



Rep. Daniel Didech

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LRB102 04557 LNS 26156 a

1 AMENDMENT TO SENATE BILL 730

2 AMENDMENT NO. _____. Amend Senate Bill 730 by replacing
3 everything after the enacting clause with the following:

4 "Article 1. General Provisions

5 Section 1-1. Short title. This Act may be cited as the
6 Electronic Wills and Remote Witnesses Act.

7 Section 1-5. Purpose. The purpose of this Act is to
8 provide for: (1) the valid execution, attestation,
9 self-proving, and probate of electronic wills, paper copies of
10 electronic wills, and wills attested to by witnesses through
11 audio-video communication; and (2) the valid execution,
12 attestation, and witnessing of documents, other than wills,
13 through audio-video communication.

14 Section 1-10. Applicability. Any document executed under

1 this Act is executed in this State; however, executing a
2 document under this Act does not automatically confer
3 jurisdiction in the courts of this State.

4 Section 1-15. Relation to Probate Act of 1975 and common
5 law. All electronic wills, paper copies of electronic wills,
6 and wills attested to under this Act are subject to all
7 requirements of the Probate Act of 1975 and the common law, but
8 to the extent the common law or any provision of the Probate
9 Act of 1975 conflicts with or is modified by this Act, the
10 requirements of this Act control.

11 Section 1-20. Definitions. As used in this Act:

12 "Audio-video communication" means communication by which a
13 person can hear, see, and communicate with another person in
14 real time using electronic means. A person's visual or hearing
15 impairment does not prohibit or limit that person's use of
16 audio-visual communication under this Act.

17 "Electronic record" means a record generated,
18 communicated, received, or stored by electronic means for use
19 in an information system or for transmission from one
20 information system to another.

21 "Electronic signature" means a signature in electronic
22 form that uses a security procedure under the Electronic
23 Commerce Security Act and attached to or logically associated
24 with an electronic record.

1 "Electronic will" is a will that is created and maintained
2 as a tamper-evident electronic record.

3 "Identity proofing" means a process or service through
4 which a third person affirms the identity of an individual
5 through a review of personal information from public and
6 proprietary data sources, including: (1) by means of dynamic
7 knowledge-based authentication, including a review of personal
8 information from public or proprietary data sources; or (2) by
9 means of an analysis of biometric data, including, but not
10 limited to, facial recognition, voiceprint analysis, or
11 fingerprint analysis.

12 "Paper copy" means a tamper-evident electronic record that
13 is printed and contains the following: (1) the text of the
14 document; (2) the electronic signature of the signer; (3) a
15 readable copy of the evidence of any changes displayed in the
16 electronic record; and (4) any exhibits, attestation clauses,
17 affidavits, or other items forming a part of the document or
18 contained in the electronic record.

19 "Paper document" means a document that is written or
20 printed on paper.

21 "Physical presence" means being in the same physical
22 location as another person and close enough to see and know the
23 other person is signing a document.

24 "Presence" includes: (1) physical presence; or (2) being
25 in a different physical location from another person, but
26 able, using audio-video communication, to know the person is

1 signing a document in real time.

2 "Remote witness" means a person attesting to a document
3 who is in the presence of the signer or testator through
4 audio-video communication.

5 "Rule of law" means any statute, ordinance, common law
6 rule, court decision, or other rule of law enacted,
7 established, or promulgated by this State or any agency,
8 commission, department, court, other authority, or political
9 subdivision of this State.

10 "Signature" includes an electronic signature and an ink
11 signature.

12 "Tamper-evident" means a feature of an electronic record
13 by which any change to the electronic record is displayed.

14 Article 5. Electronic Wills

15 Section 5-5. Signing electronic wills.

16 (a) To be valid under this Act, an electronic will shall be
17 executed by the testator or by some person in the testator's
18 presence and at the testator's direction, and attested to in
19 the testator's presence by 2 or more credible witnesses.

20 (b) The testator may sign the electronic will with the
21 testator's electronic signature or may direct another person
22 in the presence of the testator to sign the electronic will. A
23 person signing at the testator's direction shall not be an
24 attesting witness, a person receiving a beneficial legacy or

1 interest under the will, or the spouse or child of a person
2 receiving a beneficial legacy or interest under the will.

3 (c) Each witness shall sign the electronic will with an
4 electronic signature in the presence of the testator after
5 seeing the testator sign, seeing the testator direct another
6 person in the testator's presence to sign, or seeing the
7 testator acknowledge the signature as the testator's act.

8 (d) If the will is attested to by a remote witness, the
9 requirements for an attestation by a remote witness under
10 Section 15-10 also apply.

11 Section 5-10. Revocation.

12 (a) An electronic will may be revoked in the following
13 ways:

14 (1) execution of a later will declaring the
15 revocation;

16 (2) execution of a later will to the extent that it is
17 inconsistent with the prior will; or

18 (3) execution of a written instrument by the testator
19 declaring the revocation.

