

FIRST REGULAR SESSION

# HOUSE BILL NO. 178

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PARKER.

0151H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 474, RSMo, by adding thereto one new section relating to estate planning during an emergency.

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

Section A. Chapter 474, RSMo, is amended by adding thereto one new section, to be known as section 474.600, to read as follows:

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

(1) "Applicable state of emergency", the period between April 6, 2020, and December 31, 2021, during which a state of emergency existed due to a COVID-19 public health threat, as proclaimed by the governor, and during which executive orders 20-08, 20-10, 20-12, 20-14, 20-19, 21.07, and 21.09 temporarily suspended the physical appearance requirements under this chapter and authorized the use of audio-visual technology to the extent that any Missouri statute required the physical presence of any testator, settlor, principal, witness, notary, or other person necessary for the effective execution of any estate planning document such as a will, trust, or power of attorney, or a self-proving affidavit of the execution of such document, if the conditions set forth in the executive orders were met;

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

- (a) A will;
- (b) A codicil;
- (c) A power of attorney or durable power of attorney;
- (d) A health care declaration;
- (e) An advance directive;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18           **(f) A power of attorney for health care or a durable power of attorney for health**  
19 **care;**

20           **(g) A revocable trust or amendment thereto, or modification or revocation**  
21 **thereof;**

22           **(h) An irrevocable trust;**

23           **(i) A beneficiary deed;**

24           **(j) A nonprobate transfer; or**

25           **(k) A document modifying, amending, correcting, or revoking any written estate**  
26 **planning document;**

27           **(3) "Necessary person", any testator, settlor, grantor, principal, declarant,**  
28 **witness, notary, or other person required for the effective execution of any estate**  
29 **planning document in this state;**

30           **(4) "Physical presence requirement", includes, but is not limited to, any**  
31 **requirement of physical presence under section 404.705, 459.015, 474.320, or 474.337 or**  
32 **chapter 486.**

33           **2. With respect to the execution of an estate planning document, a necessary**  
34 **person shall be deemed to have satisfied any physical presence requirement under**  
35 **Missouri statute during the applicable state of emergency if the following requirements**  
36 **were met:**

37           **(1) The signer affirmatively represented that the signer was physically located in**  
38 **the state of Missouri;**

39           **(2) The notary was physically located in the state of Missouri and stated in which**  
40 **county the notary was physically located for the jurisdiction on the acknowledgment;**

41           **(3) The notary identified the signers to the satisfaction of the notary and current**  
42 **law;**

43           **(4) Any person whose signature was required appeared using video conference**  
44 **software where live, interactive audio-visual communication between the principal,**  
45 **notary, and any other necessary person allowed for observation, direct interaction, and**  
46 **communication at the time of signing; and**

47           **(5) The notary recorded in the notary's journal the exact time and means used to**  
48 **perform the notarial act, along with all other required information, absent the wet**  
49 **signatures.**

50           **3. The requirements of subdivisions (1) to (5) of subsection 2 of this section shall**  
51 **be deemed satisfied if an attorney who is licensed or authorized to practice law in**  
52 **Missouri and who was present at the remote execution signs a written acknowledgment**  
53 **made before an officer authorized to administer oaths under the laws of this state, and**  
54 **evidenced by the officer's certificate, under official seal, affixed to or logically associated**

55 with the acknowledgment. The form and content of the acknowledgment shall be  
56 substantially as follows:

57 State of \_\_\_\_\_

58 County of \_\_\_\_\_

59 **AFFIDAVIT OF REMOTE EXECUTION OF DOCUMENTS**

60 I, \_\_\_\_\_, am an attorney licensed or authorized to practice law in the state  
61 of Missouri.

62 On \_\_\_\_\_ (date), I convened with the following individuals via video conference  
63 software that allowed for live, interactive audio-visual communication between  
64 the parties to the conference and that also allowed for observation, direction,  
65 interaction, and communication between:

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

67 \_\_\_\_\_, a witness;

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

69 \_\_\_\_\_ a notary public.

70 During the conference, \_\_\_\_\_, the (testator, settlor, grantor, principal, or  
71 declarant) signed the following estate planning document or documents: (a will,  
72 codicil, power of attorney, durable power of attorney, health care declaration,  
73 advance directive, health care power of attorney, revocable trust, irrevocable  
74 trust, beneficiary deed, nonprobate transfer, self-proving affidavit of the  
75 execution of a will, or a document modifying, amending, correcting, or  
76 revoking one of these estate planning documents).

77 All the parties to the conference represented that they were physically located in  
78 the state of Missouri at the time of the signing.

79 I have reviewed and am familiar with the requirements of the applicable  
80 executive order or orders in effect at the time and affirm that the remote  
81 execution of the estate planning document or documents met all the requirements  
82 of the applicable executive order or orders.

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

85 (Signed)

86 \_\_\_\_\_

87 (SEAL)

88 \_\_\_\_\_

89 (Official capacity of officer)

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