

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 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  
15 this Act is executed in this State; however, executing a  
16 document under this Act does not automatically confer  
17 jurisdiction in the courts of this State.

18 Section 1-15. Relation to Probate Act of 1975 and common  
19 law. All electronic wills, paper copies of electronic wills,  
20 and wills attested to under this Act are subject to all

1 requirements of the Probate Act of 1975 and the common law, but  
2 to the extent the common law or any provision of the Probate  
3 Act of 1975 conflicts with or is modified by this Act, the  
4 requirements of this Act control.

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

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

11 "Electronic record" means a record generated,  
12 communicated, received, or stored by electronic means for use  
13 in an information system or for transmission from one  
14 information system to another.

15 "Electronic signature" means a signature in electronic  
16 form that uses a security procedure under the Electronic  
17 Commerce Security Act and attached to or logically associated  
18 with an electronic record.

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

21 "Identity proofing" means a process or service through  
22 which a third person affirms the identity of an individual  
23 through a review of personal information from public and  
24 proprietary data sources, including: (1) by means of dynamic  
25 knowledge-based authentication, including a review of personal

1 information from public or proprietary data sources; or (2) by  
2 means of an analysis of biometric data, including, but not  
3 limited to, facial recognition, voiceprint analysis, or  
4 fingerprint analysis.

5 "Paper copy" means a tamper-evident electronic record that  
6 is printed and contains the following: (1) the text of the  
7 document; (2) the electronic signature of the signer; (3) a  
8 readable copy of the evidence of any changes displayed in the  
9 electronic record; and (4) any exhibits, attestation clauses,  
10 affidavits, or other items forming a part of the document or  
11 contained in the electronic record.

12 "Paper document" means a document that is written or  
13 printed on paper.

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

17 "Presence" includes: (1) physical presence; or (2) being  
18 in a different physical location from another person, but  
19 able, using audio-video communication, to know the person is  
20 signing a document in real time.

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

24 "Rule of law" means any statute, ordinance, common law  
25 rule, court decision, or other rule of law enacted,  
26 established, or promulgated by this State or any agency,

1 commission, department, court, other authority, or political  
2 subdivision of this State.

3 "Signature" includes an electronic signature and an ink  
4 signature.

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

7 Article 5. Electronic Wills

8 Section 5-5. Signing electronic wills.

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

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

20 (c) Each witness shall sign the electronic will with an  
21 electronic signature in the presence of the testator after  
22 seeing the testator sign, seeing the testator direct another  
23 person in the testator's presence to sign, or seeing the  
24 testator acknowledge the signature as the testator's act.

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

4 Section 5-10. Revocation.

5 (a) An electronic will may be revoked in the following  
6 ways:

7 (1) execution of a later will declaring the  
8 revocation;

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

11 (3) execution of a written instrument by the testator  
12 declaring the revocation.

13 (b) If there is evidence that a testator signed an  
14 electronic will and neither an electronic will nor a certified  
15 paper copy of the electronic will can be located after a  
16 testator's death, there is a presumption that the testator  
17 revoked the electronic will even if no instrument or later  
18 will revoking the electronic will can be located.

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

20 (a) At any time during the administration of the estate  
21 without further notice or, if there is no grant of  
22 administration, upon such notice and in such a manner as the  
23 court directs, the court may issue an order under the Revised  
24 Uniform Fiduciary Access to Digital Assets Act (2015) for a

1 custodian of an account held under a terms-of-service  
2 agreement to disclose digital assets for the purposes of  
3 obtaining an electronic will from a deceased user's account.  
4 If there is no grant of administration at the time the court  
5 issues the order, the court's order shall grant disclosure to  
6 the petitioner who is deemed a personal representative under  
7 the Revised Uniform Fiduciary Access to Digital Assets Act  
8 (2015).

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

## 12 Article 10. Certified Paper Copies

13 Section 10-5. Certified paper copy. Where a rule of law  
14 requires information to be presented or retained in its  
15 original form, or provides consequences for the information  
16 not being presented or retained in its original form, that  
17 rule of law is satisfied by a certified paper copy of the  
18 electronic record.

