

HOUSE BILL No. 1416

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-1-21.

Synopsis: Statewide electronic wills registry. Authorizes the supreme court and state office of judicial administration to create a statewide electronic wills registry (registry). Provides the supreme court and the state office of judicial administration with rule making authority. Allows certain individuals to deposit the following items into the registry: (1) Information concerning individual testators, electronic wills, or the execution of an electronic will. (2) The electronic record of an electronic will. (3) Any document integrity evidence associated with an electronic will. (4) A digital and readable copy of a complete converted copy of an electronic will. Requires the administrator of the registry to index submitted items according to the following: (1) The name of the testator. (2) The testator's county of residence. (3) The date of execution for any submitted electronic will. (4) The name of any attorney responsible for the preparation or execution of a submitted electronic will. Requires the registry administrator to make the registry index: (1) available to; and (2) searchable by; the public. Requires the registry administrator to keep the substantive content of: (1) any electronic will; (2) any complete converted copy; or (3) all document integrity evidence; private, secure, and inaccessible to the public. Requires the registry administrator to issue a certified report concerning the existence of certain items associated with a specific testator in certain instances. Requires the registry administrator to issue a certified transcript of: (1) an electronic will; (2) a complete converted copy; and (3) any associated document integrity evidence; in certain instances. Allows the registry administrator to charge fees in certain instances. Defines certain terms.

Effective: July 1, 2019.

Richardson

January 16, 2018, read first time and referred to Committee on Judiciary.



Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1416

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 29-1-21 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2019]:
4 **Chapter 21. Electronic Wills Registry**
5 **Sec. 1. The following terms are defined for this chapter:**
6 **(1) "Complete converted copy" means a document in any**
7 **format that:**
8 **(A) can be visually perceived in its entirety on a monitor or**
9 **other display device;**
10 **(B) can be printed; and**
11 **(C) contains the following:**
12 **(i) The text of an electronic will.**
13 **(ii) The respective electronic signatures of the testator**
14 **and attesting witnesses.**
15 **(iii) A readable copy of all document integrity evidence,**
16 **if applicable.**
17 **(iv) A self-proving affidavit if the electronic will is**



- 1 self-proved.
- 2 (2) "Document integrity evidence" means the part of an
- 3 electronic will's electronic record that:
- 4 (A) is created and maintained electronically;
- 5 (B) includes digital markers to demonstrate that the
- 6 electronic will has not been altered or tampered with after
- 7 its execution;
- 8 (C) is logically associated with the electronic will; and
- 9 (D) includes the following information:
- 10 (i) The city, state, date, and time of the electronic will's
- 11 execution by the testator and attesting witnesses.
- 12 (ii) The text of the self-proving affidavit if the electronic
- 13 will is self-proved.
- 14 (iii) The name of the testator and all attesting witnesses.
- 15 (iv) The name and address of any person responsible for
- 16 signing the testator's signature on the electronic will at
- 17 the testator's direction and in the testator's presence.
- 18 (v) Copies of or links to the electronic signatures of the
- 19 testator and the attesting witnesses.
- 20 (vi) A general description of the type of identity
- 21 verification evidence used to verify the testator's
- 22 identity.
- 23 (3) "Electronic signature" has the meaning set forth in
- 24 IC 26-2-8-102.
- 25 (4) "Electronic will" means the will of a testator that:
- 26 (A) is initially created and maintained as an electronic
- 27 record;
- 28 (B) contains the electronic signatures of the testator and
- 29 attesting witnesses; and
- 30 (C) contains the date and time of the electronic signatures.
- 31 (5) "Index" means the index created by section 2(d) of this
- 32 chapter.
- 33 (6) "Registry" means the statewide electronic wills registry
- 34 described in section 2(a) of this chapter.
- 35 **Sec. 2. (a) The supreme court and the state office of judicial**
- 36 **administration are authorized to establish and administer a**
- 37 **statewide electronic wills registry under rules adopted by the**
- 38 **supreme court.**
- 39 (b) If permitted under the rules adopted for the registry, the
- 40 testator, testator's lawyer, or any other custodian of the electronic
- 41 will may deposit one (1) or more of the following items in the
- 42 registry:



