

REFERENCE TITLE: **electronic wills and trusts.**

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HB 2471

Introduced by
Representative Leach

AN ACT

AMENDING TITLE 14, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 14-2500; AMENDING SECTION 14-2507, ARIZONA REVISED STATUTES; AMENDING TITLE 14, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 14-2518, 14-2519, 14-2520, 14-2521, 14-2522, 14-2523 AND 14-2524; AMENDING SECTIONS 14-3303 AND 14-10103, ARIZONA REVISED STATUTES; AMENDING TITLE 14, CHAPTER 11, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 14-10206; AMENDING TITLE 14, CHAPTER 11, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 14-10419; RELATING TO WILLS AND TRUSTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 14, chapter 2, article 5, Arizona Revised
3 Statutes, is amended by adding section 14-2500, to read:

4 **14-2500. Definitions**

5 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 1. "CERTIFIED PAPER ORIGINAL" MEANS A TANGIBLE DOCUMENT THAT
7 CONTAINS THE TEXT OF AN ELECTRONIC WILL AND ANY SELF-PROVING AFFIDAVIT
8 CONCERNING THE ELECTRONIC WILL.

9 2. "ELECTRONIC NOTARY PUBLIC" HAS THE SAME MEANING PRESCRIBED IN
10 SECTION 41-351.

11 3. "ELECTRONIC RECORD" MEANS A RECORD THAT IS CREATED, GENERATED,
12 SENT, COMMUNICATED, RECEIVED OR STORED BY ELECTRONIC MEANS.

13 4. "ELECTRONIC WILL" MEANS AN INSTRUMENT, INCLUDING A CODICIL, THAT
14 IS EXECUTED BY A PERSON AS PRESCRIBED IN SECTION 14-2518 AND THAT DISPOSES
15 OF THE PROPERTY OF THE PERSON ON OR AFTER THE DEATH OF THE PERSON.

16 5. "QUALIFIED CUSTODIAN" MEANS A PERSON WHO AGREES TO SERVE AS A
17 QUALIFIED CUSTODIAN OF AN ELECTRONIC WILL.

18 Sec. 2. Section 14-2507, Arizona Revised Statutes, is amended to
19 read:

20 **14-2507. Revocation of will or electronic will; requirements**

21 A. A testator may revoke a will OR ELECTRONIC WILL in whole or in
22 part:

23 1. By executing a subsequent will OR ELECTRONIC WILL that revokes
24 the previous will OR ELECTRONIC WILL or part expressly or by
25 inconsistency.

26 2. By performing a revocatory act on the will if the testator
27 performs the act with this intent or if another person performs the act in
28 the testator's conscious presence and by the testator's direction. For
29 THE purposes of this paragraph, "revocatory act on the will" includes
30 burning, tearing, canceling, obliterating or destroying the will or any
31 part of it. A burning, tearing or canceling is a revocatory act on the
32 will whether or not the burn, tear or cancellation touched any of the
33 words on the will.

34 3. BY CANCELING, RENDERING UNREADABLE OR OBLITERATING AN ELECTRONIC
35 WILL WITH THE INTENTION OF REVOKING IT BY EITHER OF THE FOLLOWING:

36 (a) THE TESTATOR OR A PERSON IN THE PRESENCE AND AT THE DIRECTION
37 OF THE TESTATOR.

38 (b) IF THE ELECTRONIC WILL IS IN THE CUSTODY OF A QUALIFIED
39 CUSTODIAN, THE QUALIFIED CUSTODIAN AT THE DIRECTION OF THE TESTATOR.

40 B. If a subsequent will OR ELECTRONIC WILL does not expressly
41 revoke a previous will OR ELECTRONIC WILL, the execution of the subsequent
42 will OR ELECTRONIC WILL wholly revokes the previous will OR ELECTRONIC
43 WILL by inconsistency if the testator intended the subsequent will OR
44 ELECTRONIC WILL to replace rather than supplement the previous will OR
45 ELECTRONIC WILL.

1 C. The testator is presumed to have intended a subsequent will **OR**
2 **ELECTRONIC WILL** to replace rather than supplement a previous will **OR**
3 **ELECTRONIC WILL** if the subsequent will **OR ELECTRONIC WILL** makes a complete
4 disposition of the testator's estate. If this presumption arises and is
5 not rebutted by clear and convincing evidence, the previous will **OR**
6 **ELECTRONIC WILL** is revoked and only the subsequent will is operative on
7 the testator's death.

