

The Weekly Scenario: Virtual Maryland Wills and Trusts

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Effective April 21, 2022, people can now sign their Maryland Wills and Trusts virtually. Senate Bill 36 is new legislation initiated in 2021 in response to the COVID-19 pandemic; in passing this legislation, Maryland will join several other states that permit electronic wills.

To execute a valid Will in Maryland, an individual has to sign his Will in the physical presence of two witnesses. This new law allows an individual signing her Will to meet with their witnesses virtually (in their “electronic presence”) and sign their wills via an interface that supports videoconferencing and electronic signature, thus bypassing the requirement to meet in person. Thus, individuals who are hospitalized or for other reasons prefer not to visit the law office in person can put the Wills in place. After the document is electronically signed in the presence of two witnesses, a “certified paper original” of the Will is created either by the client or client’s attorney or by the client himself, in which case it must be notarized.

Senate Bill 36 also made it possible to remotely execute a notarized trust agreement. It became possible to remotely execute other important estate planning documents (Powers of Attorney and Advanced Medical Directives) in 2021.

While it is now possible to sign these documents electronically, I believe most attorneys will still want clients to come to the office to sign documents in person. Signing in person will allow questions to be asked and changes to be made if need be in a more formal setting.