



Sen. Kwame Raoul

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LRB095 04882 AJO 34488 a

1 AMENDMENT TO SENATE BILL 536

2 AMENDMENT NO. _____. Amend Senate Bill 536 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Secretary of State Act is amended by adding
5 Section 5.15 as follows:

6 (15 ILCS 305/5.15 new)

7 Sec. 5.15. Deposit of wills.

8 (a) Deposit of Wills. A depositor, as defined in subsection
9 (d), may deposit a will with the Secretary of State if the
10 depositor certifies in writing to the Secretary of State that
11 he or she is unable to locate the testator after a diligent
12 search. This Section applies whether it is known or unknown
13 whether the testator is living.

14 (b) Assumptions. The Secretary of State may assume, without
15 inquiring into the facts, that the depositor has first made a
16 diligent search for the testator.

1 (c) Fee. The Secretary of State shall collect a fee of \$25
2 for each deposit of a will. The Secretary of State shall not
3 collect a separate fee for additional documents concurrently
4 deposited in relation to a single testator or for a single
5 joint will prepared for a husband and wife.

6 (d) Definitions. As used in this Section:

7 "Depositor" means an attorney licensed or formerly
8 licensed to practice in the State of Illinois, the attorney's
9 representative, the guardian for the attorney, or the personal
10 representative of the attorney's decedent's estate;

11 "Testator" means a person who executed a will, other than
12 as a witness or official to whom acknowledgment of signing was
13 given;

14 "Will" refers to an original:

15 (1) will;

16 (2) codicil;

17 (3) will and one or more codicils;

18 (4) trust; or

19 (5) trust and one or more trust amendments.

20 (e) Duty of Secretary of State upon receipt. Upon receipt
21 of a will under this Section, the Secretary of State shall:

22 (1) provide the depositor with a receipt for the will,
23 which receipt shall contain the information designated on
24 the envelope per paragraph (3) of this subsection;

25 (2) place the will or wills deposited concurrently in
26 relation to a single testator in one envelope and seal the

1 envelope securely in the presence of the depositor or
2 depositor's agent;

3 (3) designate on the envelope:

4 (A) the date of deposit;

5 (B) the name, address, and telephone number of the
6 depositor;

7 (C) the name and last known address of the
8 testator;

9 (D) at the depositor's option, any and all of the
10 following information:

11 (i) alternate names by which the testator may
12 have been known;

13 (ii) the testator's birth date, and

14 (iii) the last 4 digits of the testator's
15 Social Security number;

16 (E) with respect to each document enclosed:

17 (i) a short description of the document,
18 including, if shown, its date of execution; and

19 (ii) the number of pages in the document; and

20 (4) index the will alphabetically by the name of the
21 testator, and by the alternate names set forth by which the
22 testator may have been known.

23 (f) Status as a public record. An envelope and will
24 deposited under this Section is not a public record.

25 (g) Duty of Secretary of State during testator's lifetime.
26 During the testator's lifetime, the Secretary of State shall:

1 (1) keep the envelope containing the will sealed; and

2 (2) deliver the envelope to:

3 (i) the testator;

4 (ii) a person authorized, in a writing signed by
5 the testator and notarized, to receive the envelope; or

6 (iii) a person, entity, court, or government
7 agency authorized to receive the envelope pursuant to
8 an order entered by a court of competent jurisdiction;

9 (h) Duty of Secretary of State upon notification of death
10 of testator. If the Secretary of State has custody of the will
11 after the death of the testator and is notified of the death of
12 the testator by means of a certified copy of the medical or
13 coroner's certificate of death or by a certified copy of an
14 order of court determining the testator to be deceased, upon
15 receipt of payment of a retrieval fee in the amount of \$10, the
16 Secretary of State shall deliver the sealed will envelope to
17 the court that has jurisdiction of the administration of the
18 decedent's estate within 30 days of receiving notification of
19 the testator's death. If there is any doubt as to whom a will
20 should be delivered, the Secretary of State, or any other
21 person, may apply to the circuit court having jurisdiction over
22 the testator's estate for directions as to whom the Secretary
23 of State should deliver the will.

24 (i) Duties of Secretary of State upon inquiry. Upon inquiry
25 by a person identified in paragraph (2) of subsection (g), or
26 upon inquiry of any person presenting a certified copy of a

1 medical or coroner's certificate of death of the testator or a
2 certified copy of an order of a court determining the testator
3 to be deceased, the Secretary of State shall inform the person
4 whether the name of the relevant testator appears in the
5 Secretary of State's index of wills. For the purposes of this
6 subsection, the Secretary of State need not be certain that the
7 testator is the one being inquired about, but may release that
8 information if it is possible that the testator is that one.

9 (j) Destruction of will. The Secretary of State may destroy
10 a will deposited under this Section if:

11 (1) the Secretary of State has not received notice of
12 the death of the testator; and

13 (2) at least 100 years have passed since the date the
14 will was deposited.

15 (k) Immunity. A depositor who complies with this Section is
16 immune from civil liability for depositing the will unless the
17 depositor does so with willful and wanton conduct."