8 D. The testator is presumed to have intended a subsequent will **OR**
9 **ELECTRONIC WILL** to supplement rather than replace a previous will **OR**
10 **ELECTRONIC WILL** if the subsequent will **OR ELECTRONIC WILL** does not make a
11 complete disposition of the testator's estate. If this presumption arises
12 and is not rebutted by clear and convincing evidence, the subsequent will
13 **OR ELECTRONIC WILL** revokes the previous will **OR ELECTRONIC WILL** only to
14 the extent the subsequent will **OR ELECTRONIC WILL** is inconsistent with the
15 previous will **OR ELECTRONIC WILL** and each will is fully operative on the
16 testator's death to the extent they are not inconsistent.

17 Sec. 3. Title 14, chapter 2, article 5, Arizona Revised Statutes,
18 is amended by adding sections 14-2518, 14-2519, 14-2520, 14-2521, 14-2522,
19 14-2523 and 14-2524, to read:

20 14-2518. Electronic will; requirements; interpretation;
21 definitions

22 A. AN ELECTRONIC WILL MUST MEET ALL OF THE FOLLOWING REQUIREMENTS:
23 1. BE CREATED AND MAINTAINED IN AN ELECTRONIC RECORD.
24 2. CONTAIN THE DATE, THE ELECTRONIC SIGNATURE OF THE TESTATOR AND
25 AT LEAST ONE OF THE FOLLOWING:
26 (a) AN AUTHENTICATION CHARACTERISTIC OF THE TESTATOR.
27 (b) THE ELECTRONIC SIGNATURE AND ELECTRONIC SEAL OF AN ELECTRONIC
28 NOTARY PUBLIC PLACED ON THE WILL IN THE PRESENCE OF THE TESTATOR AND IN
29 WHOSE PRESENCE THE TESTATOR PLACED THE TESTATOR'S ELECTRONIC SIGNATURE ON
30 THE ELECTRONIC WILL.

31 B. A PERSON WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND WHO IS OF
32 SOUND MIND MAY MAKE AN ELECTRONIC WILL.

33 C. EXCEPT AS PROVIDED IN THIS SECTION AND SECTIONS 14-2519,
34 14-2520, 14-2521, 14-2522 AND 14-2523, ANY QUESTION RAISED ABOUT THE
35 FORCE, EFFECT, VALIDITY AND INTERPRETATION OF AN ELECTRONIC WILL SHALL BE
36 DETERMINED IN THE SAME MANNER AS A QUESTION REGARDING A WILL EXECUTED
37 PURSUANT TO SECTION 14-2502.

38 D. THIS SECTION DOES NOT APPLY TO A TRUST EXCEPT A TRUST CONTAINED
39 IN AN ELECTRONIC WILL.

40 E. FOR THE PURPOSES OF THIS SECTION:

41 1. "AUTHENTICATION CHARACTERISTIC" MEANS A CHARACTERISTIC OF A
42 CERTAIN PERSON THAT IS UNIQUE TO THAT PERSON AND THAT IS CAPABLE OF
43 MEASUREMENT AND RECOGNITION IN AN ELECTRONIC RECORD AS A BIOLOGICAL ASPECT
44 OF OR PHYSICAL ACT PERFORMED BY THAT PERSON. AUTHENTICATION
45 CHARACTERISTIC INCLUDES A FINGERPRINT, A RETINAL SCAN, VOICE RECOGNITION,

1 FACIAL RECOGNITION, A VIDEO RECORDING, A DIGITIZED SIGNATURE OR ANY OTHER
2 COMMERCIALY REASONABLE AUTHENTICATION USING A UNIQUE CHARACTERISTIC OF
3 THE PERSON.

4 2. "DIGITIZED SIGNATURE" MEANS A GRAPHICAL IMAGE OF A HANDWRITTEN
5 SIGNATURE THAT IS CREATED, GENERATED OR STORED BY ELECTRONIC MEANS.

6 14-2519. Self-proved electronic will

7 IN ADDITION TO THE REQUIREMENTS OF SECTION 14-2504, TO BE
8 SELF-PROVED, AN ELECTRONIC WILL MUST MEET ALL OF THE FOLLOWING
9 REQUIREMENTS:

10 1. THE AFFIDAVITS OF ATTESTING WITNESSES ARE INCORPORATED AS PART
11 OF, ATTACHED TO OR LOGICALLY ASSOCIATED WITH THE ELECTRONIC WILL.

