executed on or after April 30, 2020 and before July 1, 2021.

(5) As used in this section:

(a) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(b) "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.

(c) "Sign" or "signing" means with present intent to authenticate or adopt a record to do either of the following:

(i) Execute or adopt a tangible symbol.

(ii) Affix to or logically associate with the record an electronic symbol or process.

Sec. 5108a. (1) Beginning April 30, 2020, a guardian, guardian ad litem, or visitor may satisfy any requirement concerning a visit with an individual, including, but not limited to, a visit in the physical presence of a person under this act by instead conferring with the individual via 2-way real-time audiovisual technology that allows direct, contemporaneous interaction by sight and sound between the individual being visited and the guardian, guardian ad litem, or visitor.

(2) This section does not apply after June 30, 2021.

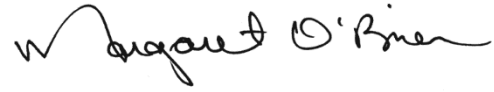
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 100th Legislature are enacted into law:

(a) Senate Bill No. 1186.

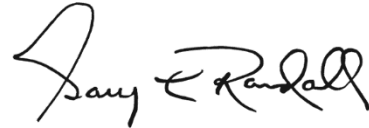
(b) Senate Bill No. 1187.

(c) Senate Bill No. 1188.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 1186 was filed with the Secretary of State December 29, 2020, and became 2020 PA 335, Imd. Eff. Dec. 29, 2020.

Senate Bill No. 1187 was filed with the Secretary of State December 29, 2020, and became 2020 PA 336, Imd. Eff. Dec. 29, 2020.

Senate Bill No. 1188 was filed with the Secretary of State December 29, 2020, and became 2020 PA 337, Imd. Eff. Dec. 29, 2020.