

# SENATE BILL NO. 428

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

0126S.01I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 456.1-108, RSMo, and to enact in lieu thereof fifteen new sections relating to estate planning.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 456.1-108, RSMo, is repealed and  
2 fifteen new sections enacted in lieu thereof, to be known as  
3 sections 456.1-108, 474.540, 474.542, 474.544, 474.546,  
4 474.548, 474.550, 474.552, 474.554, 474.556, 474.558, 474.560,  
5 474.562, 474.564, and 474.600, to read as follows:

456.1-108. 1. Without precluding other means for  
2 establishing a sufficient connection with the designated  
3 jurisdiction, terms of a trust designating the principal  
4 place of administration are valid and controlling if:

5 (1) a trustee's principal place of business is located  
6 in or a trustee is a resident of the designated  
7 jurisdiction; or

8 (2) all or part of the administration occurs in the  
9 designated jurisdiction.

10 2. Without precluding the right of the court to order,  
11 approve, or disapprove a transfer, the trustee may transfer  
12 the trust's principal place of administration to another  
13 state or to a jurisdiction outside of the United States that  
14 is appropriate to the trust's purposes, its administration,  
15 and the interests of the beneficiaries.

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16           3. The trustee shall notify the qualified  
17 beneficiaries of a proposed transfer of a trust's principal  
18 place of administration not less than sixty days before  
19 initiating the transfer. The notice of proposed transfer  
20 must include:

21           (1) the name of the jurisdiction to which the  
22 principal place of administration is to be transferred;

23           (2) the address and telephone number at the new  
24 location at which the trustee can be contacted;

25           (3) an explanation of the reasons for the proposed  
26 transfer;

27           (4) **a notice that states a change in the place of**  
28 **administration may result in a change of the governing law,**  
29 **which may affect the rights of any beneficiaries in ways**  
30 **that are different from the current governing law;**

31           (5) the date on which the proposed transfer is  
32 anticipated to occur; and

33           [(5)] (6) the date, not less than sixty days after the  
34 giving of the notice, by which the qualified beneficiary  
35 must notify the trustee of an objection to the proposed  
36 transfer.

37           4. The authority of a trustee under this section to  
38 transfer a trust's principal place of administration without  
39 an order of a court terminates if a qualified beneficiary  
40 notifies the trustee of an objection to the proposed  
41 transfer on or before the date specified in the notice.

42           5. In connection with a transfer of the trust's  
43 principal place of administration, the trustee may transfer  
44 some or all of the trust property to a successor trustee  
45 designated in the terms of the trust or appointed pursuant  
46 to section 456.7-704.

474.540. The provisions of sections 474.540 to 474.564 shall be known and may be cited as the "Missouri Electronic Wills and Electronic Estate Planning Documents Act".

474.542. As used in sections 474.540 to 474.564, the following terms mean:

- (1) "Electronic", technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;
- (2) "Electronic presence", the relationship of two or more individuals in different locations in real time using technology enabling live, interactive audio-visual communication that allows for observation, direct interaction, and communication between or among the individuals;
- (3) "Electronic will", a will executed electronically in compliance with subsection 1 of section 474.548;
- (4) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
- (5) "Security procedure", a procedure to verify that an electronic signature, record, or performance is that of a specific person or to detect a change or error in an electronic record, including a procedure that uses an algorithm, code, identifying word or number, encryption, or callback or other acknowledgment procedure;
- (6) "Sign", with present intent to authenticate or adopt a record to:
  - (a) Execute or adopt a tangible symbol; or
  - (b) Affix to or logically associate with the record an electronic symbol or process;
- (7) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin

30 Islands, a federally recognized Indian tribe, or any  
31 territory or insular possession subject to the jurisdiction  
32 of the United States;

33 (8) "Will", a codicil and any testamentary instrument  
34 that appoints an executor, revokes or revises another will,  
35 nominates a guardian, or expressly excludes or limits the  
36 right of an individual or class to succeed to property of  
37 the decedent passing by intestate succession.

474.544. An electronic will shall be a will for all  
2 purposes of the laws of this state. The provisions of law  
3 of this state applicable to wills and principles of equity  
4 shall apply to an electronic will, except as modified by  
5 sections 474.540 to 474.564.

474.546. A will executed electronically but not in  
2 compliance with subsection 1 of section 474.548 shall be an  
3 electronic will under the provisions of sections 474.540 to  
4 474.564 if executed in compliance with the law of the  
5 jurisdiction where the testator is:

- 6 (1) Physically located when the will is signed; or  
7 (2) Domiciled, or where the testator resides, when the  
8 will is signed or when the testator dies.