12 2. THE ELECTRONIC WILL DESIGNATES A QUALIFIED CUSTODIAN TO MAINTAIN
13 CUSTODY OF THE ELECTRONIC WILL.

14 3. BEFORE BEING OFFERED FOR PROBATE OR BEING REDUCED TO A CERTIFIED
15 PAPER COPY, THE ELECTRONIC WILL IS UNDER THE CUSTODY OF A QUALIFIED
16 CUSTODIAN AT ALL TIMES.

17 14-2520. Qualified custodian

18 A QUALIFIED CUSTODIAN OF AN ELECTRONIC WILL:

19 1. MAY NOT BE AN HEIR OF THE TESTATOR OR A BENEFICIARY OR DEVISEE
20 UNDER THE ELECTRONIC WILL.

21 2. SHALL CONSISTENTLY EMPLOY AND STORE ELECTRONIC RECORDS OF
22 ELECTRONIC WILLS IN A SYSTEM THAT PROTECTS ELECTRONIC RECORDS FROM
23 DESTRUCTION, ALTERATION OR UNAUTHORIZED ACCESS AND DETECTS ANY CHANGE TO
24 AN ELECTRONIC RECORD.

25 3. SHALL STORE IN THE ELECTRONIC RECORD OF AN ELECTRONIC WILL EACH
26 OF THE FOLLOWING:

27 (a) A PHOTOGRAPH OR OTHER VISUAL RECORD OF THE TESTATOR AND THE
28 ATTESTING WITNESSES THAT WAS TAKEN CONTEMPORANEOUSLY WITH THE EXECUTION OF
29 THE ELECTRONIC WILL.

30 (b) A PHOTOCOPY, PHOTOGRAPH, FACSIMILE OR OTHER VISUAL RECORD OF
31 ANY DOCUMENTATION THAT WAS TAKEN CONTEMPORANEOUSLY WITH THE EXECUTION OF
32 THE ELECTRONIC WILL AND PROVIDES SATISFACTORY EVIDENCE OF THE IDENTITIES
33 OF THE TESTATOR AND THE ATTESTING WITNESSES, INCLUDING DOCUMENTATION OF
34 THE METHODS OF IDENTIFICATION USED.

35 (c) AN AUDIO AND VIDEO RECORDING OF THE TESTATOR, ATTESTING
36 WITNESSES AND NOTARY PUBLIC, AS APPLICABLE, TAKEN AT THE TIME THE
37 TESTATOR, EACH ATTESTING WITNESS AND NOTARY PUBLIC, AS APPLICABLE, PLACED
38 THE PERSON'S ELECTRONIC SIGNATURE ON THE ELECTRONIC WILL.

39 4. SHALL PROVIDE TO ANY COURT THAT IS HEARING A MATTER INVOLVING AN
40 ELECTRONIC WILL THAT IS CURRENTLY OR WAS PREVIOUSLY STORED BY THE
41 QUALIFIED CUSTODIAN ANY INFORMATION REQUESTED BY THE COURT PERTAINING TO
42 THE QUALIFICATIONS OF THE QUALIFIED CUSTODIAN AND THE POLICIES AND
43 PRACTICES OF THE QUALIFIED CUSTODIAN CONCERNING THE MAINTENANCE, STORAGE
44 AND PRODUCTION OF ELECTRONIC WILLS.

1 14-2521. Qualified custodian; agreement to serve; ceasing
2 service

3 A. A PERSON SHALL EXECUTE A WRITTEN STATEMENT AFFIRMATIVELY
4 AGREEING TO SERVE AS THE QUALIFIED CUSTODIAN OF AN ELECTRONIC WILL BEFORE
5 THE PERSON MAY SERVE AS A QUALIFIED CUSTODIAN.

6 B. EXCEPT FOR A PERSON CEASING TO SERVE AS PROVIDED IN SUBSECTION
7 C, PARAGRAPH 1 OF THIS SECTION, A PERSON MAY NOT CEASE SERVING AS A
8 QUALIFIED CUSTODIAN UNTIL A SUCCESSOR QUALIFIED CUSTODIAN EXECUTES THE
9 WRITTEN STATEMENT PRESCRIBED BY SUBSECTION A OF THIS SECTION.

