



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3409

Introduced 2/17/2023, by Rep. Randy E. Frese

SYNOPSIS AS INTRODUCED:

755 ILCS 5/8-1
755 ILCS 5/8-2

from Ch. 110 1/2, par. 8-1
from Ch. 110 1/2, par. 8-2

Amends the Will Contests Article of the Probate Act of 1975. Provides that persons who stood to inherit under a previous will, including stepchildren, have standing and are entitled to institute a proceeding for the administration of the testator's estate or to contest the denial of admission of a will. Provides that the amendatory Act may be referred to as Karen's Law.

LRB103 30975 LNS 57566 b

1 AN ACT concerning civil law.

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

4 Section 1. This Act may be referred to as Karen's Law.

5 Section 5. The Probate Act of 1975 is amended by changing
6 Sections 8-1 and 8-2 as follows:

7 (755 ILCS 5/8-1) (from Ch. 110 1/2, par. 8-1)

8 Sec. 8-1. Contest of admission of will to probate; notice.

9 (a) Within 6 months after the admission to probate of a
10 domestic will in accordance with the provisions of Section 6-4
11 or Section 20-20 or 20-25 of the Electronic Wills and Remote
12 Witnesses Act, or of a foreign will in accordance with the
13 provisions of Article VII of this Act, any interested person
14 may file a petition in the proceeding for the administration
15 of the testator's estate or, if no proceeding is pending, in
16 the court in which the will was admitted to probate, to contest
17 the validity of the will.

18 (b) The petitioner shall cause a copy of the petition to be
19 mailed or delivered to the representative, to his or her
20 attorney of record, and to each heir and legatee whose name is
21 listed in the petition to admit the will to probate and in any
22 amended petition filed in accordance with Section 6-11, at the

1 address stated in the petition or amended petition. Filing a
2 pleading constitutes a waiver of the mailing or delivery of
3 the notice to the person filing the pleading. Failure to mail
4 or deliver a copy of the petition to an heir or a legatee does
5 not extend the time within which a petition to contest the will
6 may be filed under subsection (a) of this Section or affect the
7 validity of the judgement entered in the proceeding.

8 (c) Any contestant or proponent may demand a trial by
9 jury. An issue shall be made whether or not the instrument
10 produced is the will of the testator. The contestant shall in
11 the first instance proceed with proof to establish the
12 invalidity of the will. At the close of the contestant's case,
13 the proponent may present evidence to sustain the will. An
14 authenticated transcript of the testimony of any witness or
15 other party taken at the time of the hearing on the admission
16 of the will to probate, or an affidavit of any witness or other
17 party received as evidence under subsection 6-4(b), paragraphs
18 (c) and (e) of Section 20-20 of the Electronic Wills and Remote
19 Witnesses Act, or Section 20-25 of the Electronic Wills and
20 Remote Witnesses Act, is admissible in evidence.

21 (d) The right to institute or continue a proceeding to
22 contest the validity of a will survives and descends to the
23 heir, legatee, representative, grantee or assignee of the
24 person entitled to institute the proceeding. Persons who stood
25 to inherit under a previous will, including stepchildren, have
26 standing and are entitled to institute a proceeding.

1 (e) It is the duty of the representative to defend a
2 proceeding to contest the validity of the will. The court may
3 order the representative to defend the proceeding or prosecute
4 an appeal from the judgment. If the representative fails or
5 refuses to do so when ordered by the court, or if there is no
6 representative then acting, the court, upon its motion or on
7 application of any interested person, may appoint a special
8 administrator to defend or appeal in his stead.

9 (f) An action to set aside or contest the validity of a
10 revocable inter vivos trust agreement or declaration of trust
11 to which a legacy is provided by the settlor's will which is
12 admitted to probate shall be commenced within and not after
13 the time to contest the validity of a will as provided in
14 subsection (a) of this Section and Section 13-223 of the Code
15 of Civil Procedure.

16 (g) This amendatory Act of 1995 applies to pending cases
17 as well as cases commenced on or after its effective date.

18 (Source: P.A. 102-167, eff. 7-26-21.)

19 (755 ILCS 5/8-2) (from Ch. 110 1/2, par. 8-2)

20 Sec. 8-2. Contest of denial of admission of will to
21 probate.

22 (a) Within 6 months after the entry of an order denying
23 admission to probate of a domestic will in accordance with the
24 provisions of Section 6-4 or Section 20-20 or 20-25 of the
25 Electronic Wills and Remote Witnesses Act, or of a foreign

1 will in accordance with the provisions of Article VII of this
2 Act, any interested person desiring to contest the denial of
3 admission may file a petition to admit the will to probate in
4 the proceeding for the administration of the decedent's estate
5 or, if no proceeding is pending, in the court which denied
6 admission of the will to probate. The petition must state the
7 facts required to be stated in Section 6-2 or 6-20, whichever
8 is applicable.

9 (b) The petitioner shall cause a copy of the petition to be
10 mailed or delivered to the representative, to his or her
11 attorney of record, and to each heir and legatee whose name is
12 listed in the petition to admit the will to probate and in any
13 amended petition filed in accordance with Section 6-11, at the
14 address stated in the petition or amended petition. Filing a
15 pleading constitutes a waiver of the mailing or delivery of
16 the notice to the person filing the pleading. Failure to mail
17 or deliver a copy of the petition to an heir or legatee does
18 not extend the time within which a petition to admit the will
19 to probate may be filed under subsection (a) of Section 8-1 or
20 affect the validity of the judgment entered in the proceeding.

21 (c) Any proponent or contestant may demand a trial by
22 jury. An issue shall be made whether or not the instrument
23 produced is the will of the testator. The proponent shall in
24 the first instance proceed with proof to establish the
25 validity of the will and may introduce any evidence competent
26 to establish a will. Any interested person may oppose the

1 petition and may introduce any evidence admissible in a will
2 contest under Section 8-1. At the close of the contestant's
3 case, the proponent may present further evidence to sustain
4 the will.

5 (d) The right to institute or continue a proceeding to
6 contest the denial of admission of a will to probate survives
7 and descends to the heir, legatee, representative, grantee or
8 assignee of the person entitled to institute the proceeding.
9 Persons who stood to inherit under a previous will, including
10 stepchildren, have standing and are entitled to institute a
11 proceeding.

12 (e) The court may order the representative to defend a
13 proceeding to probate the will or prosecute an appeal from the
14 judgment. If the representative fails or refuses to do so when
15 ordered by the court, or if there is no representative then
16 acting, the court, upon its motion or on application of any
17 interested person, may appoint a special administrator to do
18 so in his stead.

19 (f) A person named as executor in a will that has been
20 denied admission to probate has no duty to file or support a
21 petition under Section 8-2.

22 (g) This amendatory Act of 1995 applies to pending cases
23 as well as cases commenced on or after its effective date.

24 (Source: P.A. 102-167, eff. 7-26-21.)