ALTERATION AND REVOCATION OF ELECTRONIC WILLS
2023 Consultation Summary
Overview

In October 2023, the Alberta Law Reform Institute published Final Report 119: *Creation of Electronic Wills*. In that report, we proposed that electronic wills should be permitted in Alberta and provided recommendations for how electronic wills should be created. Final Report 119 also indicated that a second report would be published to address the alteration and revocation of electronic wills. Final Report 120: *Alteration and Revocation of Electronic Wills* analyzes these additional areas and should be read in conjunction with Final Report 119.

ALRI conducted an online survey of the general public in July of 2023 and received 366 responses. Survey participants were asked for their thoughts on how they would make changes or revoke an electronic will. ALRI also consulted with wills and estate professionals to review the public consultation results, review ALRI’s legal research, and to help discuss what rules should be adopted. These consultation results informed ALRI’s final recommendations for how the law in Alberta should formalize the alteration or revocation of electronic wills.

The following is a summary of the consultation results.
Demographics

Where do you live in Alberta?

- Southern Alberta: 4.4%
- Red Deer: 3.0%
- Northern Alberta: 3.6%
- Lethbridge: 2.5%
- Edmonton: 35.0%
- Airdrie: 1.4%
- Calgary: 40.7%
- Central Alberta: 5.7%

Age

- 18-34: 28.4%
- 35-54: 35.8%
- 55 years and older: 35.8%

Income

- Prefer not to answer: 4.4%
- $90,001 to $120,000: 16.1%
- $60,001 to $90,000: 21.6%
- $120,001 to $150,000: 12.0%
- $150,001 or above: 8.2%
- $30,001 to $60,000: 23.2%

Gender

- Male: 48.1%
- Female: 50.5%
- Non-Binary: 0.8%
How would respondents alter their electronic will?

Respondents were able to choose as many of the options they would prefer. There were 512 total responses.

61% of the responses indicated a preference for having the option either to make changes directly to the will and to make an entirely new will. 27% of the responses indicated a preference for making changes directly to the will only, while 12% of the responses indicated a preference for making an entirely new will.

With regards to preference between electronic and paper formats, 83% of the responses indicated preference for remaining within an electronic format, while the option of having both electronic and paper formats garnered 14% of the total responses. Changing an electronic will by exclusively making an entirely new traditional paper will only received 2% of responses.
What respondents said about changing an electronic will

What we heard from the public...

• I can’t imagine a circumstance where a person would witness a change rather than just witnessing a whole new will. It seems like this is here because of paper wills, but I don’t know that the same considerations apply because it’s just as easy to type a change and have a whole new will witnessed as it is to do this whole exercise of an amendment.

• It makes me very uncomfortable to have people making edits to electronic documents after they’ve been signed and witnessed.

• I agree with the recommendation to keep both methods of altering a will for electronic wills.

What we heard from lawyers...

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• It makes me very uncomfortable to have people making edits to electronic documents after they’ve been signed and witnessed.

• I agree with the recommendation to keep both methods of altering a will for electronic wills.
How would respondents revoke their electronic will?

Please select all of the options you might use in order to revoke your electronic will:
1. I would revoke my electronic will by making a new will.
2. I would revoke my old electronic will by making a written declaration that I revoked the electronic will.
3. I would revoke my old electronic will through some action of destruction, like deleting the file, destroying the hard drive the electronic will as stored on, or burning, tearing, etc...a paper copy of the old electronic will.
What respondents said about revoking an electronic will

What we heard from the public...

What we heard from lawyers...

• I don’t see an issue with revoking a previous digital will, with either a subsequent digital will or paper will.

• It makes sense to me that there is still a physical way to destroy an electronic will that is consistent with what has happened in the past, and that is consistent with individuals’ expectations. However, how we go about allowing that to happen is the real question for me.
How would respondents delete their electronic will if they wanted to revoke it?

None of the above, please explain:

“I would delete all copies of my will available to me with a witness or also providing a written statement.”

“I don’t think these are correct.”

“Even though I may be able to delete it, surely it exists somewhere. I would have to delete it in front of a witness and perhaps even a lawyer, and a new document should be created and made legal, stating the will was destroyed and whether or not there is a replacement.”

“I would keep my paper will, and not make an electronic will.”
How would respondents destroy a paper copy of their electronic will if they wanted to revoke it?

- I would print a paper copy of my electronic will and then burn, tear, or otherwise destroy the paper copy in front of a witness.
- I would print a paper copy of my electronic will and then burn, tear, or otherwise destroy the paper copy without a witness.
- None of the above, please explain.

*None of the above, please explain:*

- “I wouldn’t be able to print it since it is electronic. I would have the witness see my deletion and removal from the recycle bin.”
- “Destroying a physical copy should have no bearing on revoking it. Deleting all copies including back-ups should be sufficient.”
- “Destroying the physical hard drive it was stored on.”
- “Get a lawyer.”
- “I would have documentation that the old will is no longer valid because it could still be accessed.”
All of our reports are freely available electronically on our website.

We encourage you to contact us. The Contact page on our website was designed to let you provide comments on the current projects we are working on. You can also use this option to suggest an area for review that we are not currently addressing.

You can also follow us on Twitter at @ablawreform for the latest on our projects and developments in Alberta law.

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