### 19 Section 10-10. Creation of a certified paper copy.

20 (a) A certified paper copy is a paper copy of an electronic  
21 record that has been certified by the person who converts the  
22 electronic record to a paper copy.

23 (b) The person certifying a paper copy shall state the

1 following:

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

3 (2) the name of the person who prepared the paper  
4 copy;

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

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

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

11 (6) confirmation that the electronic record is a  
12 tamper-evident electronic record.

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

15 (1) testimony before the court;

16 (2) a written statement certified under Section 1-109  
17 of the Code of Civil Procedure attached to the paper copy;  
18 or

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

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

24 (e) A certified paper copy of an electronic will may be  
25 created any time after the testator signs the electronic will  
26 or directs another person in the testator's presence to sign

1 the electronic will.

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

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

7 (b) If an electronic will is not attested to by 2 or more  
8 credible witnesses, a certified paper copy of the electronic  
9 will may be attested to by witnesses in the testator's  
10 presence after the testator acknowledges the electronic  
11 signature as the testator's act.

12 Article 15. Remote Witnesses

13 Section 15-5. Remote witness for document other than a  
14 will.

15 (a) A person may witness any document, other than a will,  
16 using audio-video communication between the individual signing  
17 the document and the witness. The signatures may be contained  
18 in a single document or the document may be signed in  
19 counterparts. The counterparts of a document may be electronic  
20 records, paper copies, or any combination thereof.

21 (b) During the audio-video communication:

22 (1) the witness shall determine the identity of the  
23 signer;



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

4           (3) the witness shall sign the document previously  
5 signed or acknowledged by the signer, or if signed in  
6 counterparts, a separate witness's signature page of the  
7 document.

8           (c) If the witness is signing a document in counterparts,  
9 then the witness's signed signature page or a copy of the same  
10 shall be attached to the document within 10 business days of  
11 the signing and before the signer's death or incapacity. The  
12 document becomes effective when the witness's signed signature  
13 page or a copy of the same is attached to the document.

14           Section 15-10. Remote attestation for will.

15           (a) To be valid under this Act, a will attested to through  
16 audio-video communication shall designate this State as its  
17 place of execution, be signed by the testator or by some person  
18 at the testator's direction and in the testator's presence,  
19 and be attested to in the presence of the testator by 2 or more  
20 credible witnesses who are located in the United States at the  
21 time of the attestation.

22           (b) The will being attested to by audio-video  
23 communication may be an electronic will, a paper copy of an  
24 electronic will, or a paper document. An electronic will being  
25 attested to shall be a single document containing all the

1 signature pages, attestation clauses, and affidavits forming a  
2 part of the will. A will that is a paper copy of an electronic  
3 will or a paper document may have separate signature pages,  
4 attestation clauses, or affidavits that are electronic records  
5 or paper documents. Separate signature pages, attestation  
6 clauses, or affidavits may be distributed to the witness  
7 before the audio-video communication.

8 (c) The testator shall sign the will or direct a person in  
9 the testator's presence to sign. A person signing at the  
10 testator's direction shall not be an attesting witness, a  
11 person receiving a beneficial legacy or interest under the  
12 will, or the spouse or child of a person receiving a beneficial  
13 legacy or interest under the will.

14 (d) During an audio-video communication:

15 (1) the witness shall determine the testator's  
16 identity;

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

20 (3) the witness shall attest to the will in the  
21 testator's presence.

22 (e) If the will consists of separate signature pages,  
23 attestation clauses, or affidavits forming a part of the will,  
24 the testator or a person appointed by the testator shall  
25 attach the witness's signed signature page, attestation  
26 clause, or affidavit forming a part of the will or a copy of

1 the same to the paper document containing the testator's  
2 signature or a paper copy of the electronic will within 10  
3 business days of the attestation.

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

7 (1) personal knowledge;

8 (2) a government-issued identification;

9 (3) another form of identification that includes a  
10 photograph of the holder; or

11 (4) identity proofing.