10 C. A PERSON SERVING AS A QUALIFIED CUSTODIAN MAY CEASE SERVING AS A
11 QUALIFIED CUSTODIAN BY:

12 1. IF THE PERSON DOES NOT DESIGNATE A SUCCESSOR QUALIFIED
13 CUSTODIAN, PROVIDING THE TESTATOR WITH BOTH OF THE FOLLOWING:

14 (a) A THIRTY-DAY WRITTEN NOTICE THAT THE PERSON WILL CEASE TO SERVE
15 AS A QUALIFIED CUSTODIAN.

16 (b) THE CERTIFIED PAPER ORIGINAL OF THE ELECTRONIC WILL AND ALL
17 RECORDS CONCERNING THE ELECTRONIC WILL.

18 2. IF THE PERSON DESIGNATES A SUCCESSOR QUALIFIED CUSTODIAN, BY
19 PROVIDING ALL OF THE FOLLOWING:

20 (a) A THIRTY-DAY WRITTEN NOTICE THAT THE PERSON WILL CEASE TO SERVE
21 AS A QUALIFIED CUSTODIAN TO THE TESTATOR AND THE SUCCESSOR QUALIFIED
22 CUSTODIAN.

23 (b) TO THE SUCCESSOR QUALIFIED CUSTODIAN, THE ELECTRONIC RECORD OF
24 THE ELECTRONIC WILL AND AN AFFIDAVIT THAT STATES ALL OF THE FOLLOWING:

25 (i) THAT THE PERSON IS ELIGIBLE TO ACT AS A QUALIFIED CUSTODIAN IN
26 THIS STATE AND IS THE QUALIFIED CUSTODIAN DESIGNATED BY THE TESTATOR IN
27 THE ELECTRONIC WILL OR WAS DESIGNATED TO ACT IN THAT CAPACITY BY ANOTHER
28 QUALIFIED CUSTODIAN PURSUANT TO THIS PARAGRAPH.

29 (ii) THAT AN ELECTRONIC RECORD WAS CREATED AT THE TIME THE TESTATOR
30 EXECUTED THE ELECTRONIC WILL.

31 (iii) THAT THE ELECTRONIC RECORD HAS BEEN IN THE CUSTODY OF ONE OR
32 MORE QUALIFIED CUSTODIANS SINCE THE EXECUTION OF THE ELECTRONIC WILL AND
33 HAS NOT BEEN ALTERED SINCE THE TIME IT WAS CREATED.

34 (iv) THE IDENTITY OF ALL QUALIFIED CUSTODIANS WHO HAVE HAD CUSTODY
35 OF THE ELECTRONIC RECORD SINCE THE EXECUTION OF THE ELECTRONIC WILL.

36 D. FOR THE PURPOSES OF MAKING THE AFFIDAVIT PRESCRIBED BY
37 SUBSECTION C, PARAGRAPH 2, SUBDIVISION (b) OF THIS SECTION, THE PERSON MAY
38 RELY CONCLUSIVELY ON ANY AFFIDAVITS PROVIDED BY A PREDECESSOR QUALIFIED
39 CUSTODIAN IF ALL OF THESE AFFIDAVITS ARE PROVIDED TO THE SUCCESSOR
40 QUALIFIED CUSTODIAN.

41 E. IF A TESTATOR DESIGNATES A SUCCESSOR QUALIFIED CUSTODIAN IN A
42 WRITING EXECUTED WITH THE SAME FORMALITIES REQUIRED FOR THE EXECUTION OF
43 AN ELECTRONIC WILL AND THE SUCCESSOR QUALIFIED CUSTODIAN EXECUTES THE
44 WRITTEN STATEMENT PRESCRIBED BY SUBSECTION A OF THIS SECTION, THE PERSON
45 SERVING AS QUALIFIED CUSTODIAN SHALL CEASE SERVING IN THAT CAPACITY AND

1 SHALL PROVIDE THE SUCCESSOR QUALIFIED CUSTODIAN WITH BOTH OF THE
2 FOLLOWING:

- 3 1. THE ELECTRONIC RECORD.
- 4 2. THE AFFIDAVIT PRESCRIBED BY SUBSECTION C, PARAGRAPH 2,
5 SUBDIVISION (b) OF THIS SECTION.

