

§ 133.085. Electronic will.

## NEVADA STATUTES

### Title 12. WILLS AND ESTATES OF DECEASED PERSONS

#### Chapter 133. Wills

#### EXECUTION

*Current through 80th (2019) Session Chapter 215*

#### § 133.085. Electronic will

1. An electronic will is a will of a testator that:
  - (a) Is created and maintained in an electronic record; and
  - (b) Contains the date and the electronic signature of the testator and which includes, without limitation, at least one of the following:
    - (1) An authentication characteristic of the testator;
    - (2) The electronic signature and electronic seal of an electronic notary public, placed thereon in the presence of the testator and in whose presence the testator placed his or her electronic signature thereon; or
    - (3) The electronic signatures of two or more attesting witnesses, placed thereon in the presence of the testator and in whose presence the testator placed his or her electronic signature thereon.
2. Every person of sound mind over the age of 18 years may, by last electronic will, dispose of all of his or her estate, real and personal, but the estate is chargeable with the payment of the testator's debts.
3. Except as otherwise provided in NRS 133.085 to 133.088, inclusive, and 133.300 to 133.340, inclusive, all questions relating to the force, effect, validity and interpretation of an electronic will that complies with the provisions of NRS 133.085 to 133.088, inclusive, and 133.300 to 133.340, inclusive, must be determined in the same manner as a will executed in accordance with NRS 133.040.
4. The provisions of this section do not apply to a trust other than a trust contained in an electronic will.
5. As used in this section:
  - (a) "Authentication characteristic" means a characteristic of a certain person that is

unique to that person and that is capable of measurement and recognition in an electronic record as a biological aspect of or physical act performed by that person. Such a characteristic may consist of a fingerprint, a retinal scan, voice recognition, facial recognition, video recording, a digitized signature or other commercially reasonable authentication using a unique characteristic of the person.

- (b) "Digitized signature" means a graphical image of a handwritten signature that is created, generated or stored by electronic means.
- (c) "Electronic seal" has the meaning ascribed to it in NRS 240.187.

**Cite as NRS 133.085**

**Source:** Added to NRS by 2001, 2340 [ Ch. 458]

**History.** Amended by 2017, Ch. 511, §19, eff. 7/1/2017.

Added to NRS by 2001, 2340

§ 133.086. Requirements for self-proving electronic will; acceptance of declaration or affidavit.

## **NEVADA STATUTES**

### **Title 12. WILLS AND ESTATES OF DECEASED PERSONS**

#### **Chapter 133. Wills**

#### **EXECUTION**

*Current through 80th (2019) Session Chapter 215*

#### **§ 133.086. Requirements for self-proving electronic will; acceptance of declaration or affidavit**

1. An electronic will is self-proving if:
  - (a) The declarations or affidavits of the attesting witnesses are incorporated as part of, attached to or logically associated with the electronic will, as described in NRS 133.050 ;
  - (b) The electronic will designates a qualified custodian to maintain custody of the electronic record of the electronic will; and
  - (c) Before being offered for probate or being reduced to a certified paper original that is offered for probate, the electronic will was at all times under the custody of a qualified custodian.
  
2. A declaration or affidavit of an attesting witness made pursuant to NRS 133.050 and an affidavit of a person made pursuant to NRS 133.340 must be accepted by a court as if made before the court.

**Cite as NRS 133.086**

**History.** Added by 2017, Ch. 511, §10, eff. 7/1/2017.

§ 133.087. Notarization of documents in proceedings related to an electronic will.

## **NEVADA STATUTES**

### **Title 12. WILLS AND ESTATES OF DECEASED PERSONS**

#### **Chapter 133. Wills**

#### **EXECUTION**

*Current through 80th (2019) Session Chapter 215*

#### **§ 133.087. Notarization of documents in proceedings related to an electronic will**

1. Notwithstanding any other provision of law, an electronic notary public or other notarial officer may, for purposes of this title, including, without limitation, all purposes relating to the execution and filing of any document with the court in any proceeding relating to an electronic will:
  - (a) Notarize the signature or electronic signature of a person, as applicable, who is not in the physical presence of the electronic notary public or other notarial officer if the person is in his or her presence within the meaning of NRS 133.088; and
  - (b) Notarize any document relating to a will, codicil or testamentary trust.
2. This section must be liberally construed and applied to promote the purposes of NRS 133.085 to 133.088, inclusive, and 133.300 to 133.340, inclusive.

**Cite as NRS 133.087**

**History.** Added by 2017, Ch. 511, §16, eff. 7/1/2017.

§ 133.088. Performance of certain notarial acts by electronic means.

## NEVADA STATUTES

### Title 12. WILLS AND ESTATES OF DECEASED PERSONS

#### Chapter 133. Wills

#### EXECUTION

*Current through 80th (2019) Session Chapter 215*

#### § 133.088. Performance of certain notarial acts by electronic means

1. For purposes of this title, including, without limitation, any declaration or affidavit made by an attesting witness as described in NRS 133.050, for all purposes relating to the execution and filing of any document with the court in any proceeding relating to an electronic will and for purposes of executing a power of attorney pursuant to NRS 162A.220, an advance directive or any document relating to an advance directive:
  - (a) A person shall be deemed to be in the presence of or appearing before another person if such persons are in:
    - (1) The same physical location; or
    - (2) Different physical locations but can communicate with each other by means of audio-video communication.
  - (b) An electronic notary public may electronically notarize electronic documents, including, without limitation, documents constituting or relating to an electronic will, in accordance with NRS 240.181 to 240.206, inclusive.
  - (c) Any requirement that a document be signed may be satisfied by an electronic signature.
  - (d) If a provision of law requires a written record, an electronic record satisfies such a provision.
  - (e) Except as otherwise provided in subparagraph (3), regardless of the physical location of the person executing a document or of any witness, if a document is executed electronically, the document shall be deemed to be executed in this State and will be governed by the laws of this State and subject to the jurisdiction of the courts of this State if:
    - (1) The person executing the document states that he or she understands that he or she is executing, and that he or she intends to execute, the document

in and pursuant to the laws of this State;

- (2) The document states that the validity and effect of its execution are governed by the laws of this State;
  - (3) Any attesting witnesses or an electronic notary public whose electronic signatures are contained in the document were physically located within this State at the time the document was executed in accordance with this section; or
  - (4) In the case of a self-proving electronic will, the electronic will designates a qualified custodian who, at the time of execution:
    - (I) If a natural person, is domiciled in this State; or
    - (II) If an entity, is organized under the laws of this State or whose principal place of business is located in this State.
2. Notwithstanding the provisions of subsection 1, the validity of a notarial act performed by an electronic notary public must be determined by applying the laws of the jurisdiction in which the electronic notary public is commissioned or appointed.
3. As used in this section:
- (a) "Advance directive" has the meaning ascribed to it in NRS 449A.703.
  - (b) "Audio-video communication" means communication by which a person is able to see, hear and communicate with another person in real time using electronic means.

**Cite as NRS 133.088**

**History.** Added by 2017, Ch. 511, §17, eff. 7/1/2017.