



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB5770

Introduced 5/12/2026, by Rep. Ann M. Williams and Ryan Spain

SYNOPSIS AS INTRODUCED:

755 ILCS 5/8-1

from Ch. 110 1/2, par. 8-1

Provides that Act may be referred to as the Guardianship Advocacy in Litigation Act (the GAIL Act). Amends the Probate Act of 1975. Makes a technical change in a Section concerning contesting the admission of a will to probate.

LRB104 21831 JRC 37612 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. This Act may be referred to as the Guardianship
5 Advocacy in Litigation Act (the GAIL Act).

6 Section 5. The Probate Act of 1975 is amended by changing
7 Section 8-1 as follows:

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

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

10 (a) Within 6 months after the ~~the~~ admission to probate of a
11 domestic will in accordance with the provisions of Section 6-4
12 or Section 20-20 or 20-25 of the Electronic Wills, Electronic
13 Estate Planning Documents, and Remote Witnesses Act, or of a
14 foreign will in accordance with the provisions of Article VII
15 of this Act, any interested person may file a petition in the
16 proceeding for the administration of the testator's estate or,
17 if no proceeding is pending, in the court in which the will was
18 admitted to probate, to contest the validity of the will.

19 (b) The petitioner shall cause a copy of the petition to be
20 mailed or delivered to the representative, to his or her
21 attorney of record, and to each heir and legatee whose name is
22 listed in the petition to admit the will to probate and in any

1 amended petition filed in accordance with Section 6-11, at the
2 address stated in the petition or amended petition. Filing a
3 pleading constitutes a waiver of the mailing or delivery of
4 the notice to the person filing the pleading. Failure to mail
5 or deliver a copy of the petition to an heir or a legatee does
6 not extend the time within which a petition to contest the will
7 may be filed under subsection (a) of this Section or affect the
8 validity of the judgment entered in the proceeding.

9 (c) Any contestant or proponent may demand a trial by
10 jury. An issue shall be made whether or not the instrument
11 produced is the will of the testator. The contestant shall in
12 the first instance proceed with proof to establish the
13 invalidity of the will. At the close of the contestant's case,
14 the proponent may present evidence to sustain the will. An
15 authenticated transcript of the testimony of any witness or
16 other party taken at the time of the hearing on the admission
17 of the will to probate, or an affidavit of any witness or other
18 party received as evidence under subsection 6-4(b), paragraphs
19 (c) and (e) of Section 20-20 of the Electronic Wills,
20 Electronic Estate Planning Documents, and Remote Witnesses
21 Act, or Section 20-25 of the Electronic Wills, Electronic
22 Estate Planning Documents, and Remote Witnesses Act, is
23 admissible in evidence.

24 (d) The right to institute or continue a proceeding to
25 contest the validity of a will survives and descends to the
26 heir, legatee, representative, grantee or assignee of the

1 person entitled to institute the proceeding.

2 (e) It is the duty of the representative to defend a
3 proceeding to contest the validity of the will. The court may
4 order the representative to defend the proceeding or prosecute
5 an appeal from the judgment. If the representative fails or
6 refuses to do so when ordered by the court, or if there is no
7 representative then acting, the court, upon its motion or on
8 application of any interested person, may appoint a special
9 administrator to defend or appeal in his stead.

10 (f) An action to set aside or contest the validity of a
11 revocable inter vivos trust agreement or declaration of trust
12 to which a legacy is provided by the settlor's will which is
13 admitted to probate shall be commenced within and not after
14 the time to contest the validity of a will as provided in
15 subsection (a) of this Section and Section 13-223 of the Code
16 of Civil Procedure.

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

19 (Source: P.A. 102-167, eff. 7-26-21; 103-301, eff. 1-1-24.)