

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 ELECTONIC 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 ELECTONIC 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:

1 (a) Is a distributee or permissible distributee of trust income or  
2 principal.

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.

29 ~~18.~~ 21. "Spendthrift provision" means a term of a trust that  
30 restrains either voluntary or involuntary transfer of a beneficiary's  
31 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.

1           ~~22.~~ 25. "Trustee" includes an original, additional and successor  
2 trustee and a cotrustee.

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

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

7           14-10206. Video recording or other electronic record;  
8                                   admissibility; execution in this state

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

- 11           1. THE PROPER EXECUTION OF A TRUST INSTRUMENT.
- 12           2. THE INTENTIONS OF THE SETTLOR.
- 13           3. THE MENTAL STATE OR CAPACITY OF THE SETTLOR.
- 14           4. THE AUTHENTICITY OF THE TRUST INSTRUMENT.
- 15           5. MATTERS THAT ARE DETERMINED BY THE COURT TO BE RELEVANT TO THE  
16 ADMINISTRATION OF A TRUST.

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

19           14-10419. Electronic trust instrument requirements; execution  
20                                   in this state

21           A. AN ELECTRONIC TRUST INSTRUMENT MUST:

- 22           1. CONTAIN THE ELECTRONIC SIGNATURE OF THE SETTLOR.
- 23           2. BE WRITTEN, CREATED AND STORED IN AN ELECTRONIC RECORD.
- 24           3. MEET THE REQUIREMENTS OF THIS ARTICLE FOR A VALID TRUST.

25           B. AN ELECTRONIC TRUST INSTRUMENT IS DEEMED TO BE EXECUTED IN THIS  
26 STATE IF EITHER OF THE FOLLOWING APPLIES:

- 27           1. THE ELECTRONIC TRUST INSTRUMENT IS MAINTAINED BY THE:
  - 28           (a) SETTLOR AT THE SETTLOR'S PLACE OF BUSINESS IN THIS STATE OR AT  
29 THE SETTLOR'S RESIDENCE IN THIS STATE.
  - 30           (b) TRUSTEE AT THE TRUSTEE'S PLACE OF BUSINESS IN THIS STATE OR AT  
31 THE TRUSTEE'S RESIDENCE IN THIS STATE.

32           2. TRANSMITTED TO AND MAINTAINED BY A CUSTODIAN DESIGNATED IN THE  
33 TRUST INSTRUMENT AT THE CUSTODIAN'S PLACE OF BUSINESS IN THIS STATE OR AT  
34 THE CUSTODIAN'S RESIDENCE IN THIS STATE.

35           C. THIS SECTION DOES NOT APPLY TO A TESTAMENTARY TRUST.