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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 5169

03/25/2024 Authored by Carroll and Freiberg
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to state government; allowing online notary signatures; amending
1.3 Minnesota Statutes 2022, sections 145C.03, by adding subdivisions; 325L.03.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2022, section 145C.03, is amended by adding a subdivision
1.6 to read:

1.7 Subd. 1a. Electronic signature by principal or authorized person and remote online
1.8 notarization. (a) A health care directive executed by a principal with an electronic signature
1.9 satisfies the requirements of subdivision 1, clause (4). To satisfy the requirements of
1.10 subdivision 1, clause (5), a notary may verify the principal's electronic signature on a health
1.11 care directive through remote online notarization in accordance with section 358.645. This
1.12 subdivision also applies to a person authorized by the principal to sign on behalf of the
1.13 principal.

1.14 (b) For purposes of this section, "electronic signature" means the process of signing a
1.15 digital document that is:

1.16 (1) created, signed, or maintained in an electronic, digital, magnetic, wireless, optical,
1.17 electromagnetic, or similar medium;

1.18 (2) capable of being remotely witnessed by presence or conscious presence;

1.19 (3) retrievable in perceivable form; and

1.20 (4) capable of verification that the electronic document has not been altered after its
1.21 signing.

2.1 (c) For purposes of this section, "presence" or "conscious presence" means either:

2.2 (1) an individual being in a physical location in relation to the principal that allows the
2.3 individual to see and hear the principal; or

2.4 (2) an individual being in the state and communicating simultaneously with the principal
2.5 by means of an electronic device or process by sight and sound to substantially the same
2.6 extent as if the individual were in a physical location in relation to the principal that would
2.7 allow an individual to see and hear the principal, allowing for reasonable accommodation
2.8 for individuals with hearing, vision, or speech impairments as necessary.

2.9 Sec. 2. Minnesota Statutes 2022, section 145C.03, is amended by adding a subdivision to
2.10 read:

2.11 Subd. 1b. **Remote witnessing.** A principal may execute a health care directive before
2.12 a notary, or before two subscribing witnesses. Remote notarization is as authorized in section
2.13 358.645. For remote witnessing, the health care directive must occur in the conscious
2.14 presence of the principal or the person authorized by the principal to sign. For purposes of
2.15 this subdivision, "presence" or "conscious presence" means:

2.16 (1) a witness being in a physical location in relation to the principal or the principal's
2.17 authorized person that allows the witness to see and hear the principal or the principal's
2.18 authorized person; or

2.19 (2) a witness being in the state and communicating simultaneously with the principal or
2.20 the principal's authorized person by means of an electronic device or process by sight and
2.21 sound to substantially the same extent as if the individual were in a physical location in
2.22 relation to the principal or the principal's authorized person that would allow the witness to
2.23 see and hear the principal or the principal's authorized person, allowing for reasonable
2.24 accommodation for individuals with hearing, vision, or speech impairments as necessary.

2.25 Sec. 3. Minnesota Statutes 2022, section 325L.03, is amended to read:

2.26 **325L.03 SCOPE.**

2.27 (a) Except as otherwise provided in paragraphs (b) and (e), this chapter applies to
2.28 electronic records and electronic signatures relating to a transaction.

2.29 (b) This chapter does not apply to a transaction to the extent it is governed by:

2.30 (1) the Uniform Commercial Code other than section 336.1-306, article 2, and article
2.31 2A; and

3.1 (2) ~~section 145C.03, subdivision 1, relating to requirements for creation of a health care~~
3.2 ~~directive~~; section 507.24, relating to requirements for recording any conveyance, power of
3.3 attorney, or other instrument affecting real estate; section 523.23, subdivision 3, relating to
3.4 requirements for creation of a statutory short form power of attorney; and section 253B.03,
3.5 subdivision 6b, relating to requirements for creation of a declaration of preferences or
3.6 instructions regarding intrusive mental health treatment.

3.7 (c) This chapter applies to an electronic record or electronic signature otherwise excluded
3.8 from the application of this chapter under paragraph (b) to the extent it is governed by a
3.9 law other than those specified in paragraph (b).

3.10 (d) A transaction subject to this chapter is also subject to other applicable substantive
3.11 law.

3.12 (e) This chapter does not apply to the creation and execution of wills, codicils, or trusts
3.13 other than trusts relating to the conduct of business, commercial, or governmental purposes.