

Study on the legal validity of electronic will

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Abstract: The electronic will is a way for the testator to deal with the property distribution after his death through a new social platform supported by the Internet and a professional will website, which is an important embodiment of the development of the Internet. Compared with the traditional will, the electronic will has more space for development, and its advantages of efficiency, convenience and concealment are widely favored. The combination of Internet technology and wills is of great significance to effectively save social resources and guarantee the freedom of wills. In view of the lack of clear provisions on electronic wills in Chinese laws and judicial interpretations, in practice, courts will strictly abide by the formal requirements of wills and thus deny the legal validity of electronic wills. It is of great significance to explore the effect of electronic will and promote its legalization and application for maintaining judicial credibility and realizing the freedom of will.

1. Overview of electronic wills

Will is a kind of legal act, if it wants to have legal validity, it must conform to the corresponding legal form and substance. Making a will can effectively avoid many social conflicts. Under the tide of The Times, electronic devices and the Internet have become indispensable to public life, which has largely changed the way of public life and thinking, and spawned the new thing of electronic wills. Compared with the traditional will, the electronic will has greater development space, and its advantages are favored by people, so they choose to replace the traditional paper will with the electronic will. The combination of technology and the form of wills allows testaments to complete the act of making a will through an electronic device near them.

1.1 The background of the generation of electronic wills

In 2000, Japan launched a will website www.chunmistsui.co.jp/, which is regarded as the origin of electronic wills. At that time, the technology was not developed enough and the number of users was small, which led to the site being shut down soon. In October 2007, the Last Messages Club was launched in the United Kingdom to help users make electronic wills for a fee. Its operating mechanism is pioneering, and provides many references for later will websites: users first register an account, set a password, and then can leave important information on the website and designate emergency contacts, and the website will send specific information to emergency contacts at the point of time indicated by the user. Last Messages Club also uses very tight data encryption technology to ensure the safety of users' messages.

In recent years, the number of domestic will websites has increased, such as China Will Registration Center, Angel Entrusts and other websites. An APP called "such as seen" claims to have a strong asset management function that users can manage their own property in the APP and retained data in the APP can be synchronized to the cloud at any time. The APP is equivalent to an information safe, encrypted with a unique random key, so that neither the hacker nor the APP's administrator can access the data, ensuring that it is secure and cannot be lost. Its care service will determine whether the user's personal safety based on the login status and human contact. After the user loses contact or dies, the APP administrator will pass the data content to the designated recipient according to the trigger mechanism set by the user.

According to the 51st Statistical Report on the Development of the Internet in China released by the China Internet Network Information Center, by December 2022, the number of Internet users in China reached 1.067 billion, and the Internet penetration rate reached 75.6% ^[1]. The scale of network users has been so large that it is the general trend to achieve comprehensive coverage of the Internet. It is more and more common for users to send the contents of wills through the Internet instant messaging software, or to make wills on the will website. It is the embodiment of the law of market economy that the emerging economic form gives birth to new forms of wills.

1.2 The definition of the concept of electronic will

At present, Chinese law has no provisions on electronic will, and foreign legislation has almost no provisions on electronic will, and there is no unified conceptual standard for electronic will. The author believes that electronic will is a way for the testator to deal with the property distribution after his death through social platforms and professional will websites based on the Internet, which can be manifested in two forms: First, the testator will write the contents of the will on the electronic document and sign the electronic signature, and send it to the recipient or save it by instant messaging tools; second, save the contents of the will to a website with the nature of a network will deposit box. When the website monitors the fact that the testator has died, the contents of the will and related documents will be sent to the emergency contact person designated by the user. The website and emergency contact will oversee the execution of the will.

1.3 The characteristics of the electronic will

Electronic will has the characteristics of convenience, efficiency and saving social resources. Due to the popularity of the Internet, most people have access to the Internet, and people are accustomed to and proficient in typing with electronic products instead of handwriting, which can not only improve the efficiency of work and study, save time and cost, but also easily record some important information on electronic devices or the Internet and carry it with them. So you can quickly browse and use this information anytime, anywhere. In addition, it can also save paper to a certain extent and reduce the consumption of natural resources.

Making an electronic will can protect the privacy of the testator. Compared with the traditional will, the testator does not need to have witnesses present when making the electronic will, and the website collects the identity information and biometric information of the testator remotely online through technical means to ensure the identity of the testator and the truth of the contents of the will. And to provide a relaxed environment for the testator to express the true will of the heart, the testator himself can complete the act of making a will, will not be affected by relatives or other people in the expression of the will, which can protect the privacy of the testator to a large extent.

