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## Ontario's Estate Laws are Changing – Part 1

In late April 2021, [Bill 245](#) (the *Accelerating Access to Justice Act*) received Royal Assent. Schedule 9 to Bill 245 provides for significant updates to the [Succession Law Reform Act](#), the first two of which are summarized below.

### Remote Will Execution Measures Made Permanent

**Current State of the Law:** The *Succession Law Reform Act* and the [Substitute Decisions Act, 1992](#), both speak to the requirement that planning documents be signed in “the presence of” two witnesses. This has historically required witnesses to be in the physical presence of the testator/grantor and each other, and for all three individuals to sign the same original copy of the document. Under [emergency Orders in Council](#) during the pandemic, solicitors have been able to assist clients in the remote execution of wills through the use of audiovisual communication technology and the execution and witnessing of wills, powers of attorney, and codicils in counter part, with two or more copies of the will or power of attorney together comprising the complete original document.

**What is Changing and When:** The provisions permitting the remote execution and witnessing of planning documents and the execution of such documents in counter part are being made permanent through updates to the *Succession Law Reform Act* and the [Substitute Decisions Act](#). The update to section 4 of the *Succession Law Reform Act* will be deemed to have come into force April 7, 2020.

### New Will Validation Authority

**Current State of the Law:** Ontario is one of the few remaining strict compliance jurisdictions in Canada. If a will is not entirely compliant with the formal requirements set out under the *Succession Law Reform Act*, it is not a valid will. As a result, some documents clearly intended by the deceased to function as a will have failed to be effective.

***What is Changing and When:*** Under a new section 21.1 of the *Succession Law Reform Act*, courts will have the authority to declare a will to be valid notwithstanding noncompliance with certain requirements under the [Act](#). This change will apply only to the estates of persons who die after the date on which it is proclaimed in force, no earlier than January 1, 2022.

These developments can be expected to formally come into force within the next year or so, but may impact the validity of wills that are being made now, giving rise to a new set of considerations to keep in mind as these legislative amendments take effect. We will cover the other two major developments to be implemented to Ontario's estate laws under Bill 245 next month.