



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4023/1
KMS:amn

2023 SENATE BILL 898

January 11, 2024 - Introduced by Senators BALLWEG and FEYEN, cosponsored by Representatives TUSLER, BALDEH, BEHNKE, DOYLE, KITCHENS, O'CONNOR, RATCLIFF, RETTINGER and SUBECK. Referred to Committee on Government Operations.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 154.30 (8) (d) 2.; *to repeal and recreate* 244.05; and *to create*
2 140.147, 154.03 (1) (e), 154.03 (3), 154.30 (8m), 155.10 (3) and 853.03 (2) (c) of
3 the statutes; **relating to:** electronic and remote witnessing and notarization of
4 estate planning documents.

Analysis by the Legislative Reference Bureau

Under current law, an individual executing an estate planning document that requires a notarial act must appear personally before a notarial officer. In addition, current law requires an individual executing a declaration to health care professionals, an authorization for final disposition, or a power of attorney for health care to sign the document in the presence of two witnesses, in addition to certain other requirements. Current law also requires an individual executing a will to sign the will, acknowledge the will, or acknowledge the individual's signature on the will in the conscious presence of two witnesses.

This bill makes several changes to the notarization and witnessing requirements for these documents. Specifically, under the bill, a declaration of health care professionals may be witnessed only by individuals who are at least 18 years of age. In addition, under the bill, an individual may execute a power of attorney for finances and property by signing the document before two witnesses via two-way, real-time audiovisual communication according to the requirements detailed below, whereas, under current law, an individual may execute a power of attorney for finances and property only by acknowledging the document before a notarial officer. Additionally, under current law, if an individual executing an

SENATE BILL 898

authorization for final disposition is physically unable to sign the authorization, another individual may sign the authorization on his or her behalf; the bill specifies that, in these situations, the signing individual must be at least 18 years of age and must sign in the physical presence of the individual executing the authorization.

The bill authorizes remote notarization of an estate planning document and remote witnessing of a declaration to health care professionals, an authorization for final disposition, a power of attorney for health care, a power of attorney for finances and property, or a will via two-way, real-time audiovisual communication if a remotely located individual, declarant, person executing a power of attorney for health care (principal), or testator, or an individual signing on that person's behalf, signs the document in accordance with the following requirements:

1. The signing is supervised by an attorney.
2. The remotely located individual, declarant, principal, or testator is physically located in this state during the two-way, real-time audiovisual communication.
3. Each notary public or remote witness, as applicable, attests to being physically located in this state during the two-way, real-time audiovisual communication.
4. The remotely located individual, declarant, principal, or testator and each remote witness, as applicable, is positively identified.
5. The remotely located individual, declarant, principal, or testator identifies anyone else present in the same physical location as the remotely located individual, declarant, principal, or testator.
6. The remotely located individual, declarant, principal, or testator displays the document; confirms the number of pages in the document and the page number on which the signature is to be affixed; and declares to the notary public or remote witnesses, as applicable, and the supervising attorney that the remotely located individual, declarant, principal, or testator is 18 years of age or older and that the document is being executed as a voluntary act.
7. The remotely located individual, declarant, principal, or testator, or another individual 18 years of age or older authorized to sign on that person's behalf in that person's physical presence, signs the document in a manner that allows the notary public or remote witnesses, as applicable, and supervising attorney to see the signing.
8. The audiovisual communication technology allows communication by which a person is able to see, hear, and communicate in an interactive way with another person in real time using electronic means, except that if the remotely located individual, declarant, principal, or testator, the notary public or remote witnesses, as applicable, or the supervising attorney has an impairment that affects hearing, sight, or speech, assistive technology or learned skills may be substituted for audio or visual if it allows that person to actively participate in the signing in real time.
9. The document indicates that it is being executed pursuant to these requirements.

SENATE BILL 898

10. The document is signed by the remotely located individual, declarant, principal, or testator and the notary or remote witnesses, as applicable, and delivered to the supervising attorney.

11. The supervising attorney completes and attaches to the document an affidavit of compliance that contains certain information and serves as conclusive evidence that the document was executed in compliance with the requirements under the bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 140.147 of the statutes is created to read:

2 **140.147 Notarial act performed for remote execution of estate**
3 **planning documents. (1)** In this section:

4 (a) "Estate planning document" means any of the following:

5 1. A will or a codicil.

6 2. A declaration of trust or other document creating a trust as provided in s.
7 701.0401 or an amendment to a declaration of trust or other document creating a
8 trust.

9 3. A certification of trust as provided in s. 701.1013.

10 4. A power of attorney for finances and property.

11 5. A power of attorney for health care.

12 6. A marital property agreement or an amendment to a marital property
13 agreement.

14 7. A written instrument evidencing a nonprobate transfer pursuant to s.
15 705.10, 705.15, 705.18, or 766.58 (3) (f).

16 8. A declaration to health care professionals.

17 9. An authorization for final disposition.

18 10. An authorization for use and disclosure of protected health information.

SENATE BILL 898**SECTION 1**

1 11. An instrument of disclaimer under s. 854.13.

2 12. An instrument exercising a power of appointment under ch. 702.

3 (b) “Remotely located individual” means an individual who is not in the
4 physical presence of the notary public who performs the notarial act pursuant to this
5 section.

6 (c) “Sign” means, with respect to a remotely located individual, the execution
7 of an estate planning document that is required or intended to be executed in the
8 presence of a notary public.

9 **(2)** (a) An estate planning document may not be denied legal effect or
10 enforceability relating to a transaction solely because a notarial act was performed
11 in compliance with this section.

12 (b) Except as provided in par. (a), this section shall not apply to, or impact the
13 legal effect or enforceability of, any electronic records or electronic signatures
14 governed by ch. 137.

15 **(3)** For purposes of signing an estate planning document, a remotely located
16 individual may comply with s. 140.06 by appearing before a notary public via 2-way,
17 real-time audiovisual communication technology if all of the following requirements
18 are satisfied:

19 (a) The signing is supervised by an attorney in good standing licensed to
20 practice law in this state. The supervising attorney may serve as the notary public.

21 (b) The remotely located individual attests to being physically located in this
22 state during the 2-way, real-time audiovisual communication.

23 (c) The notary public attests to being physically located in this state during the
24 2-way, real-time audiovisual communication.

SENATE BILL 898

1 (d) The remotely located individual positively confirms the remotely located
2 individual's identity. If the remotely located individual is not personally known to
3 the notary public and the supervising attorney, the remotely located individual shall
4 provide satisfactory evidence of the remotely located individual's identity as
5 provided in s. 140.07.

6 (e) The remotely located individual identifies anyone else present in the same
7 physical location as the remotely located individual. If possible, the remotely located
8 individual shall make a visual sweep of the remotely located individual's physical
9 surroundings so that the notary public and the supervising attorney can confirm the
10 presence of any other persons.

11 (f) The remotely located individual displays the estate planning document,
12 confirms the total number of pages and the page number on which the remotely
13 located individual's signature is to be affixed, and declares to the notary public and
14 the supervising attorney that the remotely located individual is 18 years of age or
15 older, that the document is the remotely located individual's estate planning
16 document, and that the document is being executed as a voluntary act.

17 (g) The remotely located individual, or another individual 18 years of age or
18 older authorized to sign on behalf of the remotely located individual at the express
19 direction and in the physical presence of the remotely located individual, signs the
20 estate planning document in a manner that allows the notary public and the
21 supervising attorney to see the signing. If the estate planning document is signed
22 by someone on behalf of the remotely located individual, the signing shall comply
23 with s. 140.09.

24 (h) The audiovisual communication technology used allows communication by
25 which a person is able to see, hear, and communicate in an interactive way with

SENATE BILL 898**SECTION 1**

1 another person in real time using electronic means, except that if the remotely
2 located individual, the notary public, or the supervising attorney has an impairment
3 that affects hearing, sight, or speech, assistive technology or learned skills may be
4 substituted for audio or visual if it allows that person to actively participate in the
5 signing in real time.