Besides, electronic wills are risky. On the one hand, the will involves important property information such as bank card passwords and network virtual property account passwords, and these information are stored on the website, which is inevitably worrying. In the era of big data,

information security is particularly important, and once data is leaked, website operators and users will suffer irreparable losses. On the other hand, most of the current will websites are for-profit, and the development of the entire industry is uneven, and the audience is small, it is difficult to ensure that the will website can develop for a long time, once the operation of the website is problematic, the information retained by the user will be leaked or lost.

2. The legislative status quo of the types and effects of wills at home and abroad

2.1 Domestic will types and effective requirements

(1) Types of domestic wills

The most effective of the six forms of legal will is the notary will, which is applied by the testator to the notary office to prove that the contents of the will are true and legal. The form elements of a self-written will are that the contents of the will are written by the testator, with the testator's signature, and the date of the year is indicated. It is required that the will be made in the presence of two or more witnesses, one of whom is writing on behalf of the person, indicating the year, month and date, and signed by the person, other witnesses and the testator. Printed will refers to the will through electronic devices to express the contents of the will and form an electronic document, through the printer to generate a paper document form, its effect is not affected by whether the printer is himself, and requires more than two witnesses to be present throughout. An oral will is an oral expression of a testator's intention to dispose of property under the presence of two or more witnesses in an emergency. After the critical situation is lifted, the testator records the intention of property disposal through audio and video recordings, and requires more than two witnesses to be present.

(2) Provisions on the requirements for the validity of domestic wills

The prerequisite for a will to have legal validity is to have the formal and substantive elements of a legal will. The Civil Code (Succession Code) has strict formal requirements for the will, so the will must first conform to the appearance of the statutory will form, in order to further determine whether the will has the substantive requirements, when both have the will can be recognized as valid. Effective requirements are as follows:

One is to meet the requirements of the form of the will. China's Civil Code (Succession Code) stipulates five effective forms of wills, all of which have strict formal requirements. Wills must meet the formal requirements to have legal validity, which has been elaborated in detail above and will not be repeated here. In short, a will is a formal legal act.

Secondly, the testator has testamentary capacity. Testamentary capacity is a natural person's ability to dispose of his own property and establish a will according to law, and is one of the important criteria to judge whether a will is effective. The Civil Code stipulates that a will made by a person with no capacity or limited capacity is invalid, that is, it reversely stipulates that only a person with full civil capacity has testamentary capacity.

Thirdly, the contents of the will must be true. If all the contents of a will are untrue, the will is void and the estate cannot be disposed of. If the testator is subjected to coercion, inducement and other illegal means to conclude and leave the contents of the will contrary to his true intention, the will is also invalid.

Lastly, the contents of the will must be legal. A will is a unilateral legal act. Article 153 of the Civil Code stipulates that civil legal acts that violate the mandatory provisions of laws, administrative regulations and public order and good customs are invalid. Therefore, the illegal contents of the will will directly lead to the invalidation of the will.

2.2 Foreign will types and effective requirements

Since the second half of last century, in the countries and regions of common law system, more and more jurisdictions have established the exemption system of will form requirements, which has gradually softened the strictness of will form^[2]. As for the provisions of testamentary effect, most of the civil law countries have notary will, while most of the Anglo-American law countries do not have strict restrictions on the form of will. As the main representative country of the common law system, the succession system of England has been quite complete and mature. Germany is one of the typical representatives of the civil law system, its legal system has fully absorbed the core theory of Roman law and German law, testamentary succession system is no exception.

In 1540, England decreed that wills could only be in writing and could only dispose of real property. The Wills Act, passed in 1837, further provided that the testator should sign the will in the presence of witnesses or at the direction of witnesses. In addition, the Will Administration and Enforcement Act 1982 stipulates that a will must be in writing, but does not specify how it should be expressed. A will is valid as long as the contents of the will are clear and clear and can be legally effective and executed in accordance with the provisions of the Wills Act 1837 upon the testator's death^[3]. The written form of the will is not stipulated in the United Kingdom, which can be handwritten, printed, printed and other forms, reflecting the idea of moderating the form of the will. Therefore, there is no specific classification of the British will form, only the following conditions need to be met at the same time, the will will have legal validity: first, the will must be in written form, including but not limited to handwriting, printing, printing, etc.; Second, there are more than two witnesses present to witness; Third, the testator should sign the will, and can use a pseudonym, stage name and other names that can indicate their identity; Fourth, the testator must be a person who has reached the age of 14 and is of sound mental condition.