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

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

17 (b) Notwithstanding any provision of law or rule,  
18 effective March 26, 2020 and ending 30 days after the  
19 expiration of the Governor's emergency declaration regarding  
20 COVID-19, a notarial act or an act of witnessing, including  
21 when a person must "appear before", act "in the presence of",  
22 or any variation thereof, may be performed through means of  
23 2-way audio-video communication technology that allows for  
24 direct contemporaneous interaction by sight and sound between

1 the individual signing the document, the witness, and the  
2 notary public.

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

11 (d) An act of witnessing and the technology used in the  
12 audio-video communication shall substantially comply with the  
13 following process:

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

17 (2) the signatory shall attest to being physically  
18 located in the State during the 2-way audio-video  
19 communication;

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

23 (4) the signatory shall affirmatively state on the  
24 2-way audio-video communication what document the  
25 signatory is signing;

26 (5) each page of the document being witnessed shall be

1 shown to the witness on the 2-way audio-video  
2 communication technology in a means clearly legible to the  
3 witness;

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

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

11 (8) the witness shall sign the transmitted copy of the  
12 document as a witness and transmit the signed copy of the  
13 document back via overnight mail, fax, electronic, or  
14 other means to the signatory within 24 hours of receipt;  
15 and

16 (9) if necessary, the witness may sign the original  
17 signed document as of the date of the original execution  
18 by the signatory if the witness receives the original  
19 signed document together with the electronically witnessed  
20 copy within 30 days from the date of the remote  
21 witnessing.

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

25 (f) Notwithstanding any law or rule of this State to the  
26 contrary, absent an express prohibition in a document against

1 signing in counterparts, all legal documents, including, but  
2 not limited to, deeds, last wills and testaments, trusts,  
3 durable powers of attorney for property, and powers of  
4 attorney for health care, may be signed in counterparts by the  
5 witnesses and the signatory. A notary public shall be  
6 presented with a fax or electronic copy of the document  
7 signature pages showing the witness signatures on the same  
8 date the document is signed by the signatory if the notary  
9 public is being asked to certify to the appearance of the  
10 witnesses to a document.

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

19 Article 20. Admission of Wills to Probate

20 Section 20-5. Electronic will. In addition to the  
21 requirements of Section 6-2 of the Probate Act of 1975, the  
22 petitioner shall state in the petition to have an electronic  
23 will admitted to probate that the electronic will is a  
24 tamper-evident electronic record and it has not been altered

1 apart from the electronic signatures and other information  
2 that arises in the normal course of communication, storage,  
3 and display.

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

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

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

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

17 Section 20-20. Admission of wills attested to by a remote  
18 witness.

19 (a) A will, other than a will signed under Section 15-20,  
20 attested to by one or more remote witnesses is sufficiently  
21 proved to be admitted to probate when each of at least 2 of the  
22 attesting witnesses make the statements described in  
23 subsection (b), and if the testator appointed a person to

1 attach any separate signature pages, attestation clauses, or  
2 affidavits forming a part of a paper copy of an electronic will  
3 or paper document, each appointed person, other than the  
4 testator, makes the statements described in subsection (d).

5 (b) Each attesting witness shall state that:

6 (1) the attesting witness was present and saw the  
7 testator or some person in the testator's presence and by  
8 the testator's direction sign the will in the presence of  
9 the witness or the testator acknowledged it to the witness  
10 as the testator's act;

11 (2) the will was attested to by the witness in the  
12 presence of the testator;

13 (3) the witness believed the testator to be of sound  
14 mind and memory at the time of signing or acknowledging  
15 the will; and

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

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

20 (1) testimony before the court;

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

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



1           (4) an affidavit that is signed after the time of  
2           attestation and is attached to an accurate copy of the  
3           will.

