

## MEMORANDUM

To: Members of the House Judiciary Committee

From: Maryland State Bar Association (MSBA)

Subject: House Bill 576 - Wills and Trust Instruments - Electronic Execution

Date: February 21, 2022

Position: Support

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The Maryland State Bar Association (MSBA) joins the MSBA Estates and Trusts Section, and supports **House Bill 576 - Wills and Trust Instruments – Electronic Execution**. House Bill 576 authorizes a person to execute an electronic will or remotely witnessed will without a notary public if the supervising attorney creates a certified will that contains a certain form attached or annexed to the will; prohibiting a supervising attorney from being a witness to an electronic will or remotely witnessed will if the will is executed without a notary public; and authorizing a notary public located in the State to perform a notarial act using communication technology for a remotely located individual for a trust instrument.

MSBA represents more attorneys than any other organization across the State in all practice areas. MSBA serves as the voice of Maryland’s legal profession. Through its Laws Committee and various practice-specific sections, MSBA monitors and takes positions on legislation of importance to the legal profession.

Covid-19 significantly impacted Marylanders’ access to courts and regular legal process, and changed the way that Maryland attorneys practice law. Emergency Orders permitted remote and/or electronic execution of some estate planning documents. As a result, our member attorneys were able to quickly, safely, and effectively provide service to thousands of individuals with immediate estate planning needs across the state. Attorneys of many different practice areas were able to provide these services, including those practicing in estates and trusts law, family law, elder law, and property law. These attorneys represent nearly one-third of the membership of the Maryland State Bar Association.

The pandemic continues to change and affect the practice of law. Some of these changes have been in direct response to the immediate challenges of Covid-19, but some have been broader, system-wide shifts to better serve our clients here in Maryland. The proposed legislation helps to move the legal profession in Maryland and these practice areas forward in the long-term,

as we join the ranks of other states that provide more modern execution methods of estate planning documents.

HB 576 expands the reach of the execution of remote wills without the burdensome imposition of a notary, while maintaining appropriate safeguards to ensure proper execution of remote wills through witness and signature. The bill also authorizes use of a notary for remote estate and trust work if certain conditions have been satisfied.

The proposed legislation will allow our practitioners to quickly reach a larger number of Maryland citizens for remote and electronic execution of wills and trusts. For the reasons stated above, MSBA **supports** HB 576 and respectfully requests a **favorable report**. For additional information, please feel free to contact Shaoli Katana at MSBA at [shaoli@msba.org](mailto:shaoli@msba.org).