20 (b) If there is evidence that a testator signed an
21 electronic will and neither an electronic will nor a certified
22 paper copy of the electronic will can be located after a
23 testator's death, there is a presumption that the testator
24 revoked the electronic will even if no instrument or later
25 will revoking the electronic will can be located.

1 Section 5-15. Digital assets and electronic commerce.

2 (a) At any time during the administration of the estate
3 without further notice or, if there is no grant of
4 administration, upon such notice and in such a manner as the
5 court directs, the court may issue an order under the Revised
6 Uniform Fiduciary Access to Digital Assets Act (2015) for a
7 custodian of an account held under a terms-of-service
8 agreement to disclose digital assets for the purposes of
9 obtaining an electronic will from a deceased user's account.
10 If there is no grant of administration at the time the court
11 issues the order, the court's order shall grant disclosure to
12 the petitioner who is deemed a personal representative under
13 the Revised Uniform Fiduciary Access to Digital Assets Act
14 (2015).

15 (b) Except as specified in this Act, the Electronic
16 Commerce Security Act does not apply to the execution or
17 revocation of an electronic will.

18 Article 10. Certified Paper Copies

19 Section 10-5. Certified paper copy. Where a rule of law
20 requires information to be presented or retained in its
21 original form, or provides consequences for the information
22 not being presented or retained in its original form, that
23 rule of law is satisfied by a certified paper copy of the

1 electronic record.

2 Section 10-10. Creation of a certified paper copy.

3 (a) A certified paper copy is a paper copy of an electronic
4 record that has been certified by the person who converts the
5 electronic record to a paper copy.

6 (b) The person certifying a paper copy shall state the
7 following:

8 (1) the date that the person prepared the paper copy;

9 (2) the name of the person who prepared the paper
10 copy;

11 (3) the date that the person who prepared the paper
12 copy came into possession of the electronic record;

13 (4) a description of how the person who prepared the
14 paper copy came into possession of the electronic record;

15 (5) confirmation that the paper copy is a complete and
16 correct copy of the electronic record; and

17 (6) confirmation that the electronic record is a
18 tamper-evident electronic record.

19 (c) The statements by a person who prepares a certified
20 paper copy shall be made by:

21 (1) testimony before the court;

22 (2) a written statement certified under Section 1-109
23 of the Code of Civil Procedure attached to the paper copy;
24 or

25 (3) an affidavit attached to the paper copy.

1 (d) A certified paper copy of a tamper-evident electronic
2 record, other than an electronic will, may be created any time
3 after the signer signs the electronic record under the
4 Electronic Commerce Security Act.

5 (e) A certified paper copy of an electronic will may be
6 created any time after the testator signs the electronic will
7 or directs another person in the testator's presence to sign
8 the electronic will.

9 Section 10-15. Witnessing a certified paper copy.

10 (a) A certified paper copy of an electronic record may be
11 witnessed after it is prepared. The witness shall be in the
12 signer's presence when the signer acknowledges the electronic
13 signature as the signer's act.

14 (b) If an electronic will is not attested to by 2 or more
15 credible witnesses, a certified paper copy of the electronic
16 will may be attested to by witnesses in the testator's
17 presence after the testator acknowledges the electronic
18 signature as the testator's act.

19 Article 15. Remote Witnesses

20 Section 15-5. Remote witness for document other than a
21 will.

22 (a) A person may witness any document, other than a will,
23 using audio-video communication between the individual signing

1 the document and the witness. The signatures may be contained
2 in a single document or the document may be signed in
3 counterparts. The counterparts of a document may be electronic
4 records, paper copies, or any combination thereof.

5 (b) During the audio-video communication:

6 (1) the witness shall determine the identity of the
7 signer;

8 (2) the signer of the document shall sign the
9 document; if the document is an electronic record, it
10 shall be a tamper-evident electronic record; and

11 (3) the witness shall sign the document previously
12 signed or acknowledged by the signer, or if signed in
13 counterparts, a separate witness's signature page of the
14 document.

15 (c) If the witness is signing a document in counterparts,
16 then the witness's signed signature page or a copy of the same
17 shall be attached to the document within 10 business days of
18 the signing and before the signer's death or incapacity. The
19 document becomes effective when the witness's signed signature
20 page or a copy of the same is attached to the document.

21 Section 15-10. Remote attestation for will.

22 (a) To be valid under this Act, a will attested to through
23 audio-video communication shall designate this State as its
24 place of execution, be signed by the testator or by some person
25 at the testator's direction and in the testator's presence,

1 and be attested to in the presence of the testator by 2 or more
2 credible witnesses who are located in the United States at the
3 time of the attestation.

4 (b) The will being attested to by audio-video
5 communication may be an electronic will, a paper copy of an
6 electronic will, or a paper document. An electronic will being
7 attested to shall be a single document containing all the
8 signature pages, attestation clauses, and affidavits forming a
9 part of the will. A will that is a paper copy of an electronic
10 will or a paper document may have separate signature pages,
11 attestation clauses, or affidavits that are electronic records
12 or paper documents. Separate signature pages, attestation
13 clauses, or affidavits may be distributed to the witness
14 before the audio-video communication.