6 (i) The estate planning document indicates that it is being executed pursuant
7 to this section.

8 (j) One of the following occurs:

9 1. The remotely located individual, or another person at the direction of the
10 remotely located individual, personally delivers or transmits by U.S. mail or
11 commercial courier service the entire signed original estate planning document to
12 the supervising attorney within a reasonable time after the signing. The supervising
13 attorney then personally delivers or transmits by U.S. mail or commercial courier
14 service the entire signed original estate planning document to the notary public
15 within a reasonable time. The notary public then performs the intended notarial act
16 and forwards the entire original estate planning document by personal delivery or
17 U.S. mail or commercial courier service to the supervising attorney within a
18 reasonable time.

19 2. The remotely located individual, or another person at the direction of the
20 remotely located individual, personally delivers or transmits by U.S. mail or
21 commercial courier service the entire signed original estate planning document to
22 the supervising attorney within a reasonable time after the signing and transmits
23 by facsimile or electronic means a legible copy of the entire signed estate planning
24 document directly to the notary public within a reasonable time after the signing.
25 The notary public then performs the intended notarial act and personally delivers

SENATE BILL 898

1 or transmits by U.S. mail or commercial courier service the entire signed copy of the
2 estate planning document to the supervising attorney within a reasonable time. The
3 signed original and signed copy together shall constitute one original document
4 unless the supervising attorney, within a reasonable time after receiving the signed
5 original and signed copy, compiles the signed original and signed copy into one
6 document by attaching the page or pages containing the notarial act to the original
7 signed by or on behalf of the remotely located individual, in which case the compiled
8 document shall constitute the original.

9 3. The remotely located individual, or another person at the express direction
10 of the remotely located individual, and the notary public sign identical copies of the
11 original estate planning document. The remotely located individual, or another
12 person at the direction of the remotely located individual, and the notary public
13 personally deliver or transmit by U.S. mail or commercial courier service the signed
14 originals to the supervising attorney within a reasonable time after the signing and
15 performance of the notarial act. All of the originals together shall constitute one
16 document unless the supervising attorney, within a reasonable time after receiving
17 all signed originals, compiles the originals into one document by attaching the page
18 or pages containing the notarial act to the original signed by or on behalf of the
19 remotely located individual, in which case the compiled document shall constitute
20 the original.

21 (k) The supervising attorney completes and attaches to the estate planning
22 document an affidavit of compliance that contains the following information:

- 23 1. The name and residential address of the remotely located individual.
- 24 2. The name and residential or business address of the notary public.

SENATE BILL 898**SECTION 1**

1 3. The address within the state where the remotely located individual was
2 physically located at the time that the estate planning document was signed by the
3 remotely located individual or another individual on behalf of the remotely located
4 individual.

5 4. The address within the state where the notary public was physically located
6 at the time the notary public witnessed the remotely located individual's signing of
7 the estate planning document.

8 5. A statement that the remotely located individual and notary public were
9 known to each other and the supervising attorney or a description of the form of
10 identification used to confirm the identity of the remotely located individual.

11 6. The identity of anyone else present in the same physical location as the
12 remotely located individual during the signing.

13 7. Confirmation that the remotely located individual declared that the
14 remotely located individual is 18 years of age or older, that the document is the
15 remotely located individual's estate planning document, and that the document was
16 being executed as the remotely located individual's voluntary act.

17 8. Confirmation that the notary public and the supervising attorney were able
18 to see the remotely located individual, or an individual 18 years of age or older at the
19 express direction and in the physical presence of the remotely located individual,
20 sign, and that the remotely located individual appeared to be 18 years of age or older
21 and acting voluntarily.

22 9. A description of the audiovisual technology used for the signing process.

23 10. If the estate planning document was not signed in counterpart, a
24 description of the method used to forward the estate planning document to the notary
25 public and to the supervising attorney upon completion of the signing process.

SENATE BILL 898**SECTION 1**

1 3. The address within the state of Wisconsin where the remotely located
2 individual was physically located at the time the remotely located individual signed
3 the estate planning document is

4 4. The address within the state of Wisconsin where the notary public was
5 physically located at the time the notary public witnessed the remotely located
6 individual's signing of the estate planning document is

7 5. The remotely located individual and notary public were known to each other
8 and to the supervising attorney. - OR - The remotely located individual and notary
9 public were not known to each other and to the supervising attorney. The remotely
10 located individual produced the following form of photo identification to confirm his
11 or her identity:

12

13 6. The following persons were in the same physical location as the remotely
14 located individual during the signing:

15

16 7. The remotely located individual declared that the remotely located
17 individual is 18 years of age or older, that the document is the remotely located
18 individual's [name of estate planning document], and that the document was being
19 executed as the remotely located individual's voluntary act.

20 8. The notary public and the supervising attorney were able to see the remotely
21 located individual sign or another individual on behalf of the remotely located
22 individual sign. The remotely located individual appeared to be 18 years of age or
23 older and acting voluntarily.

24 9. The audiovisual technology used for the signing process was

SENATE BILL 898

1 10. The estate planning document was not signed in counterpart. The following
2 methods were used to forward the estate planning document to the notary public and
3 to the supervising attorney after signing. - OR - The estate planning document was
4 signed in counterpart. The following methods were used to forward each counterpart
5 to the supervising attorney. [If applicable] - The supervising attorney physically
6 compiled the signed paper counterparts into a single document containing the estate
7 planning document, the signature of the remotely located individual, and the
8 notarial act on [date] by [e.g., attaching page 7 from each counterpart signed by the
9 notary public to the back of the estate planning document signed by the remotely
10 located individual].

11 11. The name, state bar number, and [business or residential] address of the
12 supervising attorney is

13 12. [Optional] Other information that the supervising attorney considers to be
14 material is as follows:

15 (signature of supervising attorney)

16 Subscribed and sworn to before me on (date) by (name of supervising
17 attorney).

18 (signature of notarial officer)

19 Stamp

20 (Title of office)

21 [My commission expires:]

22 **(6)** If a supervising attorney is required to complete an affidavit in order to
23 execute an estate planning document pursuant to another provision of law, the
24 information required in that affidavit may be combined with the information
25 required in the affidavit of compliance into a single affidavit.

SENATE BILL 898

SECTION 1

1 **(7)** For a notarial act performed under this section, the certificate of notarial
2 act required under s. 140.15 may be in the following short form, if completed with the
3 information required by s. 140.15 (1) and (2):

4 State of

5 County of

6 This record was virtually acknowledged before me pursuant to Wis. Stat. §
7 140.147 on (date) by (name(s) of individual(s)).

8 (signature of notarial officer)

9 Stamp

10 (Title of office)

11 [My commission expires:]

12 **SECTION 2.** 154.03 (1) (e) of the statutes is created to read:

13 154.03 **(1)** (e) Under the age of 18.

14 **SECTION 3.** 154.03 (3) of the statutes is created to read:

15 154.03 **(3)** For purposes of this section, “presence” includes the simultaneous
16 remote appearance by 2-way, real-time audiovisual communication technology if all
17 of the following conditions are satisfied:

18 (a) The signing is supervised by an attorney in good standing licensed by this
19 state. The supervising attorney may serve as one of the remote witnesses.

20 (b) The declarant attests to being physically located in this state during the
21 2-way, real-time audiovisual communication.

22 (c) Each remote witness attests to being physically located in this state during
23 the 2-way, real-time audiovisual communication.

24 (d) The declarant and each of the remote witnesses identify themselves. If the
25 declarant and remote witnesses are not personally known to each other and to the

SENATE BILL 898

1 supervising attorney, the declarant and each of the remote witnesses display photo
2 identification.

3 (e) The declarant identifies anyone else present in the same physical location
4 as the declarant and, if possible, the declarant makes a visual sweep of the
5 declarant's physical surroundings so that the supervising attorney and each remote
6 witness can confirm the presence of any other person.