3. The validity of the electronic will and the development dilemma

The validity of electronic will has no legal basis, which leads to different judgment results in practice. In addition to the effectiveness of the development of electronic will, there are also problems such as insufficient proof and user information security cannot be fully guaranteed.

3.1 The validity of an electronic will

(1) Electronic testamentary validity theory

Someone holds that the electronic will does not have legal validity. The reason is that the electronic will itself relies on the Internet and electronic devices. When making an electronic will, the testator needs to leave the contents of the will in the website and save it directly, without notarization and the presence of witnesses in the whole process, nor use the traditional writing method recognized in practice. Therefore, it does not meet the formal requirements of any will stipulated in the Civil Code (Succession Code). The electronic will website is essentially a platform for keeping and conveying the contents of the will, and the website itself does not participate in the process of setting up a will, nor does it have the authority to make a will.

The main point of another people is that the electronic will can be regarded as a self-written will. The testator enters the contents of the will in person on the will website and signs the electronic signature and the date of the month. The whole process has the form elements of a self-written will, and only needs to judge the testator's testamentary ability and the authenticity of the contents of the will. If the will meets the above requirements, it has legal validity.

(2) The electronic will is invalid under the current law

The statutory forms of wills stipulated in China's Civil Code do not include electronic wills. The

electronic will is a way for the testator to deal with the property distribution after his death through a new social platform supported by the Internet and a professional will website. In modern life where the Internet is widely used, people have become accustomed to using computers to save and record information, and can modify the contents of wills through electronic devices and the Internet anytime and anywhere. In contrast, the advanced nature, convenience and secrecy of the electronic will decide that the electronic will has a greater development space than the traditional will. When making an electronic will, you can sign the electronic signature and the date of the month, there is no need to have witnesses present, and there is no need to apply for notarization to a notary office, which is the main form of electronic will, and any of the formal elements of a statutory will are not in line with, so the electronic will does not meet the formal elements of a will. The author agrees with the view that the electronic will is invalid at present, the will is a legal act, does not have the corresponding will form, then the will has no legal validity. In addition, before making an electronic will, the user must first register an account in the real name on the will website, and the website will verify the user's identity information. However, due to the complexity of the Internet, it is difficult to determine the real situation of the user when making a will, and whether his mental state is normal cannot be determined by the information provided by the user when registering, which is also the most difficult information to determine the testator's testamentary disposition ability. The testator may be suffering from mental illness, such as intermittent mental illness, Alzheimer's disease, etc., at this time is not a person with full capacity, and the authenticity of the contents of the will will be greatly affected.

(3) Electronic wills should be given legal validity

At present, although the electronic will has no legal validity, Chinese laws and regulations do not prohibit the transmission of personal will expression and storage of personal information through the network, and website service providers can still provide corresponding storage and transmission of data services, but choosing to make a will through the network has certain risks and lacks legal protection. It is an inevitable result of the development of society that electronic will is derived from this new thing, and it shows an irresistible trend. In daily life, many people do not abide by the strict formal requirements when making a will, the author believes that the main reason for this situation is that the public's legal awareness is not strong enough, so if the will is deemed invalid, it will not protect the testator's true intention and the right to freely dispose of property.

3.2 The probative power of the electronic will is insufficient

As a kind of litigation evidence, electronic data is formed in the process of the case, stored, processed, transmitted in digital form, and can prove the case facts of the data. Electronic data includes but is not limited to: information published by network platforms; Communication information for network application services; User registration information, identity authentication information, electronic transaction records, communication records, login logs and other information; Documents, pictures, audio and video, digital certificates, computer programs and other electronic files. The electronic will needs to leave a registered account, identity authentication, released and saved documents, pictures and other information on the network or electronic devices, which are presented in the form of electronic data, so the relevant information left when making an electronic will can be regarded as electronic data, as long as its authenticity, legality, and correlation with the facts to be proved. It can be used as electronic evidence and used in litigation, but it is only as litigation evidence, and cannot directly prove that the electronic will has legal validity.