4           (d) Any person appointed by the testator to attach to the  
5           will the witnesses' signed signature pages, attestation  
6           clauses, or affidavits forming a part of the will or copies of  
7           the same shall state:

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

12          (2) that the person attached the signed signature  
13          pages, attestation clauses, or affidavits forming a part  
14          of the will or copies of the same to the testator's  
15          complete and correct will; and

16          (3) if the signed signature pages, attestation  
17          clauses, or affidavits forming a part of the will were  
18          signed as electronic records, the statements required to  
19          certify the paper copies of the electronic records under  
20          Section 10-10.

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

25                 (1) testimony before the court;

26                 (2) a written statement certified under Section 1-109

1 of the Code of Civil Procedure that is signed and attached  
2 to the will when attaching the signature pages,  
3 attestation clauses, affidavits of the witnesses, or  
4 copies of the same; or

5 (3) an affidavit signed at or after the time of  
6 attaching the signature pages, attestation clauses,  
7 affidavits of the witnesses, or copies of the same and  
8 attached to the will or an accurate copy of the will.

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

14 (1) sign an attestation clause or affidavit substantially  
15 complying with the statements required under subsection (a) of  
16 Section 6-4 of the Probate Act of 1975 within 48 hours of the  
17 act of witnessing, and the attestation clause, affidavit, or a  
18 copy of the same is attached to the will signed by the testator  
19 or an accurate copy of the will;

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

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

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

17           Section 20-35. Formal proof of will with remote witness  
18 under Section 20-20. If a will has been admitted to probate  
19 under Section 20-20 before notice, any person entitled to  
20 notice under Section 6-10 of the Probate Act of 1975 may file a  
21 petition within 42 days after the effective date of the  
22 original order admitting the will to probate to require proof  
23 of the will, pursuant to this Section. The court shall set the  
24 matter for hearing upon such notice to interested persons as

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

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

9           Section 20-45. Formal proof of will witnessed during the  
10 COVID-19 emergency declaration. Testimony or other evidence  
11 at a hearing for formal proof of a will under Section 6-21 of  
12 the Probate of 1975 by a remote witness who witnessed the will  
13 under Section 15-20 shall establish the testator and remote  
14 witness substantially complied with the requirements of  
15 Section 15-20 and the remote witness believed the testator to  
16 be of sound mind and memory at the time of the signing. Formal  
17 proof of a will signed under Section 15-20 does not require  
18 testimony or other evidence that the remote witness attested  
19 to the will in the presence of the testator. Testimony by the  
20 remote witness that conflicts with a statement in the  
21 attestation clause or affidavit that the remote witness  
22 attested to the will in the presence of the testator does not  
23 affect proof of the will or the credibility of the remote  
24 witness.

1 Article 95. Amendatory Provisions

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

5 (5 ILCS 175/5-115)

6 Sec. 5-115. Electronic records.

7 (a) Where a rule of law requires information to be  
8 "written" or "in writing", or provides for certain  
9 consequences if it is not, an electronic record satisfies that  
10 rule of law.

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

12 (1) when its application would involve a construction  
13 of a rule of law that is clearly inconsistent with the  
14 manifest intent of the lawmaking body or repugnant to the  
15 context of the same rule of law, provided that the mere  
16 requirement that information be "in writing", "written",  
17 or "printed" shall not by itself be sufficient to  
18 establish such intent;

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

21 (3) to any record that serves as a unique and  
22 transferable instrument of rights and obligations under  
23 the Uniform Commercial Code including, without limitation,

1 negotiable instruments and other instruments of title  
2 wherein possession of the instrument is deemed to confer  
3 title, unless an electronic version of such record is  
4 created, stored, and transferred in a manner that allows  
5 for the existence of only one unique, identifiable, and  
6 unalterable original with the functional attributes of an  
7 equivalent physical instrument, that can be possessed by  
8 only one person, and which cannot be copied except in a  
9 form that is readily identifiable as a copy.

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

11 (5 ILCS 175/5-120)

12 Sec. 5-120. Electronic signatures.

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

16 (a-5) In the course of exercising any permitting,  
17 licensing, or other regulatory function, a municipality may  
18 accept, but shall not require, documents with an electronic  
19 signature, including, but not limited to, the technical  
20 submissions of a design professional with an electronic  
21 signature.