7 (f) The declarant displays the declaration to health care professionals, confirms
8 the total number of pages and the page number of the page on which the declarant's
9 signature will be affixed, and declares to the remote witnesses and the supervising
10 attorney all of the following:

- 11 1. That the declarant is 18 years of age or older.
- 12 2. That the document is a declaration to health care professionals.
- 13 3. That the document is being executed as a voluntary act.

14 (g) The declarant, or an individual 18 years of age or older at the express
15 direction and in the physical presence of the declarant, dates and signs the
16 declaration to health care professionals in a manner that allows each of the remote
17 witnesses and the supervising attorney to see the execution.

18 (h) The audiovisual communication technology used allows communication by
19 which a person is able to see, hear, and communicate in an interactive way with
20 another person in real time using electronic means, except that if the declarant, a
21 remote witness, or the supervising attorney has an impairment that affects hearing,
22 sight, or speech, assistive technology or learned skills may be substituted for audio
23 or visual if it allows that person to actively participate in the signing in real time.

24 (i) The declaration to health care professionals indicates that it is being
25 executed pursuant to this subsection.

SENATE BILL 898**SECTION 3**

1 (j) One of the following occurs:

2 1. The declarant, or another person at the direction of the declarant, personally
3 delivers or transmits by U.S. mail or commercial courier service the entire signed
4 original declaration to health care professionals to the supervising attorney within
5 a reasonable time after execution. The supervising attorney then personally delivers
6 or transmits by U.S. mail or commercial courier service the entire signed original
7 declaration to health care professionals to the remote witnesses within a reasonable
8 time. The first remote witness to receive the original declaration to health care
9 professionals signs and dates the original declaration to health care professionals as
10 a witness and forwards the entire signed original declaration to health care
11 professionals by personal delivery or U.S. mail or commercial courier service within
12 a reasonable time to the 2nd remote witness, who signs and dates it as a witness and
13 forwards the entire signed original declaration to health care professionals by
14 personal delivery or U.S. mail or commercial courier service within a reasonable time
15 to the supervising attorney.

16 2. The declarant, or another person at the direction of the declarant, personally
17 delivers or transmits by U.S. mail or commercial courier service the entire signed
18 original declaration to health care professionals to the supervising attorney within
19 a reasonable time after execution, and transmits by facsimile or electronic means a
20 legible copy of the entire signed declaration to health care professionals directly to
21 each remote witness within a reasonable time after execution. Each remote witness
22 then signs the transmitted copy of the declaration to health care professionals as a
23 witness and personally delivers or transmits by U.S. mail or commercial courier
24 service the entire signed copy of the declaration to health care professionals to the
25 supervising attorney within a reasonable time after witnessing. The signed original

SENATE BILL 898

1 and signed copies together shall constitute one original document, unless the
2 supervising attorney, within a reasonable time after receiving the signed original
3 and signed copies, compiles the signed original and signed copies into one document
4 by attaching the signature pages of each remote witness to the original signed by or
5 on behalf of the declarant, in which case the compiled document shall constitute the
6 original.

7 3. The declarant and each of the remote witnesses sign identical copies of the
8 original. The declarant, or another person at the direction of the declarant, and each
9 of the remote witnesses personally deliver or transmit by U.S. mail or commercial
10 courier service the signed originals to the supervising attorney within a reasonable
11 time after execution. All of the signed originals together shall constitute one original
12 document, unless the supervising attorney, within a reasonable time after receiving
13 all signed originals, compiles the originals into one document by attaching the
14 signature pages of each remote witness to the original signed by or on behalf of the
15 declarant, in which case the compiled document shall constitute the original.

16 (k) The supervising attorney completes an affidavit of compliance that contains
17 the following information:

- 18 1. The name and residential address of the declarant.
- 19 2. The name and residential or business address of each remote witness.
- 20 3. The address within this state where the declarant was physically located at
21 the time the declarant signed the declaration to health care professionals.
- 22 4. The address within this state where each remote witness was physically
23 located at the time the remote witness witnessed the declarant's execution of the
24 declaration to health care professionals.

SENATE BILL 898**SECTION 3**

1 5. A statement that the declarant and remote witnesses were all known to each
2 other and the supervising attorney or a description of the form of photo identification
3 used to confirm the identity of the declarant and each remote witness.

4 6. Confirmation that the declarant declared that the declarant is 18 years of
5 age or older, that the document is the declarant's declaration to health care
6 professionals, and that the document was being executed as the declarant's
7 voluntary act.

8 7. Confirmation that each of the remote witnesses and the supervising attorney
9 were able to see the declarant, or an individual 18 years of age or older at the express
10 direction and in the physical presence of the declarant, sign, and that the declarant
11 appeared to be 18 years of age or older and acting voluntarily.

12 8. A description of the audiovisual technology used for the signing process.

13 9. If the declaration to health care professionals was not signed in counterpart,
14 a description of the method used to forward the declaration to health care
15 professionals to each remote witness for signing and to the supervising attorney after
16 signing.

17 10. If the declaration to health care professionals was signed in counterpart,
18 a description of the method used to forward each counterpart to the supervising
19 attorney and, if applicable, how and when the supervising attorney physically
20 compiled the signed paper counterparts into a single document containing the
21 declaration to health care professionals, the signature of the declarant, and the
22 signatures of the remote witnesses.

23 11. The name, state bar number, and business or residential address of the
24 supervising attorney.

SENATE BILL 898

1 12. Any other information that the supervising attorney considers to be
2 material with respect to the declarant's capacity to sign a valid declaration to health
3 care professionals, the declarant's and witnesses' compliance with this section, or
4 any other information that the supervising attorney deems relevant to the execution
5 of the declaration to health care professionals.

6 (L) The affidavit of compliance is attached to the declaration to health care
7 professionals.

8 (m) An affidavit of compliance described in this subsection shall be
9 substantially in the following form:

10 **AFFIDAVIT OF COMPLIANCE**

11 State of

12 County of

13 The undersigned, being first duly sworn under oath, states as follows:

14 This Affidavit of Compliance is executed pursuant to Wis. Stat. § 154.03 (3) to
15 document the execution of the declaration to health care professionals of [name of
16 declarant] via remote appearance by 2-way, real-time audiovisual communication
17 technology on [date].

18 1. The name and residential address of the declarant is

19 2. The name and [residential or business] address of remote witness 1 is

20 3. The name and [residential or business] address of remote witness 2 is

21 4. The address within the state of Wisconsin where the declarant was
22 physically located at the time the declarant signed the declaration to health care
23 professionals is

SENATE BILL 898**SECTION 3**

1 5. The address within the state of Wisconsin where remote witness 1 was
2 physically located at the time the remote witness witnessed the declarant's execution
3 of the declaration to health care professionals is

4 6. The address within the state of Wisconsin where remote witness 2 was
5 physically located at the time the remote witness witnessed the declarant's execution
6 of the declaration to health care professionals is

7 7. The declarant and remote witnesses were all known to each other and to the
8 supervising attorney. - OR - The declarant and remote witnesses were not all known
9 to each other and to the supervising attorney. Each produced the following form of
10 photo identification to confirm his or her identity:

11

12 8. The declarant declared that the declarant is 18 years of age or older, that the
13 document is the declarant's declaration to health care professionals, and that the
14 document was being executed as the declarant's voluntary act.

15 9. Each of the remote witnesses and the supervising attorney were able to see
16 the declarant sign. The declarant appeared to be 18 years of age or older and acting
17 voluntarily.

