



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3269

Introduced 2/3/2026, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

705 ILCS 105/16.1 new

Amends the Clerks of the Courts Act. Authorizes a circuit court clerk of any county to develop and maintain a will depository. Provides a procedure for the clerk to accept for safekeeping a testamentary instrument including a will, codicil, trust, or trust and one or more trust amendments of a living testator. Provides that the depositor must deposit the will with the clerk in the county in which the testator resided when the will was executed. A depositor may be the testator or an attorney who is in possession of the will with written authorization by the testator. Provides that the clerk is not required to determine if the clerk's county is the correct county for the filing. Creates a procedure for the clerk to follow in accepting, keeping, and returning these documents. Allows the clerk to charge a fee of \$25 for each will deposited, and the clerk may not collect a separate fee for additional documents concurrently deposited in relation to a single testator or for a single joint will prepared for a husband and wife.

LRB104 18611 JRC 32054 b

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Clerks of Courts Act is amended by adding
5 Section 16.1 as follows:

6 (705 ILCS 105/16.1 new)

7 Sec. 16.1. Will depository;

8 (a) The clerk may establish and maintain a will depository
9 for the voluntary safekeeping of original wills before the
10 death of the testator.

11 (b) As used in this Section:

12 "Certified death certificate" means a record of death
13 issued by a governmental vital records authority that is
14 certified as a true copy and does not include an
15 electronically transmitted certificate unless expressly
16 authorized by the clerk.

17 "Clerk" means a circuit court clerk.

18 "Depository" or "will depository" means the secure, sealed
19 repository for original wills established and maintained under
20 this Section.

21 "Depositor" means the person delivering the will for
22 deposit and includes:

23 (1) the testator; or

1 (2) an attorney who is in possession of the will with
2 written authorization by the testator.

3 "Sealed envelope" means an envelope approved by the clerk
4 that conceals the contents of the will and bears the clerk's
5 identifying marks, date of deposit, and index number.

6 "Testator" means the person who executed the will being
7 deposited and whose death will trigger release of the will.

8 "Will" means a testamentary instrument executed in
9 compliance with Article IV of the Probate Act of 1975,
10 including a will, codicil, trust, or trust and one or more
11 trust amendments.

12 "Withdrawal" means the physical return of the deposited
13 will to the testator or to a person authorized to receive the
14 will under subsection (j).

15 (c) A depositor may deposit a will of a living person with
16 the clerk in the county in which the testator resided when the
17 will was executed. The clerk is not required to determine if
18 the clerk's county is the correct county for the filing. The
19 clerk may assume, without inquiring further, that the
20 depositor of the will is correct about the testator's county
21 of residence.

22 (d) The clerk may charge a fee of \$25 for each will
23 deposited. The clerk may also charge a \$15 retrieval and
24 transfer upon death fee. The clerk may not collect a separate
25 fee for additional documents concurrently deposited in
26 relation to a single testator or for a single joint will

1 prepared for a husband and wife. These fees may be included in
2 the fee schedule established under this Section and may be
3 revised as provided in this Section.

4 (e) Upon receipt of a will under this Section, the clerk
5 may:

6 (1) provide the depositor with a receipt for the will
7 that may contain the information designated on the
8 envelope in accordance with paragraph (3) of this
9 subsection;

10 (2) place the will or wills deposited concurrently in
11 relation to a single testator in one envelope and seal the
12 envelope securely in the presence of the depositor;

13 (3) designate on the envelope:

14 (A) the date of deposit;

15 (B) the name, address, and telephone number of the
16 depositor;

17 (C) the name and last known address of the
18 testator as provided by the depositor;

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

21 (i) alternate names by which the testator may
22 have been known;

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

24 (iii) the last 4 digits of the testator's
25 social security number; and

26 (E) with respect to each document enclosed:

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

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

4 (4) index the will alphabetically by the name of the
5 testator and by the alternate names set forth by which the
6 testator may have been known.

7 (f) An envelope and will deposited under this Section are
8 not public records.

9 (g) During the testator's lifetime, the clerk may:

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

11 (2) deliver the envelope to:

12 (i) the testator;

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

16 (iii) a person, entity, court, or government
17 agency authorized to receive the envelope pursuant
18 to an order entered by a court of competent
19 jurisdiction.

20 (h) During the lifetime of the testator, the clerk may
21 release the deposited will only to:

22 (1) the testator in person, upon proof of identity;

23 (2) a person authorized in a written instrument signed
24 by the testator; or

25 (3) a court pursuant to order.

26 No other person may inspect, copy, or obtain information

1 concerning the contents of the will.

2 (i) Upon presentation of a certified death certificate, or
3 by a certified copy of an order of court determining the
4 testator to be deceased, the clerk may promptly deliver the
5 sealed will envelope to the clerk of the circuit court of the
6 county in which the probate of the testator's will may occur as
7 determined under Section 5-1 of the Probate Act of 1975.

8 (j) Depositing a will with a clerk does not confer
9 validity on a will or any greater or lesser legal weight,
10 validity, consideration, or priority than any other will of
11 the same testator or testators under the provisions of the
12 Probate Act of 1975.

13 (k) The testator may withdraw the deposited will at any
14 time upon written request and proof of identity. A will
15 withdrawn under this subsection is no longer subject to this
16 Section.

17 (l) If 100 years have elapsed from the date of deposit and
18 the clerk has not received either a certified death
19 certificate or a withdrawal request, the clerk may destroy the
20 sealed will without further notice.

21 (m) The clerk is not liable for loss or destruction of a
22 will deposited under this Section, except for willful
23 misconduct.

24 (n) The clerk may adopt forms, affidavits, withdrawal
25 procedures, and other rules necessary to administer this
26 Section.