

**102ND GENERAL ASSEMBLY****State of Illinois****2021 and 2022****SB0072**

Introduced 1/29/2021, by Sen. Rachelle Crowe

SYNOPSIS AS INTRODUCED:

See Index

Creates the Electronic Wills and Remote Witnesses Act. Provides that an electronic will shall be executed by the testator or by some person in the testator's presence and at the testator's direction, and attested to in the testator's presence by 2 or more credible witnesses. Provides for the revocation of an electronic will. Provides that an electronic will is a digital asset and any person or business in possession of an electronic will is a custodian. Provides for certified copies. Provides that a person may witness any document, other than a will, using audio-video communication between the individual's signing the document and the witness. Provides for remote attestation for a will. Provides methods for determining a signer's or testator's identity. Provides for the verification of an electronic will when a petition to have an electronic will admitted to probate is filed. Provides for: admission of a paper copy of an electronic will; admission of a will attested to by a witness who is physically present; admission of a will attested to by a remote witness; and admission of a will signed under the Electronic Commerce Security Act. Provides that nothing prohibits any party from introducing evidence of fraud, forgery, compulsion, or other improper conduct which in the opinion of the court is deemed sufficient to invalidate the will when being admitted. Provides for: formal proof of a will with a remote witness; formal proof of an electronic will; and formal proof of a will witnessed under the Electronic Commerce Security Act. Makes corresponding changes in the Electronic Commerce Security Act and the Probate Act of 1975. Effective immediately.

LRB102 04343 LNS 14361 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 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 Article 20. Admission of Wills to Probate

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

21 Section 20-10. Admission of paper copy of electronic will.
22 Before being admitted to probate, a paper copy of an

1 electronic will shall be:

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

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

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

12 Section 20-20. Admission of wills attested to by a remote
13 witness.

14 (a) A will, other than a will signed under Section 95-20 of
15 the Electronic Commerce Security Act, attested to by one or
16 more remote witnesses is sufficiently proved to be admitted to
17 probate when each of at least 2 of the attesting witnesses make
18 the statements described in subsection (b), and if the
19 testator appointed a person to attach any separate signature
20 pages, attestation clauses, or affidavits forming a part of a
21 paper copy of an electronic will or paper document, each
22 appointed person, other than the testator, makes the
23 statements described in subsection (d).

24 (b) Each attesting witness shall state that:

1 (1) the attesting witness was present and saw the
2 testator or some person in the testator's presence and by
3 the testator's direction sign the will in the presence of
4 the witness or the testator acknowledged it to the witness
5 as the testator's act;

6 (2) the will was attested to by the witness in the
7 presence of the testator;

8 (3) the witness believed the testator to be of sound
9 mind and memory at the time of signing or acknowledging
10 the will; and

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

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

15 (1) testimony before the court;

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

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

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

25 (d) Any person appointed by the testator to attach to the
26 will the witnesses' signed signature pages, attestation

1 clauses, or affidavits forming a part of the will or copies of
2 the same shall state:

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

7 (2) that the person attached the signed signature
8 pages, attestation clauses, or affidavits forming a part
9 of the will or copies of the same to the testator's
10 complete and correct will; and

11 (3) if the signed signature pages, attestation
12 clauses, or affidavits forming a part of the will were
13 signed as electronic records, the statements required to
14 certify the paper copies of the electronic records under
15 Section 10-10.

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

20 (1) testimony before the court;

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

26 (3) an affidavit signed at or after the time of

1 attaching the signature pages, attestation clauses,
2 affidavits of the witnesses, or copies of the same and
3 attached to the will or an accurate copy of the will.

4 Section 20-25. Admission of a will signed under the
5 Electronic Commerce Security Act. A will attested to by a
6 remote witness under Section 95-20 of the Electronic Commerce
7 Security Act is sufficiently proved to be admitted to probate
8 when each of at least 2 attesting witnesses:

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

15 (2) sign an attestation clause or affidavit at or after
16 the act of witnessing that is attached to the will or an
17 accurate copy of the will stating the testator and remote
18 witness to the will substantially complied with Section 95-20
19 of the Electronic Commerce Security Act and the remote witness
20 believed the testator to be of sound mind and memory at the
21 time of the signing; or

22 (3) testify in court that the testator and remote witness
23 substantially complied with Section 95-20 of the Electronic
24 Commerce Security Act and that the remote witness believed the
25 testator to be of sound mind and memory at the time of the

1 signing.