18 10. The audiovisual technology used for the signing process was

19 11. The declaration to health care professionals was not signed in counterpart.
20 The following methods were used to forward the declaration to health care
21 professionals to each remote witness for signing and to the supervising attorney after
22 signing. - OR - The declaration to health care professionals was signed in
23 counterpart. The following methods were used to forward each counterpart to the
24 supervising attorney. [If applicable] - The supervising attorney physically compiled
25 the signed paper counterparts into a single document containing the declaration to

SENATE BILL 898

1 health care professionals, the signature of the declarant, and the signatures of the
2 remote witnesses on [date] by [e.g., attaching page 7 from each counterpart signed
3 by a remote witness to the back of the declaration to health care professionals signed
4 by the declarant].

5 12. The name, state bar number, and [business or residential] address of the
6 supervising attorney is

7 13. [Optional] Other information that the supervising attorney considers to be
8 material is as follows:

9 (signature of supervising attorney)

10 Subscribed and sworn to before me on (date) by (name of supervising
11 attorney).

12 (signature of notarial officer)

13 Stamp

14 (Title of office)

15 [My commission expires:]

16 **SECTION 4.** 154.30 (8) (d) 2. of the statutes is amended to read:

17 154.30 (8) (d) 2. Be signed and dated by the declarant, with the signature
18 witnessed by 2 witnesses who each have attained age 18 and who are not related by
19 blood, marriage, or adoption to the declarant, or acknowledged before a notary
20 public. If the declarant is physically unable to sign an authorization for final
21 disposition, the authorization shall be signed in the declarant's name by an
22 individual 18 years of age or older at the declarant's express direction and in his or
23 her physical presence; such a proxy signing shall take place or be acknowledged by
24 the declarant in the presence of 2 witnesses or a notary public.

25 **SECTION 5.** 154.30 (8m) of the statutes is created to read:

SENATE BILL 898**SECTION 5**

1 154.30 **(8m)** REMOTE EXECUTION. For purposes of sub. (8) (d) 2., “witnessed by”
2 and “in the presence of” include the simultaneous remote appearance by 2-way,
3 real-time audiovisual communication technology if all of the following conditions are
4 satisfied:

5 (a) The signing is supervised by an attorney in good standing licensed by this
6 state. The supervising attorney may serve as one of the remote witnesses.

7 (b) The declarant attests to being physically located in this state during the
8 2-way, real-time audiovisual communication.

9 (c) Each remote witness attests to being physically located in this state during
10 the 2-way, real-time audiovisual communication.

11 (d) The declarant and each of the remote witnesses identify themselves. If the
12 declarant and remote witnesses are not personally known to each other and to the
13 supervising attorney, the declarant and each of the remote witnesses display photo
14 identification.

15 (e) The declarant identifies anyone else present in the same physical location
16 as the declarant and, if possible, the declarant makes a visual sweep of the
17 declarant’s physical surroundings so that the supervising attorney and each remote
18 witness can confirm the presence of any other person.

19 (f) The declarant displays the authorization for final disposition, confirms the
20 total number of pages and the page number of the page on which the declarant’s
21 signature will be affixed, and declares to the remote witnesses and the supervising
22 attorney all of the following:

- 23 1. That the declarant is 18 years of age or older.
- 24 2. That the document is an authorization for final disposition.
- 25 3. That the document is being executed as a voluntary act.

SENATE BILL 898

1 (g) The declarant, or an individual 18 years of age or older at the express
2 direction and in the physical presence of the declarant, dates and signs the
3 authorization for final disposition in a manner that allows each of the remote
4 witnesses and the supervising attorney to see the execution.

5 (h) The audiovisual communication technology used allows communication by
6 which a person is able to see, hear, and communicate in an interactive way with
7 another person in real time using electronic means, except that if the declarant, a
8 remote witness, or the supervising attorney has an impairment that affects hearing,
9 sight, or speech, assistive technology or learned skills may be substituted for audio
10 or visual if it allows that person to actively participate in the signing in real time.

11 (i) The authorization for final disposition indicates that it is being executed
12 pursuant to this subsection.

13 (j) One of the following occurs:

14 1. The declarant, or another person at the direction of the declarant, personally
15 delivers or transmits by U.S. mail or commercial courier service the entire signed
16 original authorization for final disposition to the supervising attorney within a
17 reasonable time after execution. The supervising attorney then personally delivers
18 or transmits by U.S. mail or commercial courier service the entire signed original
19 authorization for final disposition to the remote witnesses within a reasonable time.
20 The first remote witness to receive the original authorization for final disposition
21 signs and dates the original authorization for final disposition as a witness and
22 forwards the entire signed original authorization for final disposition by personal
23 delivery or U.S. mail or commercial courier service within a reasonable time to the
24 2nd remote witness, who signs and dates it as a witness and forwards the entire

SENATE BILL 898**SECTION 5**

1 signed original authorization for final disposition by personal delivery or U.S. mail
2 or commercial courier service within a reasonable time to the supervising attorney.

3 2. The declarant, or another person at the direction of the declarant, personally
4 delivers or transmits by U.S. mail or commercial courier service the entire signed
5 original authorization for final disposition to the supervising attorney within a
6 reasonable time after execution, and transmits by facsimile or electronic means a
7 legible copy of the entire signed authorization for final disposition directly to each
8 remote witness within a reasonable time after execution. Each remote witness shall
9 then sign the transmitted copy of the authorization for final disposition as a witness
10 and personally deliver or transmit by U.S. mail or commercial courier service the
11 entire signed copy of the authorization for final disposition to the supervising
12 attorney within a reasonable time after witnessing. The signed original and signed
13 copies together shall constitute one original document, unless the supervising
14 attorney, within a reasonable time after receiving the signed original and signed
15 copies, compiles the signed original and signed copies into one document by
16 attaching the signature pages of each remote witness to the original signed by or on
17 behalf of the declarant, in which case the compiled document shall constitute the
18 original.

19 3. The declarant and each of the remote witnesses sign identical copies of the
20 original. The declarant, or another person at the direction of the declarant, and each
21 of the remote witnesses personally deliver or transmit by U.S. mail or commercial
22 courier service the signed originals to the supervising attorney within a reasonable
23 time after execution. All of the signed originals together shall constitute one original
24 document unless the supervising attorney, within a reasonable time after receiving
25 all signed originals, compiles the originals into one document by attaching the

SENATE BILL 898

1 signature pages of each remote witness to the original signed by the declarant, in
2 which case the compiled document shall constitute the original.

3 (k) The supervising attorney completes an affidavit of compliance that contains
4 the following information:

5 1. The name and residential address of the declarant.

6 2. The name and residential or business address of each remote witness.

7 3. The address within this state where the declarant was physically located at
8 the time the declarant signed the authorization for final disposition.

9 4. The address within this state where each remote witness was physically
10 located at the time the remote witness witnessed the declarant's execution of the
11 authorization for final disposition.

12 5. A statement that the declarant and remote witnesses were all known to each
13 other and the supervising attorney or a description of the form of photo identification
14 used to confirm the identity of the declarant and each remote witness.

15 6. Confirmation that the declarant declared that the declarant is 18 years of
16 age or older, that the document is the declarant's authorization for final disposition,
17 and that the document was being executed as the declarant's voluntary act.

18 7. Confirmation that each of the remote witnesses and the supervising attorney
19 were able to see the declarant, or an individual 18 years of age or older at the express
20 direction and in the physical presence of the declarant, sign, and that the declarant
21 appeared to be 18 years of age or older and acting voluntarily.

22 8. A description of the audiovisual technology used for the signing process.

23 9. If the authorization for final disposition was not signed in counterpart, a
24 description of the method used to forward the authorization for final disposition to
25 each remote witness for signing and to the supervising attorney after signing.

SENATE BILL 898**SECTION 5**

1 10. If the authorization for final disposition was signed in counterpart, a
 2 description of the method used to forward each counterpart to the supervising
 3 attorney and, if applicable, how and when the supervising attorney physically
 4 compiled the signed paper counterparts into a single document containing the
 5 authorization for final disposition, the signature of the declarant, and the signatures
 6 of the remote witnesses.

7 11. The name, state bar number, and business or residential address of the
 8 supervising attorney.