15 (c) The testator shall sign the will or direct a person in
16 the testator's presence to sign. A person signing at the
17 testator's direction shall not be an attesting witness, a
18 person receiving a beneficial legacy or interest under the
19 will, or the spouse or child of a person receiving a beneficial
20 legacy or interest under the will.

21 (d) During an audio-video communication:

22 (1) the witness shall determine the testator's
23 identity;

24 (2) the testator shall sign the will, direct another
25 person in the testator's presence to sign the will, or
26 acknowledge the signature as the testator's act; and

1 (3) the witness shall attest to the will in the
2 testator's presence.

3 (e) If the will consists of separate signature pages,
4 attestation clauses, or affidavits forming a part of the will,
5 the testator or a person appointed by the testator shall
6 attach the witness's signed signature page, attestation
7 clause, or affidavit forming a part of the will or a copy of
8 the same to the paper document containing the testator's
9 signature or a paper copy of the electronic will within 10
10 business days of the attestation.

11 Section 15-15. Determining a signer's or testator's
12 identity. A witness shall determine a signer's or testator's
13 identity by one or more of the following methods:

14 (1) personal knowledge;

15 (2) a government-issued identification;

16 (3) another form of identification that includes a
17 photograph of the holder; or

18 (4) identity proofing.

19 Section 15-20. Remote witnessing and notarization during
20 the COVID-19 emergency declaration.

21 (a) The purpose of this Section is to give statutory
22 approval to the notary and witness guidelines provided in
23 Executive Order 2020-14.

24 (b) Notwithstanding any provision of law or rule,

1 effective March 26, 2020 and ending 30 days after the
2 expiration of the Governor's emergency declaration regarding
3 COVID-19, a notarial act or an act of witnessing, including
4 when a person must "appear before", act "in the presence of",
5 or any variation thereof, may be performed through means of
6 2-way audio-video communication technology that allows for
7 direct contemporaneous interaction by sight and sound between
8 the individual signing the document, the witness, and the
9 notary public.

10 (c) A notarial act satisfies the "appearing before"
11 requirement under Section 6-102 of the Illinois Notary Public
12 Act if the notary public performs a remote notarization via
13 2-way audio-video communication technology, if the notary
14 public commissioned in this State is physically within the
15 State while performing the notarial act and the transaction
16 follows any guidance or rules provided by the Secretary of
17 State in existence on the date of notarization.

18 (d) An act of witnessing and the technology used in the
19 audio-video communication shall substantially comply with the
20 following process:

21 (1) the 2-way audio-video communication shall be
22 recorded and preserved by the signatory or the signatory's
23 designee for a period of at least 3 years;

24 (2) the signatory shall attest to being physically
25 located in the State during the 2-way audio-video
26 communication;

1 (3) the witness shall attest to being physically
2 located in the State during the 2-way audio-video
3 communication;

4 (4) the signatory shall affirmatively state on the
5 2-way audio-video communication what document the
6 signatory is signing;

7 (5) each page of the document being witnessed shall be
8 shown to the witness on the 2-way audio-video
9 communication technology in a means clearly legible to the
10 witness;

11 (6) the act of signing shall be captured sufficiently
12 up close on the 2-way audio-video communication for the
13 witness to observe;

14 (7) the signatory shall transmit by overnight mail,
15 fax, electronic, or other means a legible copy of the
16 entire signed document directly to the witness no later
17 than the day after the document is signed;

18 (8) the witness shall sign the transmitted copy of the
19 document as a witness and transmit the signed copy of the
20 document back via overnight mail, fax, electronic, or
21 other means to the signatory within 24 hours of receipt;
22 and

23 (9) if necessary, the witness may sign the original
24 signed document as of the date of the original execution
25 by the signatory if the witness receives the original
26 signed document together with the electronically witnessed

1 copy within 30 days from the date of the remote
2 witnessing.

3 (e) The prohibition on electronic signatures on certain
4 documents in subsection (c) of Section 120 of the Electronic
5 Commerce Security Act remains in full effect.

6 (f) Notwithstanding any law or rule of this State to the
7 contrary, absent an express prohibition in a document against
8 signing in counterparts, all legal documents, including, but
9 not limited to, deeds, last wills and testaments, trusts,
10 durable powers of attorney for property, and powers of
11 attorney for health care, may be signed in counterparts by the
12 witnesses and the signatory. A notary public shall be
13 presented with a fax or electronic copy of the document
14 signature pages showing the witness signatures on the same
15 date the document is signed by the signatory if the notary
16 public is being asked to certify to the appearance of the
17 witnesses to a document.

18 (g) Any technology issues that may occur do not impact the
19 validity or effect of any instrument or document signed under
20 this Section. As used in this Section, "technology issues"
21 include, but are not limited to, problems with the Internet
22 connection, user error related to the use of technology, the
23 file containing a recorded act becoming corrupted, or other
24 temporary malfunctions involving the technology used in an act
25 of witnessing or a notarial act.