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

14 Section 20-35. Formal proof of will with remote witness
15 under Section 20-20. If a will has been admitted to probate
16 under Section 20-20 before notice, any person entitled to
17 notice under Section 6-10 of the Probate Act of 1975 may file a
18 petition within 42 days after the effective date of the
19 original order admitting the will to probate to require proof
20 of the will, pursuant to this Section. The court shall set the
21 matter for hearing upon such notice to interested persons as
22 the court directs. At the hearing, the proponent shall
23 establish the will by testimony of the relevant parties as
24 provided in paragraph (1) of subsection (c) of Section 10-10,

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

24 Section 20-40. Formal proof of an electronic will. If a
25 petition is filed for proof of an electronic will under

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

7 Section 20-45. Formal proof of will witnessed under the
8 Electronic Commerce Security Act. Testimony or other evidence
9 at a hearing for formal proof of a will under Section 6-21 of
10 the Probate of 1975 by a remote witness who witnessed the will
11 under Section 95-20 of the Electronic Commerce Security Act
12 shall establish the testator and remote witness substantially
13 complied with the requirements of Section 95-20 of the
14 Electronic Commerce Security Act and the remote witness
15 believed the testator to be of sound mind and memory at the
16 time of the signing. Formal proof of a will signed under
17 Section 95-20 of the Electronic Commerce Security Act does not
18 require testimony or other evidence that the remote witness
19 attested to the will in the presence of the testator.
20 Testimony by the remote witness that conflicts with a
21 statement in the attestation clause or affidavit that the
22 remote witness attested to the will in the presence of the
23 testator does not affect proof of the will or the credibility
24 of the remote 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,
24 negotiable instruments and other instruments of title

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

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

10 (5 ILCS 175/5-120)

11 Sec. 5-120. Electronic signatures.

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

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

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

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

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

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

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

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

24 (5 ILCS 175/5-125)

25 Sec. 5-125. Original.

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

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

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

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

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

5 (5 ILCS 175/10-130)

6 Sec. 10-130. Attribution of signature.

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

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

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

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

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

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

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

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

9 (755 ILCS 5/1-2.18) (from Ch. 110 1/2, par. 1-2.18)

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

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

13 (755 ILCS 5/1-2.25 new)

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

19 (755 ILCS 5/1-2.26 new)

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

22 (1) being in the same physical location as another person

1 and close enough to see and know the other person is signing a
2 document; or

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

7 (755 ILCS 5/6-5) (from Ch. 110 1/2, par. 6-5)

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

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

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

15 (755 ILCS 5/6-6) (from Ch. 110 1/2, par. 6-6)

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

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

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

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

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

13 (755 ILCS 5/8-1) (from Ch. 110 1/2, par. 8-1)

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

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

24 (b) The petitioner shall cause a copy of the petition to be
25 mailed or delivered to the representative, to his or her

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

11 (c) Any contestant or proponent may demand a trial by
12 jury. An issue shall be made whether or not the instrument
13 produced is the will of the testator. The contestant shall in
14 the first instance proceed with proof to establish the
15 invalidity of the will. At the close of the contestant's case,
16 the proponent may present evidence to sustain the will. An
17 authenticated transcript of the testimony of any witness or
18 other party taken at the time of the hearing on the admission
19 of the will to probate, or an affidavit of any witness or other
20 party received as evidence under subsection 6-4(b), paragraphs
21 (c) and (e) of Section 20-20 of the Electronic Wills and Remote
22 Witnesses Act, or Section 20-25 of the Electronic Wills and
23 Remote Witnesses Act, is 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. 89-364, eff. 8-18-95.)

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

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

23 (a) Within 6 months after the entry of an order denying
24 admission to probate of a domestic will in accordance with the
25 provisions of Section 6-4 or Section 20-20 or 20-25 of the

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

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

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

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

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

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

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

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

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

23 Article 99. Effective Date

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

1 INDEX

2 Statutes amended in order of appearance

3 New Act

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8 755 ILCS 5/1-2.18 from Ch. 110 1/2, par. 1-2.18

9 755 ILCS 5/1-2.25 new

10 755 ILCS 5/1-2.26 new

11 755 ILCS 5/6-5 from Ch. 110 1/2, par. 6-5

12 755 ILCS 5/6-6 from Ch. 110 1/2, par. 6-6

13 755 ILCS 5/8-1 from Ch. 110 1/2, par. 8-1

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