9 12. Any other information that the supervising attorney considers to be
 10 material with respect to the declarant's capacity to sign a valid authorization for final
 11 disposition, the declarant's and witnesses' compliance with this section, or any other
 12 information that the supervising attorney deems relevant to the execution of the
 13 authorization for final disposition.

14 (L) The affidavit of compliance is attached to the authorization for final
 15 disposition.

16 (m) An affidavit of compliance described in this subsection shall be
 17 substantially in the following form:

AFFIDAVIT OF COMPLIANCE

18 State of

19 County of

20 The undersigned, being first duly sworn under oath, states as follows:

21 This Affidavit of Compliance is executed pursuant to Wis. Stat. § 154.30 (8m)
 22 to document the execution of the authorization for final disposition of [name of
 23 declarant] via remote appearance by 2-way, real-time audiovisual communication
 24 technology on [date].
 25

SENATE BILL 898

- 1 1. The name and residential address of the declarant is
- 2 2. The name and [residential or business] address of remote witness 1 is
- 3 3. The name and [residential or business] address of remote witness 2 is
- 4 4. The address within the state of Wisconsin where the declarant was
5 physically located at the time the declarant signed the authorization for final
6 disposition is
- 7 5. The address within the state of Wisconsin where remote witness 1 was
8 physically located at the time the remote witness witnessed the declarant's execution
9 of the authorization for final disposition is
- 10 6. The address within the state of Wisconsin where remote witness 2 was
11 physically located at the time the remote witness witnessed the declarant's execution
12 of the authorization for final disposition is
- 13 7. The declarant and remote witnesses were all known to each other and to the
14 supervising attorney. - OR - The declarant and remote witnesses were not all known
15 to each other and to the supervising attorney. Each produced the following form of
16 photo identification to confirm his or her identity:
17
- 18 8. The declarant declared that the declarant is 18 years of age or older, that the
19 document is the declarant's authorization for final disposition, and that the
20 document was executed as the declarant's voluntary act.
- 21 9. Each of the remote witnesses and the supervising attorney were able to see
22 the declarant, or an individual 18 years of age or older at the express direction and
23 in the physical presence of the declarant, sign. The declarant appeared to be 18 years
24 of age or older and acting voluntarily.
- 25 10. The audiovisual technology used for the signing process was

SENATE BILL 898

SECTION 5

1 11. The authorization for final disposition was not signed in counterpart. The
2 following methods were used to forward the authorization for final disposition to
3 each remote witness for signing and to the supervising attorney after signing. - OR
4 - The authorization for final disposition was signed in counterpart. The following
5 methods were used to forward each counterpart to the supervising attorney. [If
6 applicable] - The supervising attorney physically compiled the signed paper
7 counterparts into a single document containing the authorization for final
8 disposition, the signature of the declarant, and the signatures of the remote
9 witnesses on [date] by [e.g., attaching page 7 from each counterpart signed by a
10 remote witness to the back of the authorization for final disposition signed by the
11 declarant].

12 12. The name, state bar number, and [business or residential] address of the
13 supervising attorney is

14 13. [Optional] Other information that the supervising attorney considers to be
15 material is as follows:

16 (signature of supervising attorney)

17 Subscribed and sworn to before me on (date) by (name of supervising
18 attorney).

19 (signature of notarial officer)

20 Stamp

21 (Title of office)

22 [My commission expires:]

23 **SECTION 6.** 155.10 (3) of the statutes is created to read:

SENATE BILL 898

1 155.10 (3) For purposes of sub. (1) (c), “in the presence of” includes the
2 simultaneous remote appearance by 2-way, real-time audiovisual communication
3 technology if all of the following conditions are satisfied:

4 (a) The signing is supervised by an attorney in good standing licensed by this
5 state. The supervising attorney may serve as one of the remote witnesses.

6 (b) The principal attests to being physically located in this state during the
7 2-way, real-time audiovisual communication.

8 (c) Each remote witness attests to being physically located in this state during
9 the 2-way, real-time audiovisual communication.

10 (d) The principal and each of the remote witnesses identify themselves. If the
11 principal and remote witnesses are not personally known to each other and to the
12 supervising attorney, the principal and each of the remote witnesses display photo
13 identification.

14 (e) The principal identifies anyone else present in the same physical location
15 as the principal and, if possible, the principal makes a visual sweep of the principal’s
16 physical surroundings so that the supervising attorney and each remote witness can
17 confirm the presence of any other person.

18 (f) The principal displays the power of attorney for health care, confirms the
19 total number of pages and the page number of the page on which the principal’s
20 signature will be affixed, and declares to the remote witnesses and the supervising
21 attorney all of the following:

22 1. That the principal is 18 years of age or older.

23 2. That the document is the principal’s power of attorney for health care.

24 3. That the document is being executed as a voluntary act.

SENATE BILL 898**SECTION 6**

1 (g) The principal, or an individual 18 years of age or older at the express
2 direction and in the physical presence of the principal, dates and signs the power of
3 attorney for health care in a manner that allows each of the remote witnesses and
4 the supervising attorney to see the execution.

5 (h) The audiovisual communication technology used allows communication by
6 which a person is able to see, hear, and communicate in an interactive way with
7 another person in real time using electronic means, except that if the principal, a
8 remote witness, or the supervising attorney has an impairment that affects hearing,
9 sight, or speech, assistive technology or learned skills may be substituted for audio
10 or visual if it allows that person to actively participate in the signing in real time.

11 (i) The power of attorney for health care indicates that it is being executed
12 pursuant to this subsection.

13 (j) One of the following occurs:

14 1. The principal, or another person at the direction of the principal, personally
15 delivers or transmits by U.S. mail or commercial courier service the entire signed
16 original power of attorney for health care to the supervising attorney within a
17 reasonable time after execution. The supervising attorney then personally delivers
18 or transmits by U.S. mail or commercial courier service the entire signed original
19 power of attorney for health care to the remote witnesses within a reasonable time.
20 The first remote witness to receive the original power of attorney for health care signs
21 and dates the original power of attorney for health care as a witness and forwards
22 the entire signed original power of attorney for health care by personal delivery or
23 U.S. mail or commercial courier service within a reasonable time to the 2nd remote
24 witness, who signs and dates it as a witness and forwards the entire signed original

SENATE BILL 898

1 power of attorney for health care by personal delivery or U.S. mail or commercial
2 courier service within a reasonable time to the supervising attorney.

3 2. The principal, or another person at the direction of the principal, personally
4 delivers or transmits by U.S. mail or commercial courier service the entire signed
5 original power of attorney for health care to the supervising attorney within a
6 reasonable time after execution and transmits by facsimile or electronic means a
7 legible copy of the entire signed power of attorney for health care directly to each
8 remote witness within a reasonable time after execution. Each remote witness then
9 signs the transmitted copy of the power of attorney for health care as a witness and
10 personally delivers or transmits by U.S. mail or commercial courier service the entire
11 signed copy of the power of attorney for health care to the supervising attorney
12 within a reasonable time after witnessing. The signed original and signed copies
13 together shall constitute one original document, unless the supervising attorney,
14 within a reasonable time after receiving the signed original and signed copies,
15 compiles the signed original and signed copies into one document by attaching the
16 signature pages of each remote witness to the original signed by or on behalf of the
17 principal, in which case the compiled document shall constitute the original.

18 3. The principal and each of the remote witnesses sign identical copies of the
19 original. The principal, or another person at the direction of the principal, and each
20 of the remote witnesses personally deliver or transmit by U.S. mail or commercial
21 courier service the signed originals to the supervising attorney within a reasonable
22 time after execution. All of the signed originals together shall constitute one original
23 document, unless the supervising attorney, within a reasonable time after receiving
24 all signed originals, compiles the originals into one document by attaching the

SENATE BILL 898**SECTION 6**

1 signature pages of each remote witness to the original signed by or on behalf of the
2 principal, in which case the compiled document shall constitute the original.