At present, there is a great dispute about electronic evidence in judicial practice. Electronic evidence is easy to be maliciously tampered with and attacked by others, the authenticity of data will be limited by the current level of technology, cannot fully reflect the objective situation. The

long-term and security of electronic evidence preservation is facing the test. Electronic data in computers and networks may be attacked by viruses and hackers, and improper operation may also easily lose data. Traditional documentary evidence is not troubled by these problems. Secondly, electronic evidence cannot be read directly, and its access and transmission depend on the corresponding information technology equipment, otherwise it is difficult to see the facts reflected in the evidence. The complexity of extracting electronic evidence is much higher than that of traditional documentary evidence, but the electronic data is stored in the computer, so it is feasible to modify or supplement the data information, even if the data information is encrypted, it is also possible to decrypt.

In addition to the above problems faced by electronic wills, China's Electronic Signature Law also stipulates that electronic signatures are not applicable to documents involving marriage, adoption, inheritance and other personal relationships. Even if the electronic signature is electronic evidence and has the same legal validity as the handwritten signature or seal, the electronic signature of the testator, the date of making the will, and the true expression of the intention are also in line with the constituent elements of the self-written will, and the authenticity of its content can be verified, but because the electronic signature is not applicable to the inheritance document, the electronic will cannot be identified as a legally effective will.

3.3 The development of electronic wills is immature

It is true that electronic will allows people to make and save wills conveniently and quickly, which can save social resources compared with traditional wills, but it is undeniable that the development of electronic will is accompanied by a series of problems. The authenticity of the electronic will is difficult to guarantee in judicial practice, and the risk of information security is also high. Given China's current level of network security technology and the public's awareness of information security protection in the Internet environment, it is not yet ripe for the widespread promotion of electronic wills as a new form of legal wills nationwide.

Firstly, the authenticity of the contents of the will is difficult to verify. One of the important factors that electronic will has no legal validity is that its authenticity is difficult to verify, and it is difficult to recognize the authenticity of the contents of electronic will in judicial activities. The truth of the contents of a will is the essential condition for the validity of a statutory will. The Civil Code stipulates strict conditions of the form of a will, the purpose of which is to protect the true intention of the testator. Before making an electronic will, the user must first register an account in the real name on the will website, and the website will verify the user's identity information. However, due to the complexity of the Internet, it is difficult to determine the real situation of the user when making a will, and whether his mental state is normal cannot be determined by the information provided by the user when registering, which is also the most difficult information to determine the testator's testamentary disposition ability. The testator may suffer from mental illness and is not a person with full capacity, so the authenticity of the contents of the will will be greatly affected.

Secondly, the electronic will is easy to be forged, the user's registered account in the website has the risk of theft, once the account information is leaked, the user's other personal information and the content of the will left may be tampered with. After the death of the testator, he cannot get his testimony about the authenticity of the contents of the will, and the rights and interests of the testator cannot be effectively protected. Second, even if the will is a genuine expression of intent, but there is no guarantee that the testator after a period of time still have the same intention to dispose of property. The reasons for this situation may be as follows: First, the user forgets the account password of the will website, and does not log in to the website for a long time to modify

the content of the will, resulting in inconsistent expression of intention. Secondly, the testator is seduced or deceived by others and leaves the contents of the will contrary to his true meaning.

Thirdly, the user's personal information security issues. From the perspective of website security, the increase of online data is accompanied by the continuous upgrading of online transactions, online social activities and other activities. In this process, people's awareness of data security is weak, which provides opportunities for hacker crimes. Since the electronic will relies on the Internet and electronic devices, the testator will express his emotions and instruct the affairs through this secret channel, of course, the website will also require users to fill in the emergency contact information, these important information are basically on the website or mobile phones, computers and other terminal equipment can be found, if the data is leaked, It will not only violate the personal privacy of the testator, cause huge economic losses, but also cause family inheritance disputes. Therefore, the will website should have a strong ability to recover and take strict protective measures to protect the information security of users, which is particularly important in the era of big data, which is also an important responsibility of the will website operator.

Finally, from the perspective of website operators, at present, cases of infringement of citizens' personal information frequently occur, and personal information is stolen and sent to the buyer at the price of a few cents. Therefore, we cannot believe that operators will always protect the rights and interests of users because operators may also be driven by huge interests to sell users' personal identity, property and other information. Meanwhile, this mainly depends on the moral level of operators. In addition, the operators of the website maintain the operation of the websites and obtain revenue by charging the users' service fee. It is impossible to predict the subsequent development of will websites because some of them may face the risk of closure. Once the websites stop operating, the users' personal information security will be affected.

