

CHAPTER 115

PROBATE, TRUSTS, AND FIDUCIARIES

SENATE BILL 21-195

BY SENATOR(S) Story, Gonzales;
also REPRESENTATIVE(S) Snyder and Soper, Bernett, Bird, Michaelson Jenet, Pico, Ricks.

AN ACT**CONCERNING PERMITTING NOTARIZATION OF CERTAIN PROBATE DOCUMENTS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 15-18-106 as follows:

15-18-106. Witnessed or notarized declaration. (1) Except as otherwise provided in section 15-18-105, a declaration ~~shall~~ **MUST** be:

(a) Signed by the declarant in the presence of two witnesses; ~~The witnesses shall not include any person specified in section 15-18-105.~~ OR

(b) **SIGNED BY THE DECLARANT AND ACKNOWLEDGED BEFORE A NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED BY LAW TO TAKE ACKNOWLEDGMENTS, UNLESS A COURT DETERMINES THAT THIS SUBSECTION (1)(b) SHOULD NOT APPLY TO THE DECLARATION IN THE INTEREST OF JUSTICE.**

(2) ~~A declaration may be notarized. The absence of notarization shall have no impact on the validity of a declaration.~~ FOR THE PURPOSES OF THIS SECTION, A PERSON SPECIFIED IN SECTION 15-18-105 SHALL NOT BE A WITNESS, NOTARY PUBLIC, OR OTHER INDIVIDUAL AUTHORIZED BY LAW TO TAKE ACKNOWLEDGMENTS.

SECTION 2. In Colorado Revised Statutes, 15-18-104, **amend** (5) as follows:

15-18-104. Declaration as to medical treatment. (5) A declaration executed ~~before two witnesses~~ IN ACCORDANCE WITH SECTION 15-18-106 by any adult with decisional capacity ~~shall be~~ is legally effective for the purposes of this ~~article~~ ARTICLE 18.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SECTION 3. In Colorado Revised Statutes, 15-19-205, **amend** (b)(1) and (b)(2) as follows:

15-19-205. Manner of making anatomical gift before donor's death. (b) A donor or other person authorized to make an anatomical gift under section 15-19-204 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(1) (A) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; ~~and~~ OR

(B) BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED BY LAW TO TAKE ACKNOWLEDGMENTS, UNLESS A COURT DETERMINES THAT THIS SUBSECTION (b)(1)(B) SHOULD NOT APPLY TO THE RECORD IN THE INTEREST OF JUSTICE; AND

(2) State that it has been signed and witnessed OR ACKNOWLEDGED as provided in subsection (b)(1) of this section.

SECTION 4. Applicability. This act applies to declarations and records executed before, on, or after the effective date of this act.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 7, 2021