474.548. 1. An electronic will shall be:

2 (1) A record that is readable as text at the time of  
3 signing as provided in subdivision (2) of this subsection  
4 and remains accessible as text for later reference;

5 (2) Signed by:

6 (a) The testator; or

7 (b) Another individual in the testator's name, in the  
8 testator's physical presence, and by the testator's  
9 direction; and

10 (3) Signed in the physical or electronic presence of  
11 the testator by at least two individuals after witnessing:

12 (a) The signing of the will pursuant to subdivision  
13 (2) of this subsection; or

14 (b) The testator's acknowledgment of the signing of  
15 the will pursuant to subdivision (2) of this subsection or  
16 acknowledgment of the will.

17 2. The intent of a testator that the record in  
18 subdivision (1) of subsection 1 of this section be the  
19 testator's electronic will may be established by extrinsic  
20 evidence.

21 3. In accordance with the provisions of sections  
22 474.337 or 474.550, a witness to a will shall be a resident  
23 of a state and physically located in a state at the time of  
24 signing if no self-proving affidavit is signed  
25 contemporaneously with the execution of the electronic will.

474.550. At the time of its execution or at any  
2 subsequent date, an electronic will may be made self-proved  
3 in the same manner as specified in section 474.337 or, if  
4 fewer than two witnesses are physically present in the same  
5 location as the testator at the time of such  
6 acknowledgments, before a remote online notary authorized to  
7 perform a remote online notarization in this state under the  
8 law of any state or the United States, and evidenced by a  
9 remote online notarial certificate, in form and content  
10 substantially as follows, subject to the additional  
11 requirements under section 486.1165:

12 State of \_\_\_\_\_

13 County (and/or City) of \_\_\_\_\_

14 I, the undersigned notary, certify that \_\_\_\_\_, the  
15 testator, and the witnesses, whose names are  
16 signed to the attached or foregoing instrument,  
17 having personally appeared before me by remote  
18 online means, and having been first duly sworn,

19 each then declared to me that the testator signed  
20 and executed the instrument as the testator's last  
21 will, and that the testator had willingly signed  
22 or willingly directed another to sign for the  
23 testator, and that the testator executed it as the  
24 testator's free and voluntary act for the purposes  
25 therein expressed; and that each of the witnesses,  
26 in the presence and hearing of the testator,  
27 signed the will as witness and that to the best of  
28 the witnesses' knowledge the testator was at that  
29 time eighteen or more years of age, of sound mind,  
30 and under no constraint or undue influence.

31 In witness thereof I have hereunto subscribed my  
32 name and affixed my official seal this \_\_\_\_\_  
33 (date).

34 \_\_\_\_\_ (official signature and seal  
35 of notary)

474.552. 1. An electronic will may revoke all or part  
2 of a previous will.

3 2. All or part of an electronic will shall be revoked  
4 by:

5 (1) A subsequent will that revokes all or part of the  
6 electronic will expressly or by inconsistency;

7 (2) A written instrument signed by the testator  
8 declaring the revocation; or

9 (3) A physical act, if it is established by a  
10 preponderance of the evidence that the testator, with the  
11 intent of revoking all or part of the will, performed the  
12 act or directed another individual who performed the act in  
13 the testator's physical presence.

14 3. If there is evidence that a testator signed an  
15 electronic will and neither the electronic will nor a  
16 certified paper copy of the electronic will can be located  
17 after a testator's death, there shall be a presumption that

18 the testator revoked the electronic will even if no  
19 instrument or later will revoking the electronic will can be  
20 located.

474.554. Without further notice, at any time during  
2 the administration of the estate or, if there is no grant of  
3 administration, upon such notice and in such manner as the  
4 court directs, the court may issue an order pursuant to  
5 sections 472.400 to 472.490 for a custodian of an account  
6 held under a terms-of-service agreement to disclose digital  
7 assets for the purposes of obtaining an electronic will from  
8 the account of a deceased user. If there is no grant of  
9 administration at the time the court issues the order, the  
10 court's order shall grant disclosure to the petitioner who  
11 is deemed a personal representative under sections 472.400  
12 to 472.490.

474.556. 1. An individual may create a certified  
2 paper copy of an electronic will by affirming under penalty  
3 of perjury that a paper copy of the electronic will is a  
4 complete, true, and accurate copy of the electronic will.  
5 If the electronic will is made self-proving, the certified  
6 paper copy of the will shall include a self-proving  
7 affidavit as provided in sections 474.337 or 474.550.