6 F. IF A QUALIFIED CUSTODIAN IS AN ENTITY, AN AFFIDAVIT OF A DULY
7 AUTHORIZED OFFICER OR AGENT OF THE ENTITY CONSTITUTES THE AFFIDAVIT OF THE
8 QUALIFIED CUSTODIAN.

9 14-2522. Electronic record; access; destruction

10 A. A QUALIFIED CUSTODIAN SHALL PROVIDE ACCESS TO OR INFORMATION
11 CONCERNING THE ELECTRONIC WILL IN THE ELECTRONIC RECORD OR THE CERTIFIED
12 PAPER ORIGINAL OF THE ELECTRONIC WILL ONLY TO:

13 1. THE TESTATOR OR ANOTHER PERSON AS DIRECTED BY THE WRITTEN
14 INSTRUCTIONS OF THE TESTATOR.

15 2. AFTER THE DEATH OF THE TESTATOR, THE NOMINATED PERSONAL
16 REPRESENTATIVE OF THE TESTATOR OR ANY INTERESTED PERSON.

17 B. A QUALIFIED CUSTODIAN MAY DESTROY THE ELECTRONIC RECORD ANY
18 TIME:

19 1. FIVE OR MORE YEARS AFTER THE ADMISSION OF ANY WILL OF THE
20 TESTATOR TO PROBATE.

21 2. FIVE OR MORE YEARS AFTER THE REVOCATION OF THE ELECTRONIC WILL.

22 3. FIVE OR MORE YEARS AFTER CEASING TO SERVE AS THE QUALIFIED
23 CUSTODIAN OF THE ELECTRONIC RECORD OF THE ELECTRONIC WILL.

24 4. TEN OR MORE YEARS AFTER THE DEATH OF THE TESTATOR.

25 5. ONE HUNDRED FIFTY YEARS AFTER THE EXECUTION OF THE ELECTRONIC
26 WILL.

27 C. A QUALIFIED CUSTODIAN SHALL CANCEL, RENDER UNREADABLE OR
28 OBLITERATE THE ELECTRONIC RECORD IF THE TESTATOR DIRECTS THE QUALIFIED
29 CUSTODIAN TO DO SO IN A WRITING EXECUTED WITH THE SAME FORMALITIES
30 REQUIRED FOR THE EXECUTION OF AN ELECTRONIC WILL.

31 14-2523. Certified paper original of electronic record;
32 affidavits

33 A. ON THE CREATION OF A CERTIFIED PAPER ORIGINAL OF AN ELECTRONIC
34 WILL, IF THE ELECTRONIC WILL HAS ALWAYS BEEN IN THE CUSTODY OF A QUALIFIED
35 CUSTODIAN, THE QUALIFIED CUSTODIAN SHALL STATE IN AN AFFIDAVIT ALL OF THE
36 FOLLOWING:

37 1. THAT THE QUALIFIED CUSTODIAN IS ELIGIBLE TO ACT AS A QUALIFIED
38 CUSTODIAN IN THIS STATE AND IS THE QUALIFIED CUSTODIAN DESIGNATED BY THE
39 TESTATOR IN THE ELECTRONIC WILL OR WAS DESIGNATED TO ACT IN THAT CAPACITY
40 BY ANOTHER QUALIFIED CUSTODIAN PURSUANT TO SECTION 14-2521, SUBSECTION C,
41 PARAGRAPH 2.

42 2. THAT AN ELECTRONIC RECORD WAS CREATED AT THE TIME THE TESTATOR
43 EXECUTED THE ELECTRONIC WILL.

1 3. THAT THE ELECTRONIC RECORD HAS BEEN IN THE CUSTODY OF ONE OR
2 MORE QUALIFIED CUSTODIANS SINCE THE EXECUTION OF THE ELECTRONIC WILL AND
3 HAS NOT BEEN ALTERED SINCE THE TIME IT WAS CREATED.

4 4. THE IDENTITY OF ALL QUALIFIED CUSTODIANS WHO HAVE HAD CUSTODY OF
5 THE ELECTRONIC RECORD SINCE THE EXECUTION OF THE ELECTRONIC WILL.

6 5. THAT THE CERTIFIED PAPER ORIGINAL IS A TRUE, CORRECT AND
7 COMPLETE TANGIBLE MANIFESTATION OF THE ELECTRONIC WILL.