22 (b) An electronic signature may be proved in any manner,  
23 including by showing that a procedure existed by which a party  
24 must of necessity have executed a symbol or security procedure  
25 for the purpose of verifying that an electronic record is that

1 of such party in order to proceed further with a transaction.

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

3 (1) when its application would involve a construction  
4 of a rule of law that is clearly inconsistent with the  
5 manifest intent of the lawmaking body or repugnant to the  
6 context of the same rule of law, provided that the mere  
7 requirement of a "signature" or that a record be "signed"  
8 shall not by itself be sufficient to establish such  
9 intent;

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

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

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

25 (5 ILCS 175/5-125)



1           Sec. 5-125. Original.

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

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

19          (c) The provisions of this Section do not apply to any  
20 record that serves as a unique and transferable instrument of  
21 rights and obligations under the Uniform Commercial Code  
22 including, without limitation, negotiable instruments and  
23 other instruments of title wherein possession of the  
24 instrument is deemed to confer title, unless an electronic  
25 version of such record is created, stored, and transferred in  
26 a manner that allows for the existence of only one unique,

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

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

6 (5 ILCS 175/10-130)

7 Sec. 10-130. Attribution of signature.

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

11 (1) the electronic signature resulted from acts of a  
12 person that obtained the signature device or other  
13 information necessary to create the signature from a  
14 source under the control of the alleged signer, creating  
15 the appearance that it came from that party;

16 (2) the access or use occurred under circumstances  
17 constituting a failure to exercise reasonable care by the  
18 alleged signer; and

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

22 (b) The provisions of this Section shall not apply to  
23 transactions and documents intended primarily for personal,  
24 family, or household use, or otherwise defined as consumer  
25 transactions by applicable law including, but not limited to,

1 credit card and automated teller machine transactions except  
2 to the extent allowed by applicable consumer law, trust  
3 agreements, powers of attorney for property or health care,  
4 beneficiary designation forms, and deeds transferring  
5 residential real property.

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

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

10 (755 ILCS 5/1-2.18) (from Ch. 110 1/2, par. 1-2.18)

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

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

14 (755 ILCS 5/1-2.25 new)

15 Sec. 1-2.25. Where this Act requires information to be  
16 "written" or "in writing", or provides for certain  
17 consequences if it is not, an electronic record under the  
18 Electronic Wills and Remote Witnesses Act satisfies the  
19 provisions of this Act.

20 (755 ILCS 5/1-2.26 new)

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

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

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

8           (755 ILCS 5/6-5) (from Ch. 110 1/2, par. 6-5)

9           Sec. 6-5. Deposition of witness.† When a witness to a will  
10           or other party who shall testify to have a will admitted to  
11           probate resides outside the county in which the will is  
12           offered for probate or is unable to attend court and can be  
13           found and is mentally and physically capable of testifying,  
14           the court, upon the petition of any person seeking probate of  
15           the will and upon such notice of the petition to persons  
16           interested as the court directs, may issue a commission with  
17           the will or a photographic copy thereof attached. The  
18           commission shall be directed to any judge, notary public,  
19           mayor or other chief magistrate of a city or United States  
20           consul, vice-consul, consular agent, secretary of legation or  
21           commissioned officer in active service of the armed forces of  
22           the United States and shall authorize and require the  
23           authorized person ~~him~~ to cause that witness or other party to  
24           come before the authorized person ~~him~~ at such time and place as  
25           the authorized person ~~he~~ designates and to take the deposition

1 of the witness or other party on oath or affirmation and upon  
2 all such written interrogatories and cross-interrogatories as  
3 may be enclosed with the commission. With the least possible  
4 delay the person taking the deposition shall certify it, the  
5 commission, and the interrogatories to the court from which  
6 the commission issued. When the deposition of a witness or  
7 other party is so taken and returned to the court, the ~~his~~  
8 testimony of the witness or other party has the same effect as  
9 if the witness or other party ~~he~~ testified in the court from  
10 which the commission issued. When the commission is issued to  
11 the officer by ~~his~~ official title only and not by name, the  
12 seal of the ~~his~~ office attached to the officer's ~~his~~  
13 certificate is sufficient evidence of the officer's ~~his~~  
14 identity and official character.

