

Senator Robert Myers
Alaska State Legislature

Session Address:

Alaska State Capitol, Rm. 510
Juneau, Alaska 99801-1182
Phone: (907) 465-3719
Toll Free: (877) 465-3719



Interim Address:

1292 Sadler Way, Ste. 340
Fairbanks, Alaska 99701-3172
Phone: (907) 451-2157

Senate District B

SB 90 - Electronic Wills

Sectional Analysis

Section 1.

A will is defined as a document that directs how an individual's property should be distributed or managed after their death. This definition is expanded to include an electronic will.

Section 2.

Electronic presence is defined as two or more individuals in multiple locations with technology that enables these individuals to maintain audio and visual contact and communicate. This definition includes the communication between individuals who have a visual, hearing, or speech impairment. Additionally, an electronic will is defined as a will with electronic text and/or the electronic signature of the testator or a witness.

Section 3.

A will disposing of personal property in any location, or real property located in Alaska, made in or outside of Alaska by a resident or non-resident of the state where the property is located, is valid and admissible to probate in Alaska if the will is a record readable as text at the time of signing and signed by the testator and executed under the local law of this state, the jurisdiction where the testator was physically present when they signed the will, or the jurisdiction where the testator lived, either at the time of the execution of the will or at death.

Section 4.

Except as provided in several instances in other sections of the statutes, a will must be a record that is readable as text at time of signing, signed by the testator or signed in their name by another individual who is taking direction from the testator and in their physical or electronic presence, and signed by at least two individuals who are in the physical or electronic presence of the testator at the time of signing and sign within a reasonable time after witnessing the signing of the will or the testator's acknowledgment of that signature. A will that does not comply with these requirements is valid as a holographic will without any witnesses if signature and material portions are in the testator's handwriting or readable as text.

Section 5.

This section contains an oath for the testator and witnesses of a will to proclaim before an officer authorized to administer the oath of laws of the state where the testator is physically present.

Section 6.

This section contains an oath similar to the oath in Sec. 5 but is for use after the execution of a will to retroactively self-prove it.

Section 7.

Except as provided in another section of the statutes, a will is valid if executed in compliance with the law at the time of execution of the place where the will is executed, which is the place where the testator is physically present while signing the will, or the laws of the place where the testator abodes at time of death.

Section 8.

A will or a section of a will is revoked by executing another will that overwrites the previous will, or by the testator destroying or deleting the will themselves or with the aid of another individual acting at their direction.

Section 9.

An individual can make a paper copy of their will by taking an oath that copy is true and accurate. If the will is self-proving, the copy must include the self-proving affidavits.

Section 10.

A petition to the court to determine whether a trust is valid and enforceable before a settlor's death must contain:

1. A statement that a copy (may be electronic copy) of the will has been filed with the court.
2. A statement that the will is in writing or is an electronic will.
3. A statement that the will was signed by the testator or by another individual at the testator's direction in the physical or electronic presence of the testator.
4. In the case of a witnessed will, a statement that the will was signed by at least two individuals, each of whom signed within a reasonable amount of time after witnessing the signing of the will or the testator acknowledgment of the signature on the will.
5. In the case of a holographic will, a statement that the signature and material portions are in the testator's handwriting or a record readable as text.
6. A statement that the will is executed with the testator's intent.
7. A statement that the testator had legal and mental capacity.
8. A statement that the testator was free from undue influence and duress.
9. A statement that the will was not executed fraudulently or mistakenly.
10. Names and addresses of the testator, testator's spouse, testator's children, testator's heirs, personal representative nominated in the will, and the devisees of the will.
11. If minors, the ages of the testator's children, the testator's heirs, and the devisees under the will, as far as known or ascertainable with reasonable diligence by the petitioner.
12. A statement that the will has not been revoked or modified.
13. A statement that the testator is familiar with the contents of the will.

Section 11.

Applications for informal probate or appointment shall be directed to the registrar and verified by the applicant to be true to the applicant's best knowledge as to the following information:

1. Every application for informal probate of a will or for informal appointment of a personal representative other than a special or successor representative, must contain the following.
 - a. A statement of interest of the applicant.
 - b. The name and age of the decedent, decedent death date, the judicial district, and the state of the decedent's domicile at the time of death, and the names and addresses of the spouse, children, heirs, and devisees and ages of any who are minors ascertainable with reasonable diligence by the applicant.
 - c. If decedent was not living in the state at the time of death, a statement showing venue.
 - d. A statement identifying the address of any personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated.
 - e. A statement indicating whether the applicant has received a demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere.
 - f. A statement that the time limit for informal probate has not expired either because three years or less have passed, that circumstances as described by the statutes, authorizing tardy probate or appointment have occurred.
2. An application for informal probate of a will must state the following in addition to the aforementioned statements:
 - a. Original of the decedent's will or a paper copy of the will is in the possession of the court, or accompanies the application, or that an authenticated copy or a will probated in another jurisdiction accompanies the application.
 - b. To the best of the applicant's knowledge, believes the will to have been validly executed.
 - c. After the exercise of reasonable diligence, the applicant is unaware of and instrument revoking the will, and that the applicant believes that the instrument that is the subject of the application is the decedent's will.
3. Application for informal appointment of a personal representative to administer an estate under a will must describe the will by date of signing and state the time and place of probate or the pending application or petition for probate. Application for appointment must adopt the statements in the application or petition for probate and state the name address and priority for appointment of the person whose appointment is sought.
4. An application for informal appointment of an administrator in intestacy must state in addition to the statements required by section one as aforementioned.
 - a. After reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this state under statutes, or statement why any such instrument of which the applicant may be aware is not being probated.
 - b. Priority of the person whose appointment is sought and the names of any other persons having prior or equal right to the appointment.
5. Application for appointment of a personal representative to succeed a personal representative appointed under a different testacy status must refer to the order in the most recent testacy proceeding. The application must state the name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the application is granted and describe the priority of the applicant.

6. Application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in the statutes, or whose appointment has been terminated by death or removal, must adopt the statements in the application or petition that led to the appointment of that person being succeeded except as specifically changed or corrected. They must state the name and address of the person who seeks appointment as successor and describe the priority of the applicant.

Section 12.

In an informal proceeding for original probate of a will, the registrar shall determine whether: the application is complete; the applicant has made oath or affirmation and that the statements in the application are true; the applicant appears from the application to be an interested person; the venue is proper; on original or a paper copy, of the decedent's executed and unrevoked will is in the registrar's possession; any notice required by the statutes has been given and that the application expressly revokes the earlier application; and it appears from the application that the time limit for the original probate has not expired.

Section 13.

Petitions for formal probate of a will, or for adjunction of intestacy with or without request for appointment of a personal representative, must be directed to the court, request a judicial order after notice and hearing, and contain further statements as indicated in this section. A petition for formal probate of a will must: request an order as to the testacy of the decedent in relation to a particular instrument which may or may not have been informally probated and determining the heirs; contain statements required for informal applications as stated in the statutes; and state whether an original or paper copy of the will of the decedent is in the possession of the court or accompanies the petition.

Section 14.

If the original will or a paper copy is neither in the possession of the court nor accompanies the petition and no authenticated copy of a will probated in another jurisdiction accompanies the petition, the petition also must state the contents of the will, and indicate that it is lost, destroyed, or otherwise unavailable.

Section 15.

This Act applies to a will that is executed on or after the effective date of this Act. In this section, "will" has the meaning given in AS 13.06.050.

Section 16.

This act takes place immediately.