8 6. THAT THE RECORDS DESCRIBED IN SECTION 14-2520, PARAGRAPH 3 ARE
9 IN THE CUSTODY OF THE QUALIFIED CUSTODIAN.

10 B. ON THE CREATION OF A CERTIFIED PAPER ORIGINAL OF AN ELECTRONIC
11 WILL, IF THE ELECTRONIC WILL HAS NOT ALWAYS BEEN IN THE CUSTODY OF A
12 QUALIFIED CUSTODIAN, THE PERSON WHO DISCOVERED THE ELECTRONIC WILL AND THE
13 PERSON WHO REDUCED THE ELECTRONIC WILL TO THE CERTIFIED PAPER ORIGINAL
14 SHALL EACH STATE IN AN AFFIDAVIT ALL OF THE FOLLOWING TO THE BEST OF EACH
15 PERSON'S KNOWLEDGE:

16 1. WHEN THE ELECTRONIC WILL WAS CREATED, IF NOT INDICATED IN THE
17 ELECTRONIC WILL.

18 2. WHEN, HOW AND BY WHOM THE ELECTRONIC WILL WAS DISCOVERED.

19 3. THE IDENTITY OF EACH PERSON WHO HAS HAD ACCESS TO THE ELECTRONIC
20 WILL.

21 4. THE METHOD IN WHICH THE ELECTRONIC WILL WAS STORED AND THE
22 SAFEGUARDS IN PLACE TO PREVENT ALTERATIONS TO THE ELECTRONIC WILL.

23 5. WHETHER THE ELECTRONIC WILL HAS BEEN ALTERED SINCE ITS
24 EXECUTION.

25 6. THAT THE CERTIFIED PAPER ORIGINAL IS A TRUE, CORRECT AND
26 COMPLETE TANGIBLE MANIFESTATION OF THE ELECTRONIC WILL.

27 C. FOR THE PURPOSES OF MAKING THE AFFIDAVIT PRESCRIBED BY
28 SUBSECTION A OF THIS SECTION, THE QUALIFIED CUSTODIAN MAY RELY
29 CONCLUSIVELY ON ANY AFFIDAVITS PROVIDED BY A PREDECESSOR QUALIFIED
30 CUSTODIAN.

31 14-2524. Video recording or other electronic record;
32 admissibility

33 SUBJECT TO COURT RULE, A VIDEO RECORDING OR OTHER ELECTRONIC RECORD
34 IS ADMISSIBLE AS EVIDENCE OF THE FOLLOWING:

35 1. THE PROPER EXECUTION OF A WILL.

36 2. THE INTENTIONS OF THE TESTATOR.

37 3. THE MENTAL STATE OR CAPACITY OF THE TESTATOR.

38 4. THE AUTHENTICITY OF THE WILL.

39 5. MATTERS THAT ARE DETERMINED BY THE COURT TO BE RELEVANT TO THE
40 PROBATE OF A WILL.

41 Sec. 4. Section 14-3303, Arizona Revised Statutes, is amended to
42 read:

43 14-3303. Informal probate: proof and findings required

44 A. In an informal proceeding for original probate of a will, the
45 registrar shall determine whether:

1 1. The application is complete.
2 2. The applicant has made oath or affirmation that the statements
3 contained in the application are true to the best of his knowledge and
4 belief.
5 3. The applicant appears from the application to be a person
6 permitted to apply as provided in section 14-3301, subsection A.
7 4. On the basis of the statements in the application, venue is
8 proper.
9 5. An original, duly executed and apparently unrevoked will is in
10 the registrar's possession. **AN ORIGINAL WILL INCLUDES A CERTIFIED PAPER
11 ORIGINAL OF AN ELECTRONIC WILL.**
12 6. Any notice required by section 14-3204 has been given and that
13 the application is not within section 14-3304.
14 7. It appears from the application that the time limit for original
15 probate has not expired.
16 B. The application shall be denied if it indicates that a personal
17 representative has been appointed in another county of this state or
18 except as provided in subsection D of this section, if it appears that
19 this or another will of the decedent has been the subject of a previous
20 probate order.
21 C. A will ~~which~~ THAT appears to have the required signatures and
22 ~~which~~ THAT contains an attestation clause showing that requirements of
23 execution under chapter 2, article 5 of this title have been met shall be
24 probated without further proof. In other cases, the registrar may assume
25 execution if the will appears to have been properly executed, or he may
26 accept a sworn statement or affidavit of any person having knowledge of
27 the circumstances of execution, whether or not the person was a witness to
28 the will.
29 D. Informal probate of a will ~~which~~ THAT has been previously
30 probated in another jurisdiction may be granted at any time ~~upon~~ ON
31 written application by any interested person, together with deposit of a
32 certified copy of the will and of the statement probating it from the
33 office or court where it was first probated.
34 E. A will from a place ~~which~~ THAT does not provide for probate of a
35 will after death and ~~which~~ THAT is not eligible for probate under
36 subsection A of this section may be probated in this state ~~upon~~ ON receipt
37 by the registrar of a duly authenticated copy of the will and a duly
38 authenticated certificate of its legal custodian that the copy filed is a
39 true copy and that the will has become operative under the law of the
40 other place.
41 Sec. 5. Section 14-10103, Arizona Revised Statutes, is amended to
42 read:
43 14-10103. Definitions
44 In this chapter, unless the context otherwise requires:

1 1. "Action", with respect to an act of a trustee, includes a
2 failure to act.

3 2. "Beneficiary" means a person who either:

4 (a) Has a present or future beneficial interest in a trust, vested
5 or contingent.

6 (b) In a capacity other than that of a trustee, holds a power of
7 appointment over trust property.

8 3. "Charitable trust" means a trust, or portion of a trust, created
9 for a charitable purpose described in section 14-10405, subsection A.

10 4. "Conservator" means a person appointed by the court to
11 administer the estate of a minor or an adult.

12 5. "Distributee" means a person who receives property from a trust
13 other than as a creditor or purchaser.

14 6. "ELECTRONIC RECORD" HAS THE SAME MEANING PRESCRIBED IN SECTION
15 44-7002.

16 7. "ELECTRONIC SIGNATURE" HAS THE SAME MEANING PRESCRIBED IN
17 SECTION 44-7002.

18 8. "ELECTRONIC TRUST INSTRUMENT" MEANS A TRUST INSTRUMENT THAT
19 MEETS THE REQUIREMENTS PRESCRIBED IN SECTION 14-10419.

20 ~~6.~~ 9. "Environmental law" means a federal, state or local law,
21 rule, regulation or ordinance relating to protection of the environment.

22 ~~7.~~ 10. "Guardian" means a person appointed by the court to make
23 decisions regarding the support, care, education, health and welfare of a
24 minor or an adult. Guardian does not include a guardian ad litem.

25 ~~8.~~ 11. "Interests of the beneficiaries" means the beneficial
26 interests provided in the terms of the trust.

27 ~~9.~~ 12. "Internal revenue code" has the same meaning prescribed in
28 section 43-105.

29 ~~10.~~ 13. "Jurisdiction", with respect to a geographic area,
30 includes a state or country.

31 ~~11.~~ 14. "Person" means an individual, corporation, business trust,
32 estate, trust, partnership, limited liability company, association, joint
33 venture, government, governmental subdivision, agency or instrumentality,
34 public corporation or any other legal or commercial entity.

35 ~~12.~~ 15. "Power of withdrawal" means a presently exercisable
36 general power of appointment other than a power exercisable either:

37 (a) By a trustee and limited by an ascertainable standard.

38 (b) By a person other than in a fiduciary capacity and only on the
39 consent of the trustee or a person holding an adverse interest.

40 ~~13.~~ 16. "Property" means anything that may be the subject of
41 ownership, whether real or personal, legal or equitable, or any interest
42 in anything that may be the subject of ownership.

43 ~~14.~~ 17. "Qualified beneficiary" means a beneficiary who, on the
44 date the beneficiary's qualification is determined:

3 (b) Would be a distributee or permissible distributee of trust
4 income or principal if the interests of the distributees described in
5 subdivision (a) of this paragraph terminated on that date.

6 (c) Would be a distributee or permissible distributee of trust
7 income or principal if the trust terminated on that date.

8 ~~15.~~ 18. "Revocable", as applied to a trust or a portion of a
9 trust, means revocable by a settlor without the consent of any person,
10 including the trustee or a person who holds an interest that is either
11 adverse or not adverse.