3.4 Judicial activities comply with strict legal norms

In the era of the basic popularization of the Internet, people have been accustomed to using computers to save and record information, and can modify the contents of the will anytime and anywhere through electronic devices and the Internet. The characteristics of electronic will, such as advanced nature, convenience and secrecy, decide that electronic will has greater development space than traditional will. However, China's Civil Code stipulates strict will form requirements, will must conform to the relevant form of the essential and formal requirements to have legal validity. In judicial practice, the judge strictly abides by the formal elements of the will, thus negating the validity of the electronic will. For the testator, the true intention expression is difficult to realize, which is not conducive to the realization of testamentary freedom; From the family level, it is easy to have inheritance disputes between their family members or heirs, which is not conducive to family harmony. Strict will form requirements are the most powerful obstacle to the legal validity of electronic wills.

4. The idea of protecting the rights and interests of electric-will makers

It is more and more common for users to send the contents of wills through Internet instant messaging software, or make wills on will websites. New social lifestyles give birth to new forms of wills. Although the legal validity of electronic wills is controversial at present, we should adopt flexible ways to help them develop in a positive direction when facing new problems. Instead of being negative. Moreover, the development of electronic wills has such a solid user base. Although it is not necessary to regard electronic will as a separate form of will, it is necessary to recognize the legal validity of electronic will in order to protect the testator's testamentary freedom and true expression of will.

4.1 Moderate relaxation of the form of wills

The easing of the form of will refers to the classification of the constituent elements of the form of will on the basis of the appropriate expansion of the form types of legal will, and the determination that the defects of a certain form elements cannot affect the validity of the will, so as to alleviate the strict legalism of the form of will to a certain extent^[4]. Most foreign testamentary systems adopt the doctrine of will form moderation, and many countries do not have particularly strict formal requirements for the form of wills. For example, the British legislation stipulates that wills must be in written form, including appendices and other forms of documents, but the specific written form of wills is not stipulated, which can be handwritten, printed, printed and other forms. The prerequisite for the validity of a will is that, first of all, the contents of the will should be clear and clear, and after the death of the testator, it can be legally effective and executed in accordance with the provisions of the Wills Act 1837. It is the core idea of moderating the form of a will that the real intention of the testator should take precedence over the legal form of a will in determining the validity of a will. To determine the validity of the electronic will, we should first consider whether the will content of the will is true, on this basis to see whether the electronic will meets the statutory form of the will, if the form is flawed, can be combined with other evidence to enhance the authenticity of the electronic will.

The Civil Code (Succession Code) and related judicial interpretations can properly absorb the doctrine of the form of will and explain the specific circumstances in which there are "slight defects" in the form of will. In the case of slight defects, the legislators verify and fully consider the true intention of the testators, and comprehensively determine the validity of the electronic wills, in order to respect and protect the will of the testators to the greatest extent.

4.2 Taking the electronic will as the form of a self-written will

The hidden danger of information security and the difficulty of information protection in electronic will strengthen the negative cognition of electronic will as a new type of will^[5]. Therefore, from the current practical consideration, it is not recommended to amend the legislation of electronic will as a separate statutory will form. The Civil Code (Succession) has made strict provisions for the form of wills, recording and video wills, written wills, oral wills and printed wills are effective with the presence of more than two witnesses, and notarial wills require the participation of notary organs. A self-written will neither requires a notary nor requires the presence of witnesses, as long as it is found to be written by the testator, the intention in the will is true, I signed and indicated the date of the will, and there is no contrary evidence to overturn the above content, the self-written will is valid. Therefore, the author thinks that it is the most feasible way to deal with the electronic will made by the testator by referring to the written will. However, the Civil Code (Succession Code) stipulates that a self-written will should be written and signed by the testator. In judicial practice, it is generally believed that the "handwriting" should be written by the testator with traditional pen and paper tools, which limits the possibility of the electronic will having legal validity to a great extent. If interpreted according to the literal meaning, the typing is really not my "handwriting", and does not have the formal elements of a self-written will. Therefore, it is of great significance for the privacy protection of the deceased to carry out reasonable expansion and extension of the connotation within the existing legal framework of probate disposition^[6]. When the testator makes his own electronic will, the will website records his facial features, fingerprints and other information that can prove his identity with the consent of the testator, and in the case of verifying the identity information after his death and the will content is true, the will form moderating doctrine is adopted to comprehensively identify the electronic will as "handwritten" and regard it as a self-written will, so as to be effective. In the case of making an

electronic will on behalf of another person, more than two witnesses should be required to witness the whole process, and after the death of the person, the other subject can find out that its true will is consistent with the contents of the aforementioned will made on behalf of the person, at this time the will can be regarded as a surrogate will, so as to determine the validity of the will.

