

STATE OF NEW YORK

9497

IN ASSEMBLY

January 7, 2026

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

AN ACT to amend the estates, powers and trusts law, in relation to electronic wills; to amend the judiciary law, in relation to rules relating to electronic wills; and to amend a chapter of the laws of 2025 amending the estates, powers and trusts law and the state technology law relating to electronic wills, as proposed in legislative bills numbers S. 7416-A and A. 7856-A, in relation to the effectiveness thereof

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

Section 1. Part 6 of article 3 of the estates, powers and trusts law, as added by a chapter of the laws of 2025 amending the estates, powers and trusts law and the state technology law relating to electronic wills, as proposed in legislative bills numbers S. 7416-A and A. 7856-A, is amended 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

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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:

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

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

(b) "Communication technology" means an electric device or process that allows two or more remotely located individuals to communicate with each other simultaneously by sight and sound.

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

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

~~[(d)]~~ (e) "Electronic will" means a will executed electronically in compliance with ~~[paragraph]~~ paragraphs (a) and (b) 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)]~~ (f) "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)]~~ (g) "Sign", with respect to an electronic record, 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)]~~ (h) "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)]~~ (i) "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 and is formally valid and admissible to probate 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]~~ AT YOUR REQUEST 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 IN EACH OF THEIR PHYSICAL OR ELECTRONIC PRESENCES.

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

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

7 § 3-6.6 Execution of electronic will

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

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

12 (2) signed at the end thereof by:

13 (A) the testator; or

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

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

26 (ii) No effect shall be given to any matter, other than the attesta-
27 tion clause, which follows the signature of the testator, or to any
28 matter preceding such signature which was added subsequently to the
29 execution of the will; ~~and~~

30 (3) declared by the testator to each of the attesting witnesses in
31 their physical or electronic presence that the instrument the testator
32 has signed is the testator's will; and

33 (4) ~~signed [in the physical or electronic presence]~~ at the request of
34 the testator by at least two individuals, each of whom is a domiciliary
35 of a state and within a thirty day period after witnessing:

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

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

39 (b) An electronic will must be created and stored using technology
40 that reliably evidences to a person inspecting the electronic record:

41 (1) The authenticity of the testator's signing of the electronic
42 record;

43 (2) The identity of that electronic record with the electronic record
44 attested by the witnesses;

45 (3) All additions, deletions, or other alterations of the electronic
46 record after signing by the testator; and

47 (4) Audit trail data.

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

51 § 3-6.7 Revocation

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

53 (b) An electronic will is revoked by:

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

55 (2) removal of the electronic will from the custody of the New York
56 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.

(e) The existence of contemporaneously executed affidavits in electronic format executed in compliance with the applicable law governing electronic notaries or other such officers duly authorized to administer oaths electronically that satisfy paragraphs (a), (b) and (c) of this section shall create a rebuttable presumption that the electronic will was created in compliance with paragraph (b) of section 3-6.6.

§ 3-6.9 Filing of electronic will

Within thirty days of its execution, an electronic will with audit trail data 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 a chapter of the laws of 2025 amending the estates, powers and trusts law and the state technology law relating to electronic wills, as proposed in legislative bills numbers S. 7416-A and A. 7856-A, is amended to read as follows:

(a) A will is ~~[an oral declaration or]~~ a written instrument, oral declaration or electronic record, made as prescribed by 3-2.1, 3-2.2 or 3-6.6, respectively, to take effect upon death, whereby a person disposes of property or directs how it shall not be disposed of, disposes of their body or any part thereof, exercises a power, appoints

1 a fiduciary or makes any other provision for the administration of their
2 estate, and which is revocable during their lifetime.

3 § 3. The opening paragraph of paragraph (a) of section 3-2.1 of the
4 estates, powers and trusts law, as amended by a chapter of the laws of
5 2025 amending the estates, powers and trusts law and the state technolo-
6 gy law relating to electronic wills, as proposed in legislative bills
7 numbers S. 7416-A and A. 7856-A, is amended to read as follows:

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

12 § 4. Subdivision 2 of section 212 of the judiciary law is amended by
13 adding a new paragraph (ff) to read as follows:

14 (ff) Adopt rules necessary and appropriate to effectuate part six of
15 article three of the estates, powers and trusts law regarding electronic
16 wills.

17 § 5. Section 5 of a chapter of the laws of 2025 amending the estates,
18 powers and trusts law and the state technology law relating to electron-
19 ic wills, as proposed in legislative bills numbers S. 7416-A and A.
20 7856-A, is amended to read as follows:

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

26 § 6. This act shall take effect immediately; provided, however, that
27 sections one, two, three and four of this act shall take effect on the
28 same date and in the same manner as a chapter of the laws of 2025 amend-
29 ing the estates, powers and trusts law and the state technology law
30 relating to electronic wills, as proposed in legislative bills numbers
31 S. 7416-A and A. 7856-A, takes effect.