12 ~~16.~~ 19. "Settlor" means a person, including a testator, who
13 creates or contributes property to a trust. If more than one person
14 creates or contributes property to a trust, each person is a settlor of
15 the portion of the trust property attributable to that person's
16 contribution except to the extent another person has the power to revoke
17 or withdraw that portion.

18 ~~17.~~ 20. "Special needs trust" means a trust established for the
19 benefit of one or more persons with disabilities if one of the purposes of
20 the trust, expressed in the trust instrument or implied from the trust
21 instrument, is to allow the person with a disability to qualify or
22 continue to qualify for public, charitable or private benefits that might
23 otherwise be available to the person with a disability. The existence of
24 one or more remainder beneficiaries without a disability of the trust
25 shall not disqualify it as a special needs trust for the purposes of this
26 paragraph. For the purposes of this paragraph, "person with a disability"
27 means an individual who has a disability pursuant to 42 United States Code
28 section 1382c.

18. 21. "Spendthrift provision" means a term of a trust that
restricts either voluntary or involuntary transfer of a beneficiary's
interest.

32 ~~19.~~ 22. "State" means a state of the United States, the District
33 of Columbia, Puerto Rico, the United States Virgin Islands or any
34 territory or insular possession subject to the jurisdiction of the United
35 States. State includes an Indian tribe or band recognized by federal law
36 or formally acknowledged by a state.

37 20. 23. "Terms of a trust" means the manifestation of the
38 settlor's intent regarding a trust's provisions as expressed in the trust
39 instrument or as may be established by other evidence that would be
40 admissible in a judicial proceeding.

41 ~~21.~~ 24. "Trust instrument" means an instrument executed by the
42 settlor that contains terms of the trust, including any amendments to that
43 trust.

22. 25. "Trustee" includes an original, additional and successor trustee and a cotrustee.

26. "WRITING" OR "WRITTEN" INCLUDES THE USE OF AN ELECTRONIC TRUST OR ELECTRONIC WILL.

Sec. 6. Title 14, chapter 11, article 2, Arizona Revised Statutes, is amended by adding section 14-10206, to read:

14-10206. Video recording or other electronic record; admissibility; execution in this state

SUBJECT TO COURT RULE, A VIDEO RECORDING OR OTHER ELECTRONIC RECORD
IS ADMISSIBLE AS EVIDENCE OF THE FOLLOWING:

1. THE PROPER EXECUTION OF A TRUST INSTRUMENT.
2. THE INTENTIONS OF THE SETTLOR.
3. THE MENTAL STATE OR CAPACITY OF THE SETTLOR.
4. THE AUTHENTICITY OF THE TRUST INSTRUMENT.
5. MATTERS THAT ARE DETERMINED BY THE COURT TO BE RELEVANT TO THE
REGISTRATION OF A TRUST.

Sec. 7. Title 14, chapter 11, article 4, Arizona Revised Statutes, is amended by adding section 14-10419, to read:

14-10419. Electronic trust instrument requirements; execution in this state

- A. AN ELECTRONIC TRUST INSTRUMENT MUST:
 - 1. CONTAIN THE ELECTRONIC SIGNATURE OF THE SETTLOR.
 - 2. BE WRITTEN, CREATED AND STORED IN AN ELECTRONIC RECORD.
 - 3. MEET THE REQUIREMENTS OF THIS ARTICLE FOR A VALID TRUST.
- B. AN ELECTRONIC TRUST INSTRUMENT IS DEEMED TO BE EXECUTED IN THIS STATE IF EITHER OF THE FOLLOWING APPLIES:
 - 1. THE ELECTRONIC TRUST INSTRUMENT IS MAINTAINED BY THE:
 - (a) SETTLOR AT THE SETTLOR'S PLACE OF BUSINESS IN THIS STATE OR AT SETTLOR'S RESIDENCE IN THIS STATE.
 - (b) TRUSTEE AT THE TRUSTEE'S PLACE OF BUSINESS IN THIS STATE OR AT TRUSTEE'S RESIDENCE IN THIS STATE.
 - 2. TRANSMITTED TO AND MAINTAINED BY A CUSTODIAN DESIGNATED IN THE INSTRUMENT AT THE CUSTODIAN'S PLACE OF BUSINESS IN THIS STATE OR AT CUSTODIAN'S RESIDENCE IN THIS STATE.
 - C. THIS SECTION DOES NOT APPLY TO A TESTAMENTARY TRUST.