

Estate Planning During the COVID-19 Pandemic

April 24, 2020

Governor Whitmer signed Michigan Executive Order No 2020-41 on April 8, 2020, allowing the use of virtual platforms to "enable and encourage the use of electronic signatures, remote notarizations, remote witness attestations and acknowledgments, and remote visitations." The Order affects many areas of the general public and legal community, especially those Michiganders in need of estate planning during the COVID-19 pandemic. Whether the need for estate planning has increased as a result of the crisis or if it is simply a trigger that has caused more people to contemplate their own mortality, estate planning is at the forefront of people's minds.

The signing requirements for estate planning documents are dictated by statute and vary depending on the specific document. These varying requirements were implemented to enhance and safeguard against possible abuse and accomplished by an in-person meeting with the individual, attorney, witnesses, and notaries involved on the day of actual signing. As in-person meetings are now prohibited, the Order allows for an alternative virtual platform to comply with the legally mandated requirements of valid execution.

The change in the historic protocol of in-person meetings and the use of new technology can be challenging and, at times, intimidating. With the addition of the specific procedural criteria dictated in the Order, many people may avoid this platform altogether. Until further clarity is provided from the state regarding its plan to "Open Michigan Safely" and its corresponding timeframe, the Order provides a creative solution and much needed relief to all Michiganders needing estate planning documents. In addition, the Order may provide a framework for future legislative changes to historic protocols in order to keep up with the world's evolving virtual environment.

As a firm, we have forged ahead to eat the proverbial frog by implementing a process utilizing a virtual platform for estate document signings. The process has been well received and has gone smoothly. Go ahead, eat the frog. You will find that it is not as intimidating as you might assume – as long as you spend the time to review the criteria preparing yourself and the participants. If you have any questions about the signing process for estate planning documents as it relates to your specific estate planning needs, please contact the authors of this alert or your Miller Canfield attorney.

This information is based on the facts and guidance available at the time of publication, and may be subject to change.