STATE OF NEW YORK

7856--A

2025-2026 Regular Sessions

IN ASSEMBLY

April 11, 2025

Introduced by M. of A. LAVINE, JACKSON, SAYEGH, SHIMSKY, McMAHON -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

PART 6. ELECTRONIC WILLS

Section 3-6.1 Short title
3-6.2 Definitions
3-6.3 Law applicable to electronic will; principles of equity
3-6.4 Choice of law regarding execution
3-6.5 Caution to testator
3-6.6 Execution of electronic will
3-6.7 Revocation
3-6.8 Electronic will attested and made self-proving at time of execution
3-6.9 Filing of an electronic will

§ 3-6.1 Short title

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

§ 3-6.2 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

§ 3-6.4 Choice of law regarding execution

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

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

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

§ 3-6.5 Caution to the testator

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

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

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

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

§ 3-6.6 Execution of electronic will

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

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

(2) signed at the end thereof by:

(A) the testator; or

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

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

(ii) No effect shall be given to any matter, other than the attestation clause, which follows the signature of the testator, or to any matter preceding such signature which was added subsequently to the execution of the will; and

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

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

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

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

§ 3-6.7 Revocation

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

(b) An electronic will is revoked by:

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

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

(i) the testator;

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

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

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

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

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

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

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

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

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

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

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

§ 3-6.9 Filing of electronic will

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

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

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

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

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

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

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

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