



Sen. Rachelle Crowe

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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                           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

1 tamper-evident electronic record and it has not been altered  
2 apart from the electronic signatures and other information  
3 that arises in the normal course of communication, storage,  
4 and display.

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

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

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

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

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

20 (a) A will, other than a will signed under Section 95-20 of  
21 the Electronic Commerce Security Act, attested to by one or  
22 more remote witnesses is sufficiently proved to be admitted to  
23 probate when each of at least 2 of the attesting witnesses make

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

7 (b) Each attesting witness shall state that:

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

13 (2) the will was attested to by the witness in the  
14 presence of the testator;

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

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

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

22 (1) testimony before the court;

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

26 (3) an affidavit that is signed by the witness at the

1 time of attestation and is attached to the will within 10  
2 business days; or

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

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

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

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

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

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

1 (1) testimony before the court;

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

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

11 Section 20-25. Admission of a will signed under the  
12 Electronic Commerce Security Act. A will attested to by a  
13 remote witness under Section 95-20 of the Electronic Commerce  
14 Security Act is sufficiently proved to be admitted to probate  
15 when each of at least 2 attesting witnesses:

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

22 (2) sign an attestation clause or affidavit at or after  
23 the act of witnessing that is attached to the will or an  
24 accurate copy of the will stating the testator and remote  
25 witness to the will substantially complied with Section 95-20

1 of the Electronic Commerce Security Act and the remote witness  
2 believed the testator to be of sound mind and memory at the  
3 time of the signing; or

4 (3) testify in court that the testator and remote witness  
5 substantially complied with Section 95-20 of the Electronic  
6 Commerce Security Act and that the remote witness believed the  
7 testator to be of sound mind and memory at the time of the  
8 signing.

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

21 Section 20-35. Formal proof of will with remote witness  
22 under Section 20-20. If a will has been admitted to probate  
23 under Section 20-20 before notice, any person entitled to  
24 notice under Section 6-10 of the Probate Act of 1975 may file a



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

1 probate is confirmed, but if that order is vacated, the time  
2 for filing the petition under Section 8-2 of the Probate Act of  
3 1975 runs from the date of vacation of the order admitting the  
4 will to probate.

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

13 Section 20-45. Formal proof of will witnessed under the  
14 Electronic Commerce Security Act. Testimony or other evidence  
15 at a hearing for formal proof of a will under Section 6-21 of  
16 the Probate of 1975 by a remote witness who witnessed the will  
17 under Section 95-20 of the Electronic Commerce Security Act  
18 shall establish the testator and remote witness substantially  
19 complied with the requirements of Section 95-20 of the  
20 Electronic Commerce Security Act and the remote witness  
21 believed the testator to be of sound mind and memory at the  
22 time of the signing. Formal proof of a will signed under  
23 Section 95-20 of the Electronic Commerce Security Act does not  
24 require testimony or other evidence that the remote witness

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

7 Article 95. Amendatory Provisions

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

11 (5 ILCS 175/5-115)

12 Sec. 5-115. Electronic records.

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

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

18 (1) when its application would involve a construction  
19 of a rule of law that is clearly inconsistent with the  
20 manifest intent of the lawmaking body or repugnant to the  
21 context of the same rule of law, provided that the mere  
22 requirement that information be "in writing", "written",  
23 or "printed" shall not by itself be sufficient to

1 establish such intent;

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

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

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

17 (5 ILCS 175/5-120)

18 Sec. 5-120. Electronic signatures.

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

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

1 submissions of a design professional with an electronic  
2 signature.

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

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

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

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

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

1 equivalent physical instrument, that can be possessed by  
2 only one person, and which cannot be copied except in a  
3 form that is readily identifiable as a copy.

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

5 (5 ILCS 175/5-125)

6 Sec. 5-125. Original.

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

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

24 (c) The provisions of this Section do not apply to any  
25 record that serves as a unique and transferable instrument of

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

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

12 (5 ILCS 175/10-130)

13 Sec. 10-130. Attribution of signature.

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

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

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

25 (3) the relying party relied reasonably and in good

1 faith to its detriment on the apparent source of the  
2 electronic record.

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

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

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

16 (755 ILCS 5/1-2.18) (from Ch. 110 1/2, par. 1-2.18)

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

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

20 (755 ILCS 5/1-2.25 new)

21 Sec. 1-2.25. Where this Act requires information to be  
22 "written" or "in writing", or provides for certain  
23 consequences if it is not, an electronic record under the



1 Electronic Wills and Remote Witnesses Act satisfies the  
2 provisions of this Act.

3 (755 ILCS 5/1-2.26 new)

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

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

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

13 (755 ILCS 5/6-5) (from Ch. 110 1/2, par. 6-5)

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

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

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

22 (755 ILCS 5/6-6) (from Ch. 110 1/2, par. 6-6)

23 Sec. 6-6. Proof of handwriting of a deceased or  
24 inaccessible witness or a witness with a disability.→

25 (a) If a witness to a will or other party who shall testify

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

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

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

20 (755 ILCS 5/8-1) (from Ch. 110 1/2, par. 8-1)

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

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

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

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

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

1 party received as evidence under subsection 6-4(b), paragraphs  
2 (c) and (e) of Section 20-20 of the Electronic Wills and Remote  
3 Witnesses Act, or Section 20-25 of the Electronic Wills and  
4 Remote Witnesses Act, is admissible in evidence.

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

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

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

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

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

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

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

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

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

1 to probate may be filed under subsection (a) of Section 8-1 or  
2 affect the validity of the judgment entered in the proceeding.

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

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

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

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

1           (g) This amendatory Act of 1995 applies to pending cases  
2 as well as cases commenced on or after its effective date.  
3 (Source: P.A. 89-364, eff. 8-18-95.)

4                                   Article 99. Effective Date

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