2. If a provision of law or rule of procedure requires  
9 a will to be presented or retained in its original form or  
10 provides consequences for the information not being  
11 presented or retained in its original form, that provision  
12 or rule shall be satisfied by a certified paper copy of an  
13 electronic will.

474.558. In applying and construing the provisions of  
2 sections 474.540 to 474.564, consideration shall be given to  
3 the need to promote uniformity of the law with respect to

4 its subject matter among states that enact similar  
5 provisions.

474.560. 1. Any written estate planning document may  
2 be executed electronically, and no such estate planning  
3 document shall be invalid or void solely because it is in  
4 electronic form or because it is signed electronically by a  
5 settlor, trustee, principal, grantor, declarant, or owner,  
6 or by a witness to any such person's signature. For  
7 purposes of this section, the term "estate planning  
8 document" shall include, but not be limited to:

- 9 (1) A power of attorney or durable power of attorney;
- 10 (2) A health care declaration;
- 11 (3) An advance directive;
- 12 (4) A power of attorney for health care or durable  
13 power of attorney for health care;
- 14 (5) A revocable trust or amendment thereto, or  
15 modification or revocation thereof;
- 16 (6) An irrevocable trust;
- 17 (7) A beneficiary deed;
- 18 (8) A nonprobate transfer; or
- 19 (9) A document modifying, amending, correcting, or  
20 revoking any written estate planning document.

21 2. (1) An electronic estate planning document or an  
22 electronic signature on such document shall be attributable  
23 to a person if it was the act of the person. The act of the  
24 person may be shown in any manner, including a showing of  
25 the efficacy of a security procedure applied to determine  
26 the person to which the electronic record or signature was  
27 attributable.

28 (2) The effect of attribution of a document or  
29 signature to a person pursuant to subdivision (1) of this  
30 subsection shall be determined from the context and



31 surrounding circumstances at the time of its creation,  
32 execution, or adoption and as provided by other provisions  
33 of law.

34 3. (1) Unless otherwise provided under its terms, any  
35 electronic estate planning document may be signed in one or  
36 more counterparts, and each separate counterpart may be an  
37 electronic document or a paper document, provided that all  
38 signed counterpart pages of each document are incorporated  
39 into, or attached to, the document.

40 (2) An individual may create a certified paper copy of  
41 any such electronic estate planning document by affirming  
42 under penalty of perjury that a paper copy of the electronic  
43 estate planning document is a complete, true, and accurate  
44 copy of such document. If a provision of law or a rule of  
45 procedure requires an estate planning document to be  
46 presented or retained in its original form or provides  
47 consequences for the information not being presented or  
48 retained in its original form, such provision or rule shall  
49 be satisfied by a certified paper copy of an electronic  
50 document.

51 4. Any written estate planning document, other than a  
52 will, that requires one or more witnesses to the signature  
53 of a principal may be witnessed by any individual or  
54 individuals in the electronic presence of the principal.

55 5. A person who acts in reliance upon an  
56 electronically executed written estate planning document  
57 shall not be liable to any person for so relying and may  
58 assume without inquiry the valid execution of the  
59 electronically executed written estate planning document.

60 6. This section does not require a written estate  
61 planning document to be electronically signed.

62           7. The laws of this state and principles of equity  
63 applicable to any estate planning document shall apply to  
64 any electronic estate planning document except as modified  
65 by this section.

          474.562. The provisions of sections 474.540 to 474.564  
2 modify, limit, and supersede the federal Electronic  
3 Signatures in Global and National Commerce Act, 15 U.S.C.  
4 Section 7001 et seq., but do not modify, limit, or supersede  
5 Section 101(c) of that act, 15 U.S.C. Section 7001(c), or  
6 authorize electronic delivery of any of the notices  
7 described in Section 103(b) of that act, 15 U.S.C. Section  
8 7003(b).

          474.564. The provisions of sections 474.540 to 474.564  
2 shall apply to any will of a decedent who dies on or after  
3 August 28, 2025, and to any other written estate planning  
4 document, as the term "estate planning document" is defined  
5 in section 474.560, signed or remotely witnessed on or after  
6 August 28, 2025.