1 Article 20. Admission of Wills to Probate

2 Section 20-5. Electronic will. In addition to the
3 requirements of Section 6-2 of the Probate Act of 1975, the
4 petitioner shall state in the petition to have an electronic
5 will admitted to probate that the electronic will is a
6 tamper-evident electronic record and it has not been altered
7 apart from the electronic signatures and other information
8 that arises in the normal course of communication, storage,
9 and display.

10 Section 20-10. Admission of paper copy of electronic will.
11 Before being admitted to probate, a paper copy of an
12 electronic will shall be:

13 (1) certified under Section 10-10; or

14 (2) supported by sufficient evidence to overcome the
15 presumption under subsection (b) of Section 5-10 that the
16 testator revoked the electronic will.

17 Section 20-15. Admission of wills attested to by witnesses
18 who are physically present. An electronic will or paper copy
19 of an electronic will attested to by witnesses who are all in
20 the testator's physical presence at the time of attestation
21 shall be sufficiently proved under Section 6-4 of the Probate
22 Act of 1975 to be admitted to probate.

1 Section 20-20. Admission of wills attested to by a remote
2 witness.

3 (a) A will, other than a will signed under Section 15-20,
4 attested to by one or more remote witnesses is sufficiently
5 proved to be admitted to probate when each of at least 2 of the
6 attesting witnesses make the statements described in
7 subsection (b), and if the testator appointed a person to
8 attach any separate signature pages, attestation clauses, or
9 affidavits forming a part of a paper copy of an electronic will
10 or paper document, each appointed person, other than the
11 testator, makes the statements described in subsection (d).

12 (b) Each attesting witness shall state that:

13 (1) the attesting witness was present and saw the
14 testator or some person in the testator's presence and by
15 the testator's direction sign the will in the presence of
16 the witness or the testator acknowledged it to the witness
17 as the testator's act;

18 (2) the will was attested to by the witness in the
19 presence of the testator;

20 (3) the witness believed the testator to be of sound
21 mind and memory at the time of signing or acknowledging
22 the will; and

23 (4) if the attesting witness is a remote witness, the
24 method used to determine the testator's identity.

25 (c) The statements of an attesting witness under
26 subsection (b) may be made by:

1 (1) testimony before the court;

2 (2) an attestation clause signed by the witness and
3 attached to the will within 10 business days of the
4 execution;

5 (3) an affidavit that is signed by the witness at the
6 time of attestation and is attached to the will within 10
7 business days; or

8 (4) an affidavit that is signed after the time of
9 attestation and is attached to an accurate copy of the
10 will.

11 (d) Any person appointed by the testator to attach to the
12 will the witnesses' signed signature pages, attestation
13 clauses, or affidavits forming a part of the will or copies of
14 the same shall state:

15 (1) that the signed signature pages, attestation
16 clauses, or affidavits forming a part of the will or
17 copies of the same were attached within 10 business days
18 of each witness's attestation;

19 (2) that the person attached the signed signature
20 pages, attestation clauses, or affidavits forming a part
21 of the will or copies of the same to the testator's
22 complete and correct will; and

23 (3) if the signed signature pages, attestation
24 clauses, or affidavits forming a part of the will were
25 signed as electronic records, the statements required to
26 certify the paper copies of the electronic records under

1 Section 10-10.

2 (e) The statements under subsection (d) by any person,
3 other than the testator, attaching the attesting witnesses
4 signature pages, attestation clauses, affidavits, or copies of
5 the same may be made by:

6 (1) testimony before the court;

7 (2) a written statement certified under Section 1-109
8 of the Code of Civil Procedure that is signed and attached
9 to the will when attaching the signature pages,
10 attestation clauses, affidavits of the witnesses, or
11 copies of the same; or

12 (3) an affidavit signed at or after the time of
13 attaching the signature pages, attestation clauses,
14 affidavits of the witnesses, or copies of the same and
15 attached to the will or an accurate copy of the will.

16 Section 20-25. Admission of a will signed during the
17 COVID-19 emergency declaration. A will attested to by a
18 remote witness under Section 15-20 is sufficiently proved to
19 be admitted to probate when each of at least 2 attesting
20 witnesses:

21 (1) sign an attestation clause or affidavit substantially
22 complying with the statements required under subsection (a) of
23 Section 6-4 of the Probate Act of 1975 within 48 hours of the
24 act of witnessing, and the attestation clause, affidavit, or a
25 copy of the same is attached to the will signed by the testator

1 or an accurate copy of the will;

2 (2) sign an attestation clause or affidavit at or after
3 the act of witnessing that is attached to the will or an
4 accurate copy of the will stating the testator and remote
5 witness to the will substantially complied with Section 15-20
6 and the remote witness believed the testator to be of sound
7 mind and memory at the time of the signing; or

8 (3) testify in court that the testator and remote witness
9 substantially complied with Section 15-20 and that the remote
10 witness believed the testator to be of sound mind and memory at
11 the time of the signing.

