

H. B. No. 172  
As Introduced

\_\_\_\_\_ moved to amend as follows:

- In line 5 of the title, delete ", 2129.05" 1
- In line 16, delete ", 2129.05" 2
- In line 31, delete the first "and" and insert "or" 3
- In line 88, after "notary" insert "or the notary's employer" 4
- In line 90, after "notary" insert "or the notary's employer"; delete 5  
"a" and insert "either of the following:" 6
- (1) A" 7
- In line 92, delete "(1)" and insert "(a)" 8
- In line 94, delete "(2)" and insert "(b)" 9
- In line 97, delete "(3)" and insert "(c)" 10
- In line 99, delete "(4)" and insert "(d)" 11
- Delete lines 102 through 106 12
- In line 107, delete "state that the notary has obtained errors" and 13  
insert "(2) Errors" 14

In line 111, delete " <u>(1)</u> " and insert " <u>(a)</u> "	15
In line 113, delete " <u>(2)</u> " and insert " <u>(b)</u> "	16
In line 116, delete " <u>(G)</u> " and insert " <u>(F)</u> "	17
In line 118, delete the first " <u>and</u> " and insert " <u>or</u> "	18
After line 371, insert:	19
<u>"(EE) "Conscious presence" has the same meaning as in</u>	20
<u>section 1337.22 of the Revised Code."</u>	21
In line 410, delete " <u>format of the</u> "	22
In line 459, delete " <u>physical</u> " and insert " <u>conscious</u> "	23
In line 462, delete " <u>physical</u> " and insert " <u>conscious presence</u> "	24
In line 469, delete " <u>physical</u> " and insert " <u>conscious</u> "	25
After line 632, insert:	26
<u>"(C) The electronic execution of a power of attorney under</u>	27
<u>division (A) of this section and the acknowledgment of the</u>	28
<u>electronic execution of a power of attorney under division (B)</u>	29
<u>of this section shall be recorded by electronic media containing</u>	30
<u>both audio and visual components. The recording shall be</u>	31
<u>preserved and stored in a safe, secure, and appropriate manner."</u>	32
In line 835, delete " <u>division (B) (1) of</u> "	33
In line 852, delete " <u>physical</u> " and insert " <u>conscious</u> "	34
In line 858, delete " <u>physical</u> " and insert " <u>conscious</u> "	35
In line 885, delete " <u>in accordance with</u> " and insert " <u>to the extent</u>	36
<u>required by"</u>	37
In line 890, delete " <u>format of the</u> "	38

In line 923, delete " <u>in writing or an electronic will</u> "	39
In line 928, after "probate." insert " <u>If a copy of an electronic will is deposited under this division by some person for the testator, that person shall attach with the copy of the electronic will an affidavit attested to by the testator authorizing the person to deposit the copy of the electronic will.</u> "	40 41 42 43 44
In line 939, delete " <u>that is not an electronic will and</u> " and insert " <u>, including a copy of an electronic will with the attached affidavit as provided in division (A) of this section,</u> "	45 46 47
Delete lines 1199 through 1214	48
After line 1349, insert:	49
" <u>(EE) "Conscious presence" means within the range of any of the principal's senses, excluding the sense of sight or sound that is sensed by telephonic, electronic, or other distant communication.</u> "	50 51 52 53
In line 1418, delete " <u>physical</u> " and insert " <u>conscious</u> "	54
In line 1419, delete " <u>physical</u> " and insert " <u>conscious presence</u> "	55
In line 1429, delete " <u>physical</u> " and insert " <u>conscious</u> "	56
In line 1746, delete ", 2129.05"	57

The motion was \_\_\_\_\_ agreed to.

<u>SYNOPSIS</u>	58
<b>Electronic wills and other electronic estate planning documents</b>	59 60

**R.C. 147.051, 147.591, 1337.11, 1337.12, 1337.25, 2107.03,** 61  
**2107.07, 2129.05, 2133.01, and 2133.02** 62

In the recording of an electronic will and a durable power 63  
of attorney for health care, replaces the language on the 64  
preservation and storage of the format of the recording with the 65  
preservation and storage of the recording. 66

Requires that a person other than the testator who 67  
deposits a copy of an electronic will with the court must attach 68  
an affidavit attested to by the testator authorizing the person 69  
to deposit such copy. 70

Retains existing law by eliminating the change to the 71  
provision on the authentication of foreign wills. 72

Requires a notary public or the notary's employer (added 73  
by the amendment) who notarizes an electronic will or other 74  
estate planning document to file with the Secretary of State's 75  
office evidence that the notary or the notary's employer has 76  
obtained a bond "or," instead of "and," an errors or omissions 77  
insurance. 78

Requires the electronic execution of a power of attorney 79  
to be recorded by electronic media containing both audio and 80  
visual components. 81

Modifies the requirement for the witnessing of an 82  
electronic will by replacing "physical presence" with "conscious 83  
presence" of the testator. 84

Modifies the requirements for the signing and witnessing 85  
of the following electronic documents by replacing "physical 86  
presence" with "conscious presence" of the person executing the 87  
document and of the witnesses of the document, as the case may 88

be:	89
-- A durable power of attorney for health care;	90
-- A declaration (living will).	91