

REPORT ON *UNIFORM WILLS AMENDMENT ACT*

Mr. Peter Lown, Director of the Alberta Law Reform Institute, presented a Report on the Recognition of Wills and Powers of Attorney in an Electronic Format.

Mr. Lown outlined the background to his report whereby the Conference concluded that it would not undertake a project for the recognition of electronic wills and powers of attorney and that, rather, the phenomenon and incidences of electronic wills should be accommodated within the substantive compliance provisions of section 19.1 of the *Uniform Wills Act*. The purpose of his report was to suggest the wording of amendments to section 19.1 which, if accepted, would allow the courts to accommodate electronic wills within the parameters of the substantial compliance provision.

The following options were identified for consideration by the Conference:

1. Option 1 identifies amendments to subsection 19.1(3) to add a reference to section 3 to allow the courts to dispense with the requirement of writing altogether providing the other evidentiary standards of this section are met.
2. Option 2(a) adds a further subsection immediately after subsection (3) that would incorporate the wording of subsection (1)(b) of the *Uniform Electronic Evidence Act*.

3. Option 2(b) adds a further subsection immediately after subsection (3) that would incorporate the wording of section 1 of the *Uniform Electronic Commerce Act*.

It was the recommendation of the report that option 2(a) be chosen. It was argued that this would effectively open up writing to include other forms of tangible data which includes electronic data without doing away with the requirement of writing altogether.

It was noted that the intention of this provision was to create an exception to the formal requirements provable by evidence which includes electronically created and stored data. The intention was not to create a blanket provision that replaces the requirement of writing with a general redefinition of the reliable means of electronic creation and storage of data.

RESOLVED

1. That the draft amendment to the *Uniform Wills Act* be approved in principle, and that an amended version of the draft Act and commentaries be circulated to the jurisdictions as soon as possible. Unless two or more objections are received by the Executive Director of the Conference by November 30, 2002, the draft amendment should be taken as adopted as a uniform Act and recommended to the jurisdictions for enactment.
2. That the Uniform Act and commentaries appear in the 2002 proceedings. [*Note: The adoption process was not completed.*]