12 Section 20-30. Evidence of fraud, forgery, compulsion, or
13 other improper conduct. Nothing in this Article prohibits any
14 party from introducing evidence of fraud, forgery, compulsion,
15 or other improper conduct that in the opinion of the court is
16 deemed sufficient to invalidate the will when being admitted.
17 The proponent may also introduce any other evidence competent
18 to establish the validity of a will. If the proponent
19 establishes the validity of the will by sufficient competent
20 evidence, it shall be admitted to probate unless there is
21 proof of fraud, forgery, compulsion, or other improper conduct
22 that in the opinion of the court is deemed sufficient to
23 invalidate the will.

24 Section 20-35. Formal proof of will with remote witness

1 under Section 20-20. If a will has been admitted to probate
2 under Section 20-20 before notice, any person entitled to
3 notice under Section 6-10 of the Probate Act of 1975 may file a
4 petition within 42 days after the effective date of the
5 original order admitting the will to probate to require proof
6 of the will, pursuant to this Section. The court shall set the
7 matter for hearing upon such notice to interested persons as
8 the court directs. At the hearing, the proponent shall
9 establish the will by testimony of the relevant parties as
10 provided in paragraph (1) of subsection (c) of Section 10-10,
11 paragraph (1) of subsection (c) of Section 20-20, or paragraph
12 (1) of subsection (e) of Section 20-20 or deposition of the
13 relevant parties following the procedures in Section 6-5 of
14 the Probate Act of 1975 or other evidence as provided in the
15 Probate Act of 1975, but not as provided by paragraph (2) or
16 (3) of subsection (c) of Section 10-10, paragraph (2) or (3) of
17 subsection (c) of Section 20-20, or paragraph (2) or (3) of
18 subsection (e) of Section 20-20, as if the will had not
19 originally been admitted to probate. If the proponent
20 establishes the will by sufficient competent evidence, the
21 original order admitting it to probate and the original order
22 appointing the representative shall be confirmed and effective
23 as to all persons, including creditors, as of the dates of
24 their entries, unless there is proof of fraud, forgery,
25 compulsion, or other improper conduct that in the opinion of
26 the court is sufficient to invalidate or destroy the will. The

1 time for filing a petition to contest a will under Section 8-1
2 of the Probate Act of 1975 is not extended by the filing of the
3 petition under this Section if the order admitting the will to
4 probate is confirmed, but if that order is vacated, the time
5 for filing the petition under Section 8-2 of the Probate Act of
6 1975 runs from the date of vacation of the order admitting the
7 will to probate.

8 Section 20-40. Formal proof of an electronic will. If a
9 petition is filed for proof of an electronic will under
10 Section 6-21 of the Probate Act of 1975 or Section 20-35 of
11 this Act, the Court shall determine whether the electronic
12 will is a tamper-evident electronic record and has not been
13 altered apart from the electronic signatures and other
14 information that arises in the normal course of communication,
15 storage, and display.

16 Section 20-45. Formal proof of will witnessed during the
17 COVID-19 emergency declaration. Testimony or other evidence
18 at a hearing for formal proof of a will under Section 6-21 of
19 the Probate of 1975 by a remote witness who witnessed the will
20 under Section 15-20 shall establish the testator and remote
21 witness substantially complied with the requirements of
22 Section 15-20 and the remote witness believed the testator to
23 be of sound mind and memory at the time of the signing. Formal
24 proof of a will signed under Section 15-20 does not require

1 testimony or other evidence that the remote witness attested
2 to the will in the presence of the testator. Testimony by the
3 remote witness that conflicts with a statement in the
4 attestation clause or affidavit that the remote witness
5 attested to the will in the presence of the testator does not
6 affect proof of the will or the credibility of the remote
7 witness.

8 Article 95. Amendatory Provisions

9 Section 95-5. The Electronic Commerce Security Act is
10 amended by changing Sections 5-115, 5-120, 5-125, and 10-130
11 as follows:

12 (5 ILCS 175/5-115)

13 Sec. 5-115. Electronic records.

14 (a) Where a rule of law requires information to be
15 "written" or "in writing", or provides for certain
16 consequences if it is not, an electronic record satisfies that
17 rule of law.

18 (b) The provisions of this Section shall not apply:

19 (1) when its application would involve a construction
20 of a rule of law that is clearly inconsistent with the
21 manifest intent of the lawmaking body or repugnant to the
22 context of the same rule of law, provided that the mere
23 requirement that information be "in writing", "written",

1 or "printed" shall not by itself be sufficient to
2 establish such intent;

3 (2) to any rule of law governing the creation or
4 execution of a will ~~or trust~~; and

5 (3) to any record that serves as a unique and
6 transferable instrument of rights and obligations under
7 the Uniform Commercial Code including, without limitation,
8 negotiable instruments and other instruments of title
9 wherein possession of the instrument is deemed to confer
10 title, unless an electronic version of such record is
11 created, stored, and transferred in a manner that allows
12 for the existence of only one unique, identifiable, and
13 unalterable original with the functional attributes of an
14 equivalent physical instrument, that can be possessed by
15 only one person, and which cannot be copied except in a
16 form that is readily identifiable as a copy.

