

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, who is a resident in the county
23 where the will is being deposited; or

1 (2) a person authorized by court order.

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

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

7 "Will" means a document deposited by a person intended to
8 be a testamentary instrument.

9 "Withdrawal" means the physical return of the deposited
10 will to the testator or to a person authorized to receive the
11 will under subsection (h).

12 (c) A depositor may deposit a will of a living person with
13 the clerk under this Section. The depositor must be a resident
14 of the county in which the will is being deposited. The clerk
15 may assume, without inquiring further, that the depositor of
16 the will is correct about the depositor's county of residence.

17 (d) The clerk may charge a fee up to \$25 for each will
18 deposited. The clerk shall not collect a separate fee for
19 additional documents concurrently deposited in relation to a
20 single testator or for a single joint will prepared for a
21 spouse or legally married person. These fees shall be included
22 in the fee schedule established under this Section and may be
23 revised as provided in this Section.

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

26 (1) provide the depositor with a receipt for the will,

1 and the receipt shall contain the information designated
2 on the envelope in accordance with paragraph (3) of this
3 subsection;

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

7 (3) designate on the envelope:

8 (A) the date of deposit;

9 (B) the name, address, and telephone number of the
10 depositor;

11 (C) the full legal name and last known address of
12 the testator as provided by the depositor;

13 (D) the full legal names of the executor or
14 co-executors; and

15 (E) with respect to each document enclosed:

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

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

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

22 (f) An envelope and will deposited under this Section are
23 not public records or court records, and are prohibited from
24 public access and inspection.

25 At the depositor's option, the depositor shall disclose 2
26 of the 3 listed pieces of information:

1 (1) alternate names by which the testator may have
2 been known;

3 (2) the testator's birth date, and

4 (3) the last 4 digits of the testator's social
5 security number.

6 (g) During the testator's lifetime, the clerk shall keep
7 the envelope containing the will sealed.

8 (h) During the testator's lifetime, the clerk may release
9 the deposited will only to:

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

11 (2) a court pursuant to an order.

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

14 (i) The clerk shall release the testator's sealed will
15 envelope to any of the executors named on the front of the
16 envelope if presented with a certified death certificate of
17 the testator or with a certified copy of an order of court
18 determining the testator to be deceased. To receive the sealed
19 will envelope the executor must provide proof of identity. If
20 12 months from the testator's date of death have elapsed, and
21 no named executor has removed the sealed will envelope from
22 the depository, the clerk shall release it to any heir,
23 creditor, or interested party who presents a court order
24 granting them the authority to receive it.

25 The testator may withdraw the deposited will at any time
26 upon written request and proof of identity. A will withdrawn

1 under this subsection is no longer subject to this Section.

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

6 (k) The clerk is not liable for loss or destruction of a
7 will deposited under this Section, except for willful
8 misconduct. If a will cannot be located within a reasonable
9 period of time, the clerk's office will provide certification
10 with the information contained in subparagraphs (A) through
11 (D) of paragraph (3) of subsection (e).

12 (l) The clerk may adopt forms, affidavits, withdrawal
13 procedures, and other rules necessary to administer this
14 Section.

15 (m) The depositing of a will with any clerk does not confer
16 validity upon the will or any greater or lesser legal weight,
17 validity, consideration, or priority than any other will of
18 the same testator or testators under the provisions of the
19 Probate Act of 1975.