3 (k) The supervising attorney completes an affidavit of compliance that contains
4 the following information:

5 1. The name and residential address of the principal.

6 2. The name and residential or business address of each remote witness.

7 3. The address within this state where the principal was physically located at
8 the time the principal signed the power of attorney for health care.

9 4. The address within this state where each remote witness was physically
10 located at the time the remote witness witnessed the principal's execution of the
11 power of attorney for health care.

12 5. A statement that the principal and remote witnesses were all known to each
13 other and the supervising attorney or a description of the form of photo identification
14 used to confirm the identity of the principal and each remote witness.

15 6. Confirmation that the principal declared that the principal is 18 years of age
16 or older, that the document is the principal's power of attorney for health care, and
17 that the document was being executed as the principal's voluntary act.

18 7. Confirmation that each of the remote witnesses and the supervising attorney
19 were able to see the principal, or an individual 18 years of age or older at the express
20 direction and in the physical presence of the principal, sign, and that the principal
21 appeared to be 18 years of age or older and acting voluntarily.

22 8. A description of the audiovisual technology used for the signing process.

23 9. If the power of attorney for health care was not signed in counterpart, a
24 description of the method used to forward the power of attorney for health care to
25 each remote witness for signing and to the supervising attorney after signing.

SENATE BILL 898

1 10. If the power of attorney for health care was signed in counterpart, a
2 description of the method used to forward each counterpart to the supervising
3 attorney and, if applicable, how and when the supervising attorney physically
4 compiled the signed paper counterparts into a single document containing the power
5 of attorney for health care, the signature of the principal, and the signatures of the
6 remote witnesses.

7 11. The name, state bar number, and business or residential address of the
8 supervising attorney.

9 12. Any other information that the supervising attorney considers to be
10 material with respect to the principal’s capacity to sign a valid power of attorney for
11 health care, the principal’s and witnesses’ compliance with this section, or any other
12 information that the supervising attorney deems relevant to the execution of the
13 power of attorney for health care.

14 (L) The affidavit of compliance is attached to the power of attorney for health
15 care.

16 (m) An affidavit of compliance described in this subsection shall be
17 substantially in the following form:

AFFIDAVIT OF COMPLIANCE

18 State of

19 County of

20 The undersigned, being first duly sworn under oath, states as follows:

21 This Affidavit of Compliance is executed pursuant to Wis. Stat. § 155.10 (3) to
22 document the execution of the power of attorney for health care of [name of principal]
23 via remote appearance by 2-way, real-time audiovisual communication technology
24 on [date].
25

SENATE BILL 898**SECTION 6**

- 1 1. The name and residential address of the principal is
- 2 2. The name and [residential or business] address of remote witness 1 is
- 3 3. The name and [residential or business] address of remote witness 2 is
- 4 4. The address within the state of Wisconsin where the principal was physically
- 5 located at the time the principal signed the power of attorney for health care is
- 6 5. The address within the state of Wisconsin where remote witness 1 was
- 7 physically located at the time the remote witness witnessed the principal's execution
- 8 of the power of attorney for health care is
- 9 6. The address within the state of Wisconsin where remote witness 2 was
- 10 physically located at the time the remote witness witnessed the principal's execution
- 11 of the power of attorney for health care is
- 12 7. The principal and remote witnesses were all known to each other and to the
- 13 supervising attorney. - OR - The principal and remote witnesses were not all known
- 14 to each other and to the supervising attorney. Each produced the following form of
- 15 photo identification to confirm his or her identity:
- 16
- 17 8. The principal declared that the principal is 18 years of age or older, that the
- 18 document is the principal's power of attorney for health care, and that the document
- 19 was being executed as the principal's voluntary act.
- 20 9. Each of the remote witnesses and the supervising attorney were able to see
- 21 the principal, or an individual 18 years of age or older at the express direction and
- 22 in the physical presence of the principal, sign. The principal appeared to be 18 years
- 23 of age or older and acting voluntarily.
- 24 10. The audiovisual technology used for the signing process was

SENATE BILL 898

1 11. The power of attorney for health care was not signed in counterpart. The
2 following methods were used to forward the power of attorney for health care to each
3 remote witness for signing and to the supervising attorney after signing. - OR - The
4 power of attorney for health care was signed in counterpart. The following methods
5 were used to forward each counterpart to the supervising attorney. [If applicable]
6 - The supervising attorney physically compiled the signed paper counterparts into
7 a single document containing the power of attorney for health care, the signature of
8 the principal, and the signatures of the remote witnesses on [date] by [e.g., attaching
9 page 7 from each counterpart signed by a remote witness to the back of the power of
10 attorney for health care signed by the principal].

11 12. The name, state bar number, and business or residential address of the
12 supervising attorney is

13 13. [Optional] Other information that the supervising attorney considers to be
14 material is as follows:

15 (signature of supervising attorney)

16 Subscribed and sworn to before me on (date) by (name of supervising
17 attorney).

18 (signature of notarial officer)

19 Stamp

20 (Title of office)

21 [My commission expires:]

22 **SECTION 7.** 244.05 of the statutes is repealed and recreated to read:

23 **244.05 Execution of power of attorney.** (1) To execute a power of attorney,
24 the principal must sign the power of attorney, or an individual 18 years of age or older

SENATE BILL 898**SECTION 7**

1 at the express direction and in the physical presence of the principal must sign the
2 principal's name on the power of attorney.

3 (2) A signature of the principal, or the signature of an individual signing on
4 behalf of the principal, on a power of attorney is presumed to be genuine if the
5 principal makes an acknowledgment of the power of attorney before a notarial officer
6 authorized under ch. 140 to take acknowledgments.

7 (3) A signature of the principal, or the signature of an individual signing on
8 behalf of the principal, on a power of attorney is presumed to be genuine if the signing
9 is witnessed by 2 witnesses via simultaneous remote appearance by 2-way,
10 real-time audiovisual communication technology if all of the following conditions are
11 satisfied:

12 (a) The signing is supervised by an attorney in good standing licensed by this
13 state. The supervising attorney may serve as one of the remote witnesses.

14 (b) The principal attests to being physically located in this state during the
15 2-way, real-time audiovisual communication.

16 (c) Each remote witness attests to being physically located in this state during
17 the 2-way, real-time audiovisual communication.

18 (d) The principal and each of the remote witnesses identify themselves. If the
19 principal and remote witnesses are not personally known to each other and to the
20 supervising attorney, the principal and each of the remote witnesses display photo
21 identification.

22 (e) The principal identifies anyone else present in the same physical location
23 as the principal and, if possible, the principal makes a visual sweep of the principal's
24 physical surroundings so that the supervising attorney and each remote witness can
25 confirm the presence of any other person.

SENATE BILL 898

1 (f) The principal displays the power of attorney, confirms the total number of
2 pages and the page number of the page on which the principal's signature will be
3 affixed, and declares to the remote witnesses and the supervising attorney all of the
4 following:

- 5 1. That the principal is 18 years of age or older.
- 6 2. That the document is the principal's power of attorney.
- 7 3. That the document is being executed as a voluntary act.

8 (g) The principal, or another individual 18 years of age or older at the express
9 direction and in the physical presence of the principal, signs the power of attorney
10 in a manner that allows each of the remote witnesses and the supervising attorney
11 to see the execution.

12 (h) The audiovisual communication technology used allows communication by
13 which a person is able to see, hear, and communicate in an interactive way with
14 another person in real time using electronic means, except that if the principal, a
15 remote witness, or the supervising attorney has an impairment that affects hearing,
16 sight, or speech, assistive technology or learned skills may be substituted for audio
17 or visual if it allows that person to actively participate in the signing in real time.

18 (i) The power of attorney indicates that it is being executed pursuant to this
19 section.