17 (Source: P.A. 101-163, eff. 1-1-20.)

18 (5 ILCS 175/5-120)

19 Sec. 5-120. Electronic signatures.

20 (a) Where a rule of law requires a signature, or provides
21 for certain consequences if a document is not signed, an
22 electronic signature satisfies that rule of law.

23 (a-5) In the course of exercising any permitting,
24 licensing, or other regulatory function, a municipality may
25 accept, but shall not require, documents with an electronic

1 signature, including, but not limited to, the technical
2 submissions of a design professional with an electronic
3 signature.

4 (b) An electronic signature may be proved in any manner,
5 including by showing that a procedure existed by which a party
6 must of necessity have executed a symbol or security procedure
7 for the purpose of verifying that an electronic record is that
8 of such party in order to proceed further with a transaction.

9 (c) The provisions of this Section shall not apply:

10 (1) when its application would involve a construction
11 of a rule of law that is clearly inconsistent with the
12 manifest intent of the lawmaking body or repugnant to the
13 context of the same rule of law, provided that the mere
14 requirement of a "signature" or that a record be "signed"
15 shall not by itself be sufficient to establish such
16 intent;

17 (2) to any rule of law governing the creation or
18 execution of a will ~~or trust~~; and

19 (3) to any record that serves as a unique and
20 transferable instrument of rights and obligations under
21 the Uniform Commercial Code including, without limitation,
22 negotiable instruments and other instruments of title
23 wherein possession of the instrument is deemed to confer
24 title, unless an electronic version of such record is
25 created, stored, and transferred in a manner that allows
26 for the existence of only one unique, identifiable, and

1 unalterable original with the functional attributes of an
2 equivalent physical instrument, that can be possessed by
3 only one person, and which cannot be copied except in a
4 form that is readily identifiable as a copy.

5 (Source: P.A. 101-163, eff. 1-1-20.)

6 (5 ILCS 175/5-125)

7 Sec. 5-125. Original.

8 (a) Where a rule of law requires information to be
9 presented or retained in its original form, or provides
10 consequences for the information not being presented or
11 retained in its original form, that rule of law is satisfied by
12 an electronic record if there exists reliable assurance as to
13 the integrity of the information from the time when it was
14 first generated in its final form, as an electronic record or
15 otherwise.

16 (b) The criteria for assessing integrity shall be whether
17 the information has remained complete and unaltered, apart
18 from the addition of any endorsement or other information that
19 arises in the normal course of communication, storage and
20 display. The standard of reliability required to ensure that
21 information has remained complete and unaltered shall be
22 assessed in the light of the purpose for which the information
23 was generated and in the light of all the relevant
24 circumstances.

25 (c) The provisions of this Section do not apply to any

1 record that serves as a unique and transferable instrument of
2 rights and obligations under the Uniform Commercial Code
3 including, without limitation, negotiable instruments and
4 other instruments of title wherein possession of the
5 instrument is deemed to confer title, unless an electronic
6 version of such record is created, stored, and transferred in
7 a manner that allows for the existence of only one unique,
8 identifiable, and unalterable original with the functional
9 attributes of an equivalent physical instrument, that can be
10 possessed by only one person, and which cannot be copied
11 except in a form that is readily identifiable as a copy.

12 (Source: P.A. 90-759, eff. 7-1-99.)

13 (5 ILCS 175/10-130)

14 Sec. 10-130. Attribution of signature.

15 (a) Except as provided by another applicable rule of law,
16 a secure electronic signature is attributable to the person to
17 whom it correlates, whether or not authorized, if:

18 (1) the electronic signature resulted from acts of a
19 person that obtained the signature device or other
20 information necessary to create the signature from a
21 source under the control of the alleged signer, creating
22 the appearance that it came from that party;

23 (2) the access or use occurred under circumstances
24 constituting a failure to exercise reasonable care by the
25 alleged signer; and

1 (3) the relying party relied reasonably and in good
2 faith to its detriment on the apparent source of the
3 electronic record.

4 (b) The provisions of this Section shall not apply to
5 transactions and documents intended primarily for personal,
6 family, or household use, or otherwise defined as consumer
7 transactions by applicable law including, but not limited to,
8 credit card and automated teller machine transactions except
9 to the extent allowed by applicable consumer law, trust
10 agreements, powers of attorney for property or health care,
11 beneficiary designation forms, and deeds transferring
12 residential real property.

13 (Source: P.A. 90-759, eff. 7-1-99.)