- 1 **(1) Information concerning:**
 2 **(A) individual testators;**
 3 **(B) electronic wills; or**
 4 **(C) the execution of an electronic will deposited into the**
 5 **registry.**
 6 **(2) The electronic record for an electronic will.**
 7 **(3) Any document integrity evidence associated with an**
 8 **electronic will.**
 9 **(4) A digital and readable copy of a complete converted copy**
 10 **of an electronic will.**

11 **An item described in this subsection may be deposited into the**
 12 **registry through digital or online means if permitted by the rules**
 13 **adopted for the registry.**

14 **(c) The administrator of the registry may collect a one (1) time**
 15 **fee for a deposit described in subsection (b). The amount charged**
 16 **under this subsection must:**

- 17 **(1) be set by the state office of judicial administration; and**
 18 **(2) be charged at the time of the deposit.**

19 **(d) The registry administrator shall index each item deposited**
 20 **into the registry according to the following characteristics:**

- 21 **(1) The name of the testator.**
 22 **(2) The testator's county of residence.**
 23 **(3) The date of execution for any submitted electronic will.**
 24 **(4) The name of any attorney responsible for the preparation**
 25 **or execution of a submitted electronic will.**

26 **The registry administrator shall assign a unique document number**
 27 **or identifier to each electronic will deposited into the registry.**

28 **(e) The administrator of the registry shall make the index**
 29 **created under subsection (d):**

- 30 **(1) available to the public; and**
 31 **(2) searchable through digital or online means.**

32 **The administrator of the registry may not charge a fee for access**
 33 **to or use of the index described in subsection (d).**

34 **(f) The administrator of the registry shall insure that any**
 35 **information:**

- 36 **(1) contained in an electronic will deposited into the registry;**
 37 **and**
 38 **(2) not described in subsection (e);**

39 **is not accessible or searchable by the public.**

40 **(g) The administrator, upon receipt of a digital, online, or**
 41 **written request by any interested person, shall issue a certified**
 42 **report specifying whether or not the registry possesses any items**



1 described in subsection (b) for a specific testator. If the registry
 2 possesses any items described in subsection (b) for a specific
 3 testator, any certified report issued under this subsection must
 4 contain the information described in subsection (d) for the
 5 applicable testator. The administrator may charge and collect a fee
 6 for each report issued under this subsection. A fee charged under
 7 this subsection shall:

- 8 (1) be set by the state office of judicial administration; and
- 9 (2) be assessed at the time the report described in this
 10 subsection is issued.

11 (h) Upon the written, digital, or online request of:

- 12 (1) the living testator;
- 13 (2) an attorney or other person possessing written
 14 authorization from a living testator;
- 15 (3) a person nominated as the personal representative in the
 16 electronic will; or
- 17 (4) any person who is an interested person with respect to the
 18 testator's estate following the testator's death;

19 the administrator of the registry shall prepare and issue a certified
 20 transcript of the electronic will and all associated items in a form
 21 that is suitable to digitally saving and printing.

22 (i) A certified transcript issued under subsection (h) shall consist
 23 of:

- 24 (1) the electronic will or a complete converted copy of the
 25 electronic will, as applicable; and
- 26 (2) any document integrity evidence associated with the
 27 electronic will, as applicable.

28 The administrator may charge a fee for each transcript issued
 29 under this subsection. The amount charged for the issuance of a
 30 transcript described under this subsection must be set by the state
 31 office of judicial administration and assessed at the time the
 32 transcript is issued.

33 (j) A certified report issued under subsection (g) or a certified
 34 transcript issued under subsection (h) constitute prima facie
 35 evidence of their respective contents and may be filed with a court
 36 without further authentication in any proceeding described under
 37 IC 29-1-7.