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

16 (755 ILCS 5/6-6) (from Ch. 110 1/2, par. 6-6)

17 Sec. 6-6. Proof of handwriting of a deceased or  
18 inaccessible witness or a witness with a disability.†

19 (a) If a witness to a will or other party who shall testify  
20 to have a will admitted (1) is dead, (2) is blind, (3) is  
21 mentally or physically incapable of testifying, (4) cannot be  
22 found, (5) is in active service of the armed forces of the  
23 United States or (6) is outside this State, the court may admit  
24 proof of the handwriting of the witness or other party and such  
25 other secondary evidence as is admissible in any court of

1 record to establish electronic records or written contracts  
2 and may admit the will to probate as though it had been proved  
3 by the testimony of the witness or other party. On motion of  
4 any interested person or on its own motion, the court may  
5 require that the deposition of any such witness or other  
6 party, who can be found, is mentally and physically capable of  
7 testifying and is not in the active service of the armed forces  
8 of the United States outside of the continental United States,  
9 be taken as the best evidence thereof.

10 (b) As used in this Section, "continental United States"  
11 means the States of the United States and the District of  
12 Columbia.

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

14 (755 ILCS 5/8-1) (from Ch. 110 1/2, par. 8-1)

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

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

25 (b) The petitioner shall cause a copy of the petition to be

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

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

25 (d) The right to institute or continue a proceeding to  
26 contest the validity of a will survives and descends to the

1 heir, legatee, representative, grantee or assignee of the  
2 person entitled to institute the proceeding.

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

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

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

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

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

22 Sec. 8-2. Contest of denial of admission of will to  
23 probate.

24 (a) Within 6 months after the entry of an order denying  
25 admission to probate of a domestic will in accordance with the



1 provisions of Section 6-4 or Section 20-20 or 20-25 of the  
2 Electronic Wills and Remote Witnesses Act, or of a foreign  
3 will in accordance with the provisions of Article VII of this  
4 Act, any interested person desiring to contest the denial of  
5 admission may file a petition to admit the will to probate in  
6 the proceeding for the administration of the decedent's estate  
7 or, if no proceeding is pending, in the court which denied  
8 admission of the will to probate. The petition must state the  
9 facts required to be stated in Section 6-2 or 6-20, whichever  
10 is applicable.

11 (b) The petitioner shall cause a copy of the petition to be  
12 mailed or delivered to the representative, to his or her  
13 attorney of record, and to each heir and legatee whose name is  
14 listed in the petition to admit the will to probate and in any  
15 amended petition filed in accordance with Section 6-11, at the  
16 address stated in the petition or amended petition. Filing a  
17 pleading constitutes a waiver of the mailing or delivery of  
18 the notice to the person filing the pleading. Failure to mail  
19 or deliver a copy of the petition to an heir or legatee does  
20 not extend the time within which a petition to admit the will  
21 to probate may be filed under subsection (a) of Section 8-1 or  
22 affect the validity of the judgment entered in the proceeding.

23 (c) Any proponent or contestant may demand a trial by  
24 jury. An issue shall be made whether or not the instrument  
25 produced is the will of the testator. The proponent shall in  
26 the first instance proceed with proof to establish the

1 validity of the will and may introduce any evidence competent  
2 to establish a will. Any interested person may oppose the  
3 petition and may introduce any evidence admissible in a will  
4 contest under Section 8-1. At the close of the contestant's  
5 case, the proponent may present further evidence to sustain  
6 the will.

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

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

18 (f) A person named as executor in a will that has been  
19 denied admission to probate has no duty to file or support a  
20 petition under Section 8-2.

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

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

24 Article 99. Effective Date

25 Section 99-99. Effective date. This Act takes effect upon

1 becoming law.