20 (j) One of the following occurs:

- 21 1. The principal, or another person at the direction of the principal, personally
22 delivers or transmits by U.S. mail or commercial courier service the entire signed
23 original power of attorney to the supervising attorney within a reasonable time after
24 execution. The supervising attorney then personally delivers or transmits by U.S.
25 mail or commercial courier service the entire signed original power of attorney to the

SENATE BILL 898**SECTION 7**

1 remote witnesses within a reasonable time. The first remote witness to receive the
2 original power of attorney signs the original power of attorney as a witness and
3 forwards the entire signed original power of attorney by personal delivery or U.S.
4 mail or commercial courier service within a reasonable time to the 2nd remote
5 witness, who signs it as a witness and forwards the entire signed original power of
6 attorney by personal delivery or U.S. mail or commercial courier service within a
7 reasonable time to the supervising attorney.

8 2. The principal, or another person at the direction of the principal, personally
9 delivers or transmits by U.S. mail or commercial courier service the entire signed
10 original power of attorney to the supervising attorney within a reasonable time after
11 execution and transmits by facsimile or electronic means a legible copy of the entire
12 signed power of attorney directly to each remote witness within a reasonable time
13 after execution. Each remote witness then signs the transmitted copy of the power
14 of attorney as a witness and personally delivers or transmits by U.S. mail or
15 commercial courier service the entire signed copy of the power of attorney to the
16 supervising attorney within a reasonable time after witnessing. The signed original
17 and signed copies together shall constitute one original document, unless the
18 supervising attorney, within a reasonable time after receiving the signed original
19 and signed copies, compiles the signed original and signed copies into one document
20 by attaching the signature pages of each remote witness to the original signed by or
21 on behalf of the principal, in which case the compiled document shall constitute the
22 original.

23 3. The principal and each of the remote witnesses sign identical copies of the
24 original. The principal, or another person at the direction of the principal, and each
25 of the remote witnesses personally deliver or transmit by U.S. mail or commercial

SENATE BILL 898

1 courier service the signed originals to the supervising attorney within a reasonable
2 time after execution. All of the signed originals together shall constitute one original
3 document, unless the supervising attorney, within a reasonable time after receiving
4 all signed originals, compiles the originals into one document by attaching the
5 signature pages of each remote witness to the original signed by or on behalf of the
6 principal, in which case the compiled document shall constitute the original.

7 (k) The supervising attorney completes an affidavit of compliance that contains
8 all of the following information:

9 1. The name and residential address of the principal.

10 2. The name and residential or business address of each remote witness.

11 3. The address within this state where the principal was physically located at
12 the time the principal signed the power of attorney.

13 4. The address within this state where each remote witness was physically
14 located at the time the remote witness witnessed the principal's execution of the
15 power of attorney.

16 5. A statement that the principal and remote witnesses were all known to each
17 other and the supervising attorney or a description of the form of photo identification
18 used to confirm the identity of the principal and each remote witness.

19 6. Confirmation that the principal declared that the principal is 18 years of age
20 or older, that the document is the principal's power of attorney, and that the
21 document was being executed as the principal's voluntary act.

22 7. Confirmation that each of the remote witnesses and the supervising attorney
23 were able to see the principal, or another individual 18 years of age or older at the
24 express direction and in the physical presence of the principal, sign, and that the
25 principal appeared to be 18 years of age or older and acting voluntarily.

SENATE BILL 898

SECTION 7

1 8. A description of the audiovisual technology used for the signing process.

2 9. If the power of attorney was not signed in counterpart, a description of the
3 method used to forward the power of attorney to each remote witness for signing and
4 to the supervising attorney after signing.

5 10. If the power of attorney was signed in counterpart, a description of the
6 method used to forward each counterpart to the supervising attorney and, if
7 applicable, how and when the supervising attorney physically compiled the signed
8 paper counterparts into a single document containing the power of attorney, the
9 signature of the principal, and the signatures of the remote witnesses.

10 11. The name, state bar number, and business or residential address of the
11 supervising attorney.

12 12. Any other information that the supervising attorney considers to be
13 material with respect to the principal's capacity to sign a valid power of attorney, the
14 principal's and witnesses' compliance with this section, or any other information that
15 the supervising attorney deems relevant to the execution of the power of attorney.

16 (L) The affidavit of compliance is attached to the power of attorney.

17 (m) An affidavit of compliance described in this subsection shall be
18 substantially in the following form:

AFFIDAVIT OF COMPLIANCE

19 State of

20 County of

21 The undersigned, being first duly sworn under oath, states as follows:

22 This Affidavit of Compliance is executed pursuant to Wis. Stat. § 244.05 to
23 document the execution of the power of attorney of [name of principal] via remote
24 appearance by 2-way, real-time audiovisual communication technology on [date].
25

SENATE BILL 898

- 1 1. The name and residential address of the principal is
- 2 2. The name and [residential or business] address of remote witness 1 is
- 3 3. The name and [residential or business] address of remote witness 2 is
- 4 4. The address within the state of Wisconsin where the principal was physically
5 located at the time the principal signed the power of attorney is
- 6 5. The address within the state of Wisconsin where remote witness 1 was
7 physically located at the time the remote witness witnessed the principal's execution
8 of the power of attorney is
- 9 6. The address within the state of Wisconsin where remote witness 2 was
10 physically located at the time the remote witness witnessed the principal's execution
11 of the power of attorney is
- 12 7. The principal and remote witnesses were all known to each other and to the
13 supervising attorney. - OR - The principal and remote witnesses were not all known
14 to each other and to the supervising attorney. Each produced the following form of
15 photo identification to confirm his or her identity:
16
- 17 8. The principal declared that the principal is 18 years of age or older, that the
18 document is the principal's power of attorney, and that the document was being
19 executed as the principal's voluntary act.
- 20 9. Each of the remote witnesses and the supervising attorney were able to see
21 the principal, or another individual 18 years of age or older at the express direction
22 and in the physical presence of the principal, sign. The principal appeared to be 18
23 years of age or older and acting voluntarily.
- 24 10. The audiovisual technology used for the signing process was

SENATE BILL 898**SECTION 7**

1 11. The power of attorney was not signed in counterpart. The following
2 methods were used to forward the power of attorney to each remote witness for
3 signing and to the supervising attorney after signing. - OR - The power of attorney
4 was signed in counterpart. The following methods were used to forward each
5 counterpart to the supervising attorney. [If applicable] - The supervising attorney
6 physically compiled the signed paper counterparts into a single document containing
7 the power of attorney, the signature of the principal, and the signatures of the remote
8 witnesses on [date] by [e.g., attaching page 7 from each counterpart signed by a
9 remote witness to the back of the power of attorney signed by the principal].

10 12. The name, state bar number, and business or residential address of the
11 supervising attorney is

12 13. [Optional] Other information that the supervising attorney considers to be
13 material is as follows:

14 ... (signature of supervising attorney)

15 Subscribed and sworn to before me on (date) by (name of supervising
16 attorney).

17 ... (signature of notarial officer)

18 Stamp

19 ... (Title of office)

20 [My commission expires:]

21 **SECTION 8.** 853.03 (2) (c) of the statutes is created to read:

22 853.03 (2) (c) For purposes this subsection, “conscious presence” includes the
23 simultaneous remote appearance by 2-way, real-time audiovisual communication
24 technology if all of the following conditions are satisfied:

SENATE BILL 898

1 1. The signing is supervised by an attorney in good standing licensed by this
2 state. The supervising attorney may serve as one of the remote witnesses.

3 2. The testator attests to being physically located in this state during the
4 2-way, real-time audiovisual communication.

5 3. Each remote witness attests to being physically located in this state during
6 the 2-way, real-time audiovisual communication.

7 4. The testator and each of the remote witnesses identify themselves. If the
8 testator and remote witnesses are not personally known to each other and to the
9 supervising attorney, the testator and each of the remote witnesses display photo
10 identification.

11 5. The testator identifies anyone else present in the same physical location as
12 the testator and, if possible, the testator makes a visual sweep of the testator's
13 physical surroundings so that the supervising attorney and each remote witness can
14 confirm the presence of any other person.

