

STATE OF NEW YORK

7856

2025-2026 Regular Sessions

IN ASSEMBLY

April 11, 2025

Introduced by M. of A. LAVINE, JACKSON, SAYEGH -- read once and referred to the Committee on Judiciary

AN ACT to amend the estates, powers and trusts law and the state technology law, in relation to electronic wills

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 3 of the estates, powers and trusts law is amended
2 by adding a new part 6 to read as follows:

3 PART 6. ELECTRONIC WILLS

4 Section 3-6.1 Short title

5 3-6.2 Definitions

6 3-6.3 Law applicable to electronic will; principles of equity

7 3-6.4 Choice of law regarding execution

8 3-6.5 Caution to testator

9 3-6.6 Execution of electronic will

10 3-6.7 Revocation

11 3-6.8 Electronic will attested and made self-proving at time of
12 execution

13 3-6.9 Filing of an electronic will

14 § 3-6.1 Short title

15 This part may be cited as the New York electronic wills act.

16 § 3-6.2 Definitions

17 For purposes of this part the following terms shall have the following
18 meanings:

19 (a) "Audit trail data" means data about the activities of data,
20 including but not limited to the electronic will's creation and
21 execution.

22 (b) "Electronic" shall have the same meaning set forth in subdivision
23 one of section three hundred two of the state technology law.

24 (c) "Electronic presence" means the relationship of two or more indi-
25 viduals in different locations communicating in real time by electronic
26 means to the same extent as if the individuals were physically present
27 in the same location.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (d) "Electronic will" means a will executed electronically in compli-
2 ance with paragraph (a) of section 3-6.6 and subsequently filed with the
3 New York state unified court system in accordance with section 3-6.9.
4 The original electronic will shall contain audit trail data.

5 (e) "Record" means information that is inscribed on a tangible medium
6 or that is stored in an electronic or other medium and is retrievable in
7 perceivable form.

8 (f) "Sign" means, with present intent to authenticate or adopt a
9 record: (1) to execute or adopt a tangible symbol; or (2) to affix to
10 or logically associate with the record an electronic symbol or process.

11 (g) "State" means a state of the United States, the District of Colum-
12 bia, Puerto Rico, the United States Virgin Islands, or any territory or
13 insular possession subject to the jurisdiction of the United States.
14 The term shall also include a federally recognized Indian tribe.

15 (h) "Will" has the same meaning as in section 1-2.19.

16 § 3-6.3 Law applicable to electronic will; principles of equity

17 An electronic will is a will for all purposes of the law of this
18 state. The law of this state applicable to wills and principles of equi-
19 ty apply to an electronic will, except as modified by this act.

20 § 3-6.4 Choice of law regarding execution

21 A will executed electronically but not in compliance with paragraph
22 (a) of section 3-6.6 is an electronic will under this act if executed in
23 compliance with the law of the jurisdiction where the testator is:

24 (a) physically located when the will is executed; or

25 (b) domiciled when the will is executed or when the testator dies.

26 § 3-6.5 Caution to the testator

27 An electronic will shall include a disclosure substantially similar to
28 the following in twelve-point font or larger, boldface, double-spaced
29 type:

30 CAUTION TO THE TESTATOR: YOUR WILL IS AN IMPORTANT DOCUMENT. AS TESTA-
31 TOR, YOUR WILL SHOULD REFLECT YOUR FINAL WISHES. TO BE VALID, IT MUST BE
32 SIGNED BY YOU OR ANOTHER INDIVIDUAL AUTHORIZED BY YOU AND WHO IS IN YOUR
33 PHYSICAL PRESENCE AT THE TIME OF SIGNING. IT MUST ALSO BE SIGNED IN YOUR
34 PHYSICAL OR ELECTRONIC PRESENCE BY AT LEAST TWO INDIVIDUALS, EACH OF
35 WHOM IS A DOMICILIARY OF A STATE, AND EACH OF WHOM SIGNS THE WILL WITHIN
36 A THIRTY DAY PERIOD AFTER WITNESSING YOU SIGN THE WILL, OR ACKNOWLEDGE
37 THAT YOU SIGNED IT.

38 WITHIN THIRTY DAYS AFTER THE ELECTRONIC WILL IS EXECUTED, IT MUST BE
39 ELECTRONICALLY FILED WITH THE NEW YORK STATE UNIFIED COURT SYSTEM.

40 YOU MAY REVOKE YOUR ELECTRONIC WILL AT ANY TIME. YOU MAY DO SO BY
41 EXECUTING A SUBSEQUENT WILL OR SEPARATE WRITING CLEARLY INDICATING YOUR
42 INTENT TO REVOKE ALL OR PART OF YOUR ELECTRONIC WILL, OR BY REQUESTING
43 ITS REMOVAL FROM THE NEW YORK STATE UNIFIED COURT SYSTEM. ONCE YOU HAVE
44 REMOVED YOUR ELECTRONIC WILL FROM THE NEW YORK STATE UNIFIED COURT
45 SYSTEM, IT IS HAS BEEN REVOKED.

46 § 3-6.6 Execution of electronic will

47 (a) Subject to paragraph (d) of section 3-6.8, an electronic will must
48 be:

49 (1) a record that is readable as text at the time of signing under
50 subparagraph two;

51 (2) signed at the end thereof by:

52 (A) the testator; or

53 (B) another individual in the testator's name, in the testator's phys-
54 ical presence and by the testator's direction, in a manner consistent
55 with section 3-2.1 (a)(1)(C), subject to the following:

1 (i) The presence of any matter following the testator's signature,
2 appearing on the will at the time of its execution, shall not invalidate
3 such matter preceding the signature as appeared on the will at the time
4 of its execution, except that such matter preceding the signature shall
5 not be given effect, in the discretion of the surrogate, if it is so
6 incomplete as not to be readily comprehensible without the aid of matter
7 which follows the signature, or if to give effect to such matter preced-
8 ing this signature would subvert the testator's general plan for the
9 disposition and administration of their estate.

