



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3291

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

SYNOPSIS AS INTRODUCED:

705 ILCS 105/16.2 new

Amends the Clerks of Court 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 executed in compliance with the Probate Act of 1975, including a will, codicil, trust, or trust and one or more trust amendments. Allows a depositor to deposit a will with the clerk if the depositor certifies in writing that the depositor is unable to locate the testator after a diligent search. 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 17378 JRC 30803 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 16.2 as follows:

6 (705 ILCS 105/16.2 new)

7 Sec. 16.2. Will depository.

8 (a) The clerk of any circuit court may establish and
9 maintain a will depository for the voluntary safekeeping of
10 original wills before the 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 "Depository" or "will depository" means the secure, sealed
18 repository for original wills established and maintained under
19 this Section.

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

22 (1) the testator;

23 (2) an attorney in possession of the will who

1 certifies that the testator cannot be located after
2 diligent search; or

3 (3) a person authorized in a written instrument signed
4 by the testator.

5 "Diligent search" means a good faith effort to locate the
6 testator that includes, at a minimum, inquiry at the
7 testator's last known address, review of the depositor's
8 client records, and at least one written notice sent by United
9 States mail or commercial delivery service to the last known
10 address of the testator.

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

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

16 "Will" means a testamentary instrument executed in
17 compliance with Article IV of the Probate Act of 1975,
18 including a will, codicil, trust, or trust and one or more
19 trust amendments.

20 "Withdrawal" means the physical return of the deposited
21 will to the testator or to a person authorized to receive the
22 will under subsection (h).

23 (c) A depositor may deposit a will of a living person with
24 the clerk under this Section. The depositor must be a resident
25 of the county in which the will is being deposited. The clerk
26 may assume, without inquiring further, the depositor of the

1 will is correct about the depositor's county of residence, and
2 that the depositor has made a diligent search as required
3 under this Section.

4 A depositor may deposit a will with the clerk if the
5 depositor certifies in writing that the depositor is unable to
6 locate the testator after a diligent search. The certification
7 shall be on a form to be provided by the clerk's office. This
8 Section applies whether it is known or unknown whether the
9 testator is living.

10 (d) The clerk may charge a fee of \$25 for each will
11 deposited. The clerk shall not collect a separate fee for
12 additional documents concurrently deposited in relation to a
13 single testator or for a single joint will prepared for a
14 husband and wife. These fees shall be included in the fee
15 schedule established under this Section and may be revised as
16 provided in this Section.

17 (e) Upon receipt of a will under this Section, the clerk
18 shall:

19 (1) provide the depositor with a receipt for the will,
20 and the receipt shall contain the information designated
21 on the envelope in accordance with paragraph (3) of this
22 subsection;

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

26 (3) designate on the envelope:

- 1 (A) the date of deposit;
- 2 (B) the name, address, and telephone number of the
3 depositor;
- 4 (C) the name and last known address of the
5 testator as provided by the depositor;
- 6 (D) at the depositor's option, any and all of the
7 following information:
- 8 (i) alternate names by which the testator may
9 have been known;
- 10 (ii) the testator's birth date, and
11 (iii) the last 4 digits of the testator's
12 social security number; and
- 13 (E) with respect to each document enclosed:
- 14 (i) a short description of the document,
15 including, if shown, its date of execution; and
- 16 (ii) the number of pages in the document; and
- 17 (4) index the will alphabetically by the name of the
18 testator and by the alternate names set forth by which the
19 testator may have been known.
- 20 (f) An envelope and will deposited under this Section are
21 not public records.
- 22 (g) During the testator's lifetime, the clerk shall:
- 23 (1) keep the envelope containing the will sealed; and
24 (2) deliver the envelope to:
- 25 (A) the testator;
- 26 (B) a person authorized, in writing signed by the

1 testator and notarized, to receive the envelope; or
2 (C) a person, entity, court, or government agency
3 authorized to receive the envelope under an order
4 entered by a court.

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

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

8 (2) a person authorized in a written instrument signed
9 by the testator; or

10 (3) a court pursuant to order.

11 No other person may inspect, copy, or obtain information
12 concerning the contents of the will.

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

19 The testator may withdraw the deposited will at any time upon
20 written request and proof of identity. A will withdrawn under
21 this subsection is no longer subject to this Section.

22 (j) If 100 years have elapsed from the date of deposit, and
23 the clerk has not received either a certified death
24 certificate or a withdrawal request, the clerk may destroy the
25 sealed will without further notice.

26 (k) The clerk is not liable for loss or destruction of a

1 will deposited under this Section, except for willful
2 misconduct.

3 (1) The clerk may adopt forms, affidavits, withdrawal
4 procedures, and other rules necessary to administer this
5 Section.