4.3 Modify the scope of application of electronic signatures

The inability of electronic signature to apply to inheritance documents is one of the major obstacles to the legal validity of electronic wills. In 2005, the Electronic Signature Law was promulgated, and since then, electronic signatures have been widely used in the signing of various contracts in civil activities. The Electronic Signature Act was amended in 2019, but it still stipulates that electronic signatures are not applicable to instruments involving personal relationships, which directly affects the validity of electronic wills using electronic signatures. The reason why the legislation does not allow the use of electronic signatures in documents involving personal relations is that electronic signatures are immature under the current technological level, there are certain technical limitations to the authenticity of electronic signatures, and the documents concerning personal relations involve family harmony and social stability. Therefore, under careful consideration of this situation, the legislation chooses to restrict the application of electronic signatures in personal relationship documents. The author believes that the application of electronic signature to documents involving personal relationship is an important measure to promote the effective application of electronic will. Today's level of science and technology is not the same, and under the call of the era of self-reliance and self-improvement supporting high-quality development with high-level science and technology, electronic signature and its verification technology will achieve new breakthroughs, therefore, the scope of application of electronic signature should be appropriately expanded, and electronic signature is applied in electronic will on the basis of using electronic will as a form of self-written will or written will. In order to ensure the authenticity and reliability of the contents of the will, the third party should have more than two witnesses to record the production date of the electronic will and the electronic system to which it belongs, to provide support for the future to find out whether the contents of the will are true, and to determine whether the will is valid after proving the authenticity.

4.4 Scientific and technological innovation ensures the truth and security of information

Compared with the paper will, the electronic will is easy to make, add, delete and modify, but its content is easy to be tampered with and be hacked and other risks. If the website can provide users with a safe network environment, then users can give enough trust to the website, thus promoting the wide application of electronic wills. When users use the will website, they will first register an account, and at the same time, the website can collect fingerprint information, facial information, identity information, etc. in the case of unified users, and the above information is associated enough to confirm the real identity of the user. When the user makes a will on the website and signs an electronic signature, the website should verify the aforementioned information again, so that the authenticity of the user's identity can be effectively protected. In addition, blockchain technology cannot be modified or deleted, and even if it is deleted, it will leave traces, so it is a very safe technology, which is conducive to improving the authenticity and accuracy of electronic evidence. The application of data message and blockchain technology to electronic data judicial deposit is a popular research direction in China at present. The combination of the two will make the extraction and identification of electronic data in litigation more efficient and convenient, and also reduce the cost of electronic data deposit. When an electronic will is made, the data is stored through blockchain technology and encryption. At this stage, some courts in China have also launched an

electronic evidence platform, and the data in the will website can be linked to the court's electronic evidence platform. If there is a testamentary succession dispute, the contents of the will stored through the website can be checked directly on the court's official electronic evidence platform, which can also avoid the situation of difficulties for parties to provide evidence.

5. Conclusion

The emergence of electronic will benefits from the modern developed technology and its own convenience, and the development of electronic will shows an irresistible trend. At present, there is no regulation on electronic will in our country, and it is still in a blank state. There are many different views on the definition of electronic will in academic circles. In judicial practice, the court will strictly abide by the formal elements of the will to deny the legal effect of the electronic will. For the testator, the true expression of the will is difficult to realize, which is not conducive to the realization of the freedom of the will. From the family level, it is easy to have inheritance disputes between their family members or heirs, which is not conducive to family harmony. Therefore, when determining the legal effect of the electronic will, we should adopt the doctrine of palliative will form, and dilute the strict requirements on the form of the will while ensuring the truth of the content of the will. In addition, the scope of application of electronic signature is extended to the inheritance documents, and the meaning of "handwriting" of the formal elements of the self-written will is expanded. Therefore, the electronic will satisfies the formal elements of the self-written will. In other words, the electronic will made by oneself can be regarded as a self-written will. If two or more persons are present when the electronic will is made by another person, and other evidence proves that the content of the will is consistent with the true will of the person after his death, the will may be regarded as a surrogate will. If the electronic will to become an industrial form, the primary task is to ensure the user's information security, related websites should strengthen scientific and technological innovation, the use of high-tech means from the source to prevent user information leakage, enhance the trust of users. This article puts forward the above suggestions, in order to expect that the legal effect of electronic will can have a unified identification standard, and can be used reasonably and legally, so as to protect the testamentary freedom of the testator.

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