          474.600. 1. As used in this section, the following  
2 terms mean:

3           (1) "Applicable state of emergency", the period  
4 between April 6, 2020, and December 31, 2021, during which a  
5 state of emergency existed due to a COVID-19 public health  
6 threat, as proclaimed by the governor, and during which  
7 executive orders 20-08, 20-10, 20-12, 20-14, 20-19, 21-07,  
8 and 21-09 temporarily suspended the physical appearance  
9 requirements in this chapter and authorized the use of audio-  
10 visual technology to the extent that any Missouri statute  
11 required the physical presence of any testator, settlor,  
12 principal, witness, notary, or other person necessary for  
13 the effective execution of any estate planning document such  
14 as a will, trust, or power of attorney, or a self-proving

15 affidavit of the execution of such document, if the  
16 conditions set forth in the executive orders were met;

17 (2) "Estate planning document", includes, but is not  
18 limited to:

19 (a) A will;

20 (b) A codicil;

21 (c) A power of attorney or durable power of attorney;

22 (d) A health care declaration;

23 (e) An advance directive;

24 (f) A power of attorney for health care or a durable  
25 power of attorney for health care;

26 (g) A revocable trust or amendment thereto, or  
27 modification or revocation thereof;

28 (h) An irrevocable trust;

29 (i) A beneficiary deed;

30 (j) A nonprobate transfer; or

31 (k) A document modifying, amending, correcting, or  
32 revoking any written estate planning document;

33 (3) "Necessary person", any testator, settlor,  
34 grantor, principal, declarant, witness, notary, or other  
35 person required for the effective execution of any estate  
36 planning document in this state;

37 (4) "Physical presence requirement", includes, but is  
38 not limited to, any requirement of physical presence under  
39 section 404.705, 459.015, 474.320, or 474.337 or chapter 486.

40 2. With respect to the execution of an estate planning  
41 document, a necessary person shall be deemed to have  
42 satisfied any physical presence requirement under Missouri  
43 law during the applicable state of emergency if the  
44 following requirements were met:

45 (1) The signer affirmatively represented that the  
46 signer was physically situated in the state of Missouri;

47           (2) The notary was physically located in the state of  
48 Missouri and stated in which county the notary was  
49 physically located for the jurisdiction on the  
50 acknowledgment;

51           (3) The notary identified the signers to the  
52 satisfaction of the notary and Missouri law;

53           (4) Any person whose signature was required appeared  
54 using video conference software where live, interactive  
55 audio-visual communication between the principal, notary,  
56 and any other necessary person allowed for observation,  
57 direct interaction, and communication at the time of  
58 signing; and

59           (5) The notary recorded in the notary's journal the  
60 exact time and means used to perform the notarial act, along  
61 with all other required information, absent the wet  
62 signatures.

63           3. The requirements of subdivisions (1) to (5) of  
64 subsection 2 of this section shall be deemed satisfied if an  
65 attorney who is licensed or authorized to practice law in  
66 Missouri and who was present at the remote execution signs a  
67 written acknowledgment made before an officer authorized to  
68 administer oaths under the laws of this state, and evidenced  
69 by the officer's certificate, under official seal, affixed  
70 to or logically associated with the acknowledgment. The  
71 form and content of the acknowledgment shall be  
72 substantially as follows:

73           State of \_\_\_\_\_

74           County of \_\_\_\_\_

75                           AFFIDAVIT OF REMOTE EXECUTION OF DOCUMENTS

76 I, \_\_\_\_\_, am an attorney licensed or  
77 authorized to practice law in the state of  
78 Missouri.

79 On \_\_\_\_\_ (date), I convened with the following  
80 individuals via video conference software that  
81 allowed for live, interactive audio-visual  
82 communication between the parties to the conference  
83 and that also allowed for observation, direction,  
84 interaction, and communication between:

85 \_\_\_\_\_, the (testator, settlor, grantor,  
86 principal, or declarant);

87 \_\_\_\_\_, a witness;

88 \_\_\_\_\_, a second witness; and

89 \_\_\_\_\_, a notary public.

90 During the conference, \_\_\_\_\_, the (testator,  
91 settlor, grantor, principal, or declarant) signed  
92 the following estate planning document or  
93 documents: (a will, codicil, power of attorney,  
94 durable power of attorney, health care declaration,  
95 advance directive, health care power of attorney,  
96 revocable trust, irrevocable trust, beneficiary  
97 deed, nonprobate transfer, self-proving affidavit  
98 of the execution of a will, or a document  
99 modifying, amending, correcting, or revoking one of  
100 these estate planning documents).

101 All the parties to the conference represented that  
102 they were physically located in the state of  
103 Missouri at the time of the signing.

104 I have reviewed and am familiar with the  
105 requirements of the applicable executive order or  
106 orders in effect at the time and affirm that the  
107 remote execution of the estate planning document or  
108 documents met all the requirements of the  
109 applicable executive order or orders.

110 In witness whereof I, an officer authorized to  
111 administer oaths, have hereunto subscribed my name  
112 and affixed my official seal this \_\_\_\_\_ (date).

113 (Signed) \_\_\_\_\_

114 (SEAL)



115

(Official capacity of officer)

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