14 Section 95-10. The Probate Act of 1975 is amended by
15 changing Sections 1-2.18, 6-5, 6-6, 8-1, and 8-2 and by adding
16 Sections 1-2.25 and 1-2.26 as follows:

17 (755 ILCS 5/1-2.18) (from Ch. 110 1/2, par. 1-2.18)

18 Sec. 1-2.18. "Will" includes electronic will, certified
19 paper copy of an electronic will, testament and codicil.

20 (Source: P.A. 81-213.)

21 (755 ILCS 5/1-2.25 new)

22 Sec. 1-2.25. Where this Act requires information to be
23 "written" or "in writing", or provides for certain

1 consequences if it is not, an electronic record under the
2 Electronic Wills and Remote Witnesses Act satisfies the
3 provisions of this Act.

4 (755 ILCS 5/1-2.26 new)

5 Sec. 1-2.26. "In the presence of" and any variation
6 thereof includes:

7 (1) being in the same physical location as another person
8 and close enough to see and know the other person is signing a
9 document; or

10 (2) being in a different physical location from another
11 person, but able, using electronic means, to see, hear,
12 communicate, and know that the person is signing a document in
13 real time.

14 (755 ILCS 5/6-5) (from Ch. 110 1/2, par. 6-5)

15 Sec. 6-5. Deposition of witness.→ When a witness to a will
16 or other party who shall testify to have a will admitted to
17 probate resides outside the county in which the will is
18 offered for probate or is unable to attend court and can be
19 found and is mentally and physically capable of testifying,
20 the court, upon the petition of any person seeking probate of
21 the will and upon such notice of the petition to persons
22 interested as the court directs, may issue a commission with
23 the will or a photographic copy thereof attached. The
24 commission shall be directed to any judge, notary public,

1 mayor or other chief magistrate of a city or United States
2 consul, vice-consul, consular agent, secretary of legation or
3 commissioned officer in active service of the armed forces of
4 the United States and shall authorize and require the
5 authorized person ~~him~~ to cause that witness or other party to
6 come before the authorized person ~~him~~ at such time and place as
7 the authorized person ~~he~~ designates and to take the deposition
8 of the witness or other party on oath or affirmation and upon
9 all such written interrogatories and cross-interrogatories as
10 may be enclosed with the commission. With the least possible
11 delay the person taking the deposition shall certify it, the
12 commission, and the interrogatories to the court from which
13 the commission issued. When the deposition of a witness or
14 other party is so taken and returned to the court, the ~~his~~
15 testimony of the witness or other party has the same effect as
16 if the witness or other party ~~he~~ testified in the court from
17 which the commission issued. When the commission is issued to
18 the officer by ~~his~~ official title only and not by name, the
19 seal of the ~~his~~ office attached to the officer's ~~his~~
20 certificate is sufficient evidence of the officer's ~~his~~
21 identity and official character.

22 (Source: P.A. 95-331, eff. 8-21-07.)

23 (755 ILCS 5/6-6) (from Ch. 110 1/2, par. 6-6)

24 Sec. 6-6. Proof of handwriting of a deceased or
25 inaccessible witness or a witness with a disability.†

1 (a) If a witness to a will or other party who shall testify
2 to have a will admitted (1) is dead, (2) is blind, (3) is
3 mentally or physically incapable of testifying, (4) cannot be
4 found, (5) is in active service of the armed forces of the
5 United States or (6) is outside this State, the court may admit
6 proof of the handwriting of the witness or other party and such
7 other secondary evidence as is admissible in any court of
8 record to establish electronic records or written contracts
9 and may admit the will to probate as though it had been proved
10 by the testimony of the witness or other party. On motion of
11 any interested person or on its own motion, the court may
12 require that the deposition of any such witness or other
13 party, who can be found, is mentally and physically capable of
14 testifying and is not in the active service of the armed forces
15 of the United States outside of the continental United States,
16 be taken as the best evidence thereof.

17 (b) As used in this Section, "continental United States"
18 means the States of the United States and the District of
19 Columbia.

20 (Source: P.A. 99-143, eff. 7-27-15.)

21 (755 ILCS 5/8-1) (from Ch. 110 1/2, par. 8-1)

22 Sec. 8-1. Contest of admission of will to probate; notice.

23 (a) Within 6 months after the admission to probate of a
24 domestic will in accordance with the provisions of Section 6-4
25 or Section 20-20 or 20-25 of the Electronic Wills and Remote

1 Witnesses Act, or of a foreign will in accordance with the
2 provisions of Article VII of this Act, any interested person
3 may file a petition in the proceeding for the administration
4 of the testator's estate or, if no proceeding is pending, in
5 the court in which the will was admitted to probate, to contest
6 the validity of the will.

7 (b) The petitioner shall cause a copy of the petition to be
8 mailed or delivered to the representative, to his or her
9 attorney of record, and to each heir and legatee whose name is
10 listed in the petition to admit the will to probate and in any
11 amended petition filed in accordance with Section 6-11, at the
12 address stated in the petition or amended petition. Filing a
13 pleading constitutes a waiver of the mailing or delivery of
14 the notice to the person filing the pleading. Failure to mail
15 or deliver a copy of the petition to an heir or a legatee does
16 not extend the time within which a petition to contest the will
17 may be filed under subsection (a) of this Section or affect the
18 validity of the judgement entered in the proceeding.