10 (ii) No effect shall be given to any matter, other than the attesta-
11 tion clause, which follows the signature of the testator, or to any
12 matter preceding such signature which was added subsequently to the
13 execution of the will; and

14 (3) signed in the physical or electronic presence of the testator by
15 at least two individuals, each of whom is a domiciliary of a state and
16 within a thirty day period after witnessing:

17 (A) the signing of the will under subparagraph two; or

18 (B) the testator's acknowledgment of the signing of the will under
19 subparagraph two or acknowledgment of the will.

20 (b) Intent of a testator that the record under subparagraph one of
21 paragraph (a) of this section be the testator's electronic will may be
22 established by extrinsic evidence.

23 § 3-6.7 Revocation

24 (a) An electronic will may revoke all or part of a previous will.

25 (b) An electronic will is revoked by:

26 (1) a subsequent will that revokes all or part of the electronic will;

27 (2) removal of the electronic will from the custody of the New York
28 state unified court system by:

29 (i) the testator;

30 (ii) another person duly authorized by the testator as proved by at
31 least two witnesses, neither of whom shall be the person removing the
32 electronic will; or

33 (iii) as otherwise authorized by the uniform rules of the surrogate's
34 court; or

35 (3) a writing of the testator clearly indicating an intention to
36 effect such a revocation or alteration, executed with the formalities
37 prescribed by this article for the execution and attestation of a will.

38 (c) An electronic will may be removed from the custody of the New York
39 state court system by order of a court of competent jurisdiction which,
40 if occurring during the lifetime of the testator, shall not be deemed a
41 revocation of the electronic will.

42 § 3-6.8 Electronic will attested and made self-proving at time of 43 execution

44 (a) An electronic will may be simultaneously executed, attested, and
45 made self-proving by acknowledgment of the testator and affidavits of
46 the witnesses.

47 (b) The acknowledgment and affidavits under paragraph (a) must be:

48 (1) made before and in the physical or electronic presence of an offi-
49 cer authorized to administer oaths under law of the state in which the
50 officer is located; and

51 (2) evidenced by the officer's certificate under official seal affixed
52 to or logically associated with the electronic will.

53 (c) The acknowledgment and affidavits under paragraph (a) must conform
54 with section fourteen hundred six of the surrogate's court procedure act
55 and must indicate that the will was signed electronically.

1 (d) A signature physically or electronically affixed to an affidavit
2 that is affixed to or logically associated with an electronic will under
3 this act is deemed a signature of the electronic will under paragraph
4 (a) of section 3-6.6.

5 § 3-6.9 Filing of electronic will

6 Within thirty days of its execution, an electronic will shall be elec-
7 tronically filed with the New York state unified court system either by
8 the testator or another person duly authorized by the testator. The
9 electronic will shall remain in the custody of the New York state
10 unified court system until such time as it is removed or revoked in
11 accordance with section 3-6.7. The failure to timely file an electronic
12 will with the New York state unified court system shall result in the
13 unfiled electronic will being deemed invalid.

14 § 2. Paragraph (a) of section 1-2.19 of the estates, powers and trusts
15 law, as amended by chapter 686 of the laws of 1967, and such section as
16 renumbered by chapter 595 of the laws of 1992, is amended to read as
17 follows:

18 (a) A will is an oral declaration or written instrument, made as
19 prescribed by 3-2.1 [~~or~~], 3-2.2 or 3-6.6 to take effect upon death,
20 whereby a person disposes of property or directs how it shall not be
21 disposed of, disposes of [~~his~~] their body or any part thereof, exercises
22 a power, appoints a fiduciary or makes any other provision for the
23 administration of [~~his~~] their estate, and which is revocable during
24 [~~his~~] their lifetime.

25 § 3. The opening paragraph of paragraph (a) of section 3-2.1 of the
26 estates, powers and trusts law is amended to read as follows:

27 Except for nuncupative and holographic wills authorized by 3-2.2 and
28 electronic will authorized by part six of this article, every will must
29 be in writing, and executed and attested in the following manner:

30 § 4. Subdivision 1 of section 307 of the state technology law, as
31 separately amended by chapters 543 of the laws of 2023 and chapter 33 of
32 the laws of 2024, is amended to read as follows:

33 1. To any document providing for the disposition of an individual's
34 person or property upon death or incompetence, or appointing a fiduciary
35 of an individual's person or property, including, without limitation,
36 wills, unless such will is executed pursuant to part six of article
37 three of the estates, powers and trusts law, trusts, decisions consent-
38 ing to orders not to resuscitate, and powers of attorney and health care
39 proxies, with the exception of: (a) contractual beneficiary designa-
40 tions; (b) the registration of making, amending, or revoking an
41 anatomical gift under section forty-three hundred ten of the public
42 health law; (c) documents and forms authorizing or accepting funeral,
43 cemetery and cremation services; and (d) the execution of a valid power
44 of attorney for the purpose of transferring a salvage certificate of
45 title and the execution of an odometer and damage disclosure statement
46 in connection with such title whenever a loss in connection with a
47 private automobile is determined by an insurer to be a total loss or
48 constructive total loss under section three thousand four hundred twelve
49 of the insurance law.

50 § 5. This act shall take effect on the five hundred forty-fifth day
51 after it shall have become a law. Effective, immediately, the addition,
52 amendment and/or repeal of any rule or regulation necessary for the
53 implementation of this act on its effective date is authorized to be
54 made on or before such effective date.