15 6. The testator displays the will, confirms the total number of pages and the
16 page number of the page on which the testator's signature will be affixed, and
17 declares to the remote witnesses and the supervising attorney all of the following:

18 a. That the testator is 18 years of age or older.

19 b. That the document is the testator's will.

20 c. That the document is being executed as a free and voluntary act.

21 7. The testator, the testator with the assistance of another person 18 years of
22 age or older with the testator's consent, or another person 18 years of age or older
23 signing in the testator's name at the testator's direction and in the testator's physical
24 presence, executes the will in a manner that allows each of the remote witnesses and
25 the supervising attorney to see the execution.

SENATE BILL 898**SECTION 8**

1 8. The audiovisual communication technology used allows communication by
2 which a person is able to see, hear, and communicate in an interactive way with
3 another person in real time using electronic means, except that if the testator, a
4 remote witness, or the supervising attorney has an impairment that affects hearing,
5 sight, or speech, assistive technology or learned skills may be substituted for audio
6 or visual if it allows that person to actively participate in the signing in real time.

7 9. The will indicates that it is being executed pursuant to this section.

8 10. One of the following occurs:

9 a. The testator, or another person at the direction of the testator, personally
10 delivers or transmits by U.S. mail or commercial courier service the entire signed
11 original will to the supervising attorney within a reasonable time after execution.
12 The supervising attorney then personally delivers or transmits by U.S. mail or
13 commercial courier service the entire signed original will to the remote witnesses
14 within a reasonable time. The first remote witness to receive the original will signs
15 the original will as a witness and forwards the entire signed original will by personal
16 delivery or U.S. mail or commercial courier service within a reasonable time to the
17 2nd remote witness, who signs it as a witness and forwards the entire signed original
18 will by personal delivery or U.S. mail or commercial courier service within a
19 reasonable time to the supervising attorney.

20 b. The testator, or another person at the direction of the testator, personally
21 delivers or transmits by U.S. mail or commercial courier service the entire signed
22 original will to the supervising attorney within a reasonable time after execution and
23 transmits by facsimile or electronic means a legible copy of the entire signed original
24 will directly to each remote witness within a reasonable time after execution. Each
25 remote witness then signs the transmitted copy of the will as a witness and transmits

SENATE BILL 898

1 the entire signed copy of the will by personal delivery or U.S. mail or commercial
2 courier service to the supervising attorney within a reasonable time after witnessing.
3 The signed original and signed copies together shall constitute one original
4 document, unless the supervising attorney, within a reasonable time after receiving
5 the signed original and signed copies, compiles the signed original and signed copies
6 into one document by attaching the signature pages of each remote witness to the
7 original signed by or on behalf of the testator, in which case the compiled document
8 shall constitute the original.

9 c. The testator and each of the remote witnesses sign identical copies of the
10 original. The testator, or another person at the direction of the testator, and each of
11 the remote witnesses personally deliver or transmit by U.S. mail or commercial
12 courier service the signed originals to the supervising attorney within a reasonable
13 time after execution. All of the signed originals together shall constitute one original
14 document, unless the supervising attorney, within a reasonable time after receiving
15 all signed originals, compiles the originals into one document by attaching the
16 signature pages of each remote witness to the original signed by or on behalf of the
17 testator, in which case the compiled document shall constitute the original.

18 11. The supervising attorney completes an affidavit of compliance that contains
19 the following information:

20 a. The name and residential address of the testator.

21 b. The name and residential or business address of each remote witness.

22 c. The address within this state where the testator was physically located at
23 the time the testator signed the will.

24 d. The address within this state where each remote witness was physically
25 located at the time the remote witness witnessed the testator's execution of the will.

SENATE BILL 898**SECTION 8**

1 e. A statement that the testator and remote witnesses were all known to each
2 other and the supervising attorney or a description of the form of photo identification
3 used to confirm the identity of the testator and each remote witness.

4 f. Confirmation that the testator declared that the testator is 18 years of age
5 or older, that the document is the testator's will, and that the document was being
6 executed as the testator's free and voluntary act.

7 g. Confirmation that each of the remote witnesses and the supervising attorney
8 were able to see the testator, the testator with the assistance of another person 18
9 years of age or older with the testator's consent, or another person 18 years of age
10 or older signing in the testator's name at the testator's direction and in the testator's
11 physical presence, sign, and that the testator appeared to be 18 years of age or older
12 and acting freely and voluntarily.

13 h. A description of the audiovisual technology used for the signing process.

14 i. If the will was not signed in counterpart, a description of the method used to
15 forward the will to each remote witness for signing and to the supervising attorney
16 after signing.

17 j. If the will was signed in counterpart, a description of the method used to
18 forward each counterpart to the supervising attorney and, if applicable, how and
19 when the supervising attorney physically compiled the signed paper counterparts
20 into a single document containing the will, the signature of the testator, and the
21 signatures of the remote witnesses.

22 k. The name, state bar number, and business or residential address of the
23 supervising attorney.

24 L. Any other information that the supervising attorney considers to be material
25 with respect to the testator's capacity to sign a valid will, the testator's and witnesses'

SENATE BILL 898

1 compliance with this section, or any other information that the supervising attorney
2 deems relevant to the execution of the will.

3 12. The affidavit of compliance is attached to the will.

4 13. An affidavit of compliance executed in compliance with this section shall
5 constitute a self-proving affidavit executed in compliance with s. 853.04 (2).

6 14. An affidavit of compliance described in this paragraph shall be
7 substantially in the following form:

8 **AFFIDAVIT OF COMPLIANCE**

9 State of

10 County of

11 The undersigned, being first duly sworn under oath, states as follows:

12 This Affidavit of Compliance is executed pursuant to Wis. Stat. § 853.03 (2) (c)
13 to document the execution of the will of [name of testator] via remote appearance by
14 2-way, real-time audiovisual communication technology on [date].

15 1. The name and residential address of the testator is

16 2. The name and [residential or business] address of remote witness 1 is

17 3. The name and [residential or business] address of remote witness 2 is

18 4. The address within the state of Wisconsin where the testator was physically
19 located at the time the testator signed the will is

20 5. The address within the state of Wisconsin where remote witness 1 was
21 physically located at the time the remote witness witnessed the testator's execution
22 of the will is

23 6. The address within the state of Wisconsin where remote witness 2 was
24 physically located at the time the remote witness witnessed the testator's execution
25 of the will is

SENATE BILL 898**SECTION 8**

1 7. The testator and remote witnesses were all known to each other and to the
2 supervising attorney. - OR - The testator and remote witnesses were not all known
3 to each other and to the supervising attorney. Each produced the following form of
4 photo identification to confirm his or her identity:

5

6 8. The testator declared that the testator is 18 years of age or older, that the
7 document is the testator's will, and that the document was being executed as the
8 testator's free and voluntary act.

9 9. Each of the remote witnesses and the supervising attorney were able to see
10 the testator, the testator with the assistance of another person 18 years of age or older
11 with the testator's consent, or another person 18 years of age or older signing in the
12 testator's name at the testator's direction and in the testator's physical presence,
13 sign. The testator appeared to be 18 years of age or older and acting freely and
14 voluntarily.

15 10. The audiovisual technology used for the signing process was

16 11. The will was not signed in counterpart. The following methods were used
17 to forward the will to each remote witness for signing and to the supervising attorney
18 after signing. - OR - The will was signed in counterpart. The following methods were
19 used to forward each counterpart to the supervising attorney. [If applicable] - The
20 supervising attorney physically compiled the signed paper counterparts into a single
21 document containing the will, the signature of the testator, and the signatures of the
22 remote witnesses on [date] by [e.g., attaching page 7 from each counterpart signed
23 by a remote witness to the back of the will signed by the testator].

24 12. The name, state bar number, and [business or residential] address of the
25 supervising attorney is