19 (c) Any contestant or proponent may demand a trial by
20 jury. An issue shall be made whether or not the instrument
21 produced is the will of the testator. The contestant shall in
22 the first instance proceed with proof to establish the
23 invalidity of the will. At the close of the contestant's case,
24 the proponent may present evidence to sustain the will. An
25 authenticated transcript of the testimony of any witness or
26 other party taken at the time of the hearing on the admission

1 of the will to probate, or an affidavit of any witness or other
2 party received as evidence under subsection 6-4(b), paragraphs
3 (c) and (e) of Section 20-20 of the Electronic Wills and Remote
4 Witnesses Act, or Section 20-25 of the Electronic Wills and
5 Remote Witnesses Act, is admissible in evidence.

6 (d) The right to institute or continue a proceeding to
7 contest the validity of a will survives and descends to the
8 heir, legatee, representative, grantee or assignee of the
9 person entitled to institute the proceeding.

10 (e) It is the duty of the representative to defend a
11 proceeding to contest the validity of the will. The court may
12 order the representative to defend the proceeding or prosecute
13 an appeal from the judgment. If the representative fails or
14 refuses to do so when ordered by the court, or if there is no
15 representative then acting, the court, upon its motion or on
16 application of any interested person, may appoint a special
17 administrator to defend or appeal in his stead.

18 (f) An action to set aside or contest the validity of a
19 revocable inter vivos trust agreement or declaration of trust
20 to which a legacy is provided by the settlor's will which is
21 admitted to probate shall be commenced within and not after
22 the time to contest the validity of a will as provided in
23 subsection (a) of this Section and Section 13-223 of the Code
24 of Civil Procedure.

25 (g) This amendatory Act of 1995 applies to pending cases
26 as well as cases commenced on or after its effective date.

1 (Source: P.A. 89-364, eff. 8-18-95.)

2 (755 ILCS 5/8-2) (from Ch. 110 1/2, par. 8-2)

3 Sec. 8-2. Contest of denial of admission of will to
4 probate.

5 (a) Within 6 months after the entry of an order denying
6 admission to probate of a domestic will in accordance with the
7 provisions of Section 6-4 or Section 20-20 or 20-25 of the
8 Electronic Wills and Remote Witnesses Act, or of a foreign
9 will in accordance with the provisions of Article VII of this
10 Act, any interested person desiring to contest the denial of
11 admission may file a petition to admit the will to probate in
12 the proceeding for the administration of the decedent's estate
13 or, if no proceeding is pending, in the court which denied
14 admission of the will to probate. The petition must state the
15 facts required to be stated in Section 6-2 or 6-20, whichever
16 is applicable.

17 (b) The petitioner shall cause a copy of the petition to be
18 mailed or delivered to the representative, to his or her
19 attorney of record, and to each heir and legatee whose name is
20 listed in the petition to admit the will to probate and in any
21 amended petition filed in accordance with Section 6-11, at the
22 address stated in the petition or amended petition. Filing a
23 pleading constitutes a waiver of the mailing or delivery of
24 the notice to the person filing the pleading. Failure to mail
25 or deliver a copy of the petition to an heir or legatee does

1 not extend the time within which a petition to admit the will
2 to probate may be filed under subsection (a) of Section 8-1 or
3 affect the validity of the judgment entered in the proceeding.

4 (c) Any proponent or contestant may demand a trial by
5 jury. An issue shall be made whether or not the instrument
6 produced is the will of the testator. The proponent shall in
7 the first instance proceed with proof to establish the
8 validity of the will and may introduce any evidence competent
9 to establish a will. Any interested person may oppose the
10 petition and may introduce any evidence admissible in a will
11 contest under Section 8-1. At the close of the contestant's
12 case, the proponent may present further evidence to sustain
13 the will.

14 (d) The right to institute or continue a proceeding to
15 contest the denial of admission of a will to probate survives
16 and descends to the heir, legatee, representative, grantee or
17 assignee of the person entitled to institute the proceeding.

18 (e) The court may order the representative to defend a
19 proceeding to probate the will or prosecute an appeal from the
20 judgment. If the representative fails or refuses to do so when
21 ordered by the court, or if there is no representative then
22 acting, the court, upon its motion or on application of any
23 interested person, may appoint a special administrator to do
24 so in his stead.

25 (f) A person named as executor in a will that has been
26 denied admission to probate has no duty to file or support a

1 petition under Section 8-2.

2 (g) This amendatory Act of 1995 applies to pending cases
3 as well as cases commenced on or after its effective date.

4 (Source: P.A. 89-364, eff. 8-18-95.)

5 Article 99. Effective Date

6 Section 99-99. Effective date. This Act takes effect upon
7 becoming law.".