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Referred: Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Code
Revision Commission)

1 IN THE SENATE

2 SENATE BILL NO. 54

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to international wills under the
7 Uniform Probate Code."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 13.11 is amended by adding new sections to read:

10 ARTICLE 10. INTERNATIONAL WILLS.

11 Sec. 13.11.350. VALIDITY. (a) A will is valid as to form, re-
12 gardless of the place where it is made, the location of the assets, and
13 of the nationality, domicile, or residence of the testator, if it is
14 made in the form of an international will in compliance with the re-
15 quirements of AS 13.11.350 - 13.11.440.

16 (b) The invalidity of the will as an international will does not
17 affect its formal validity as a will of another kind.

18 (c) AS 13.11.350 - 13.11.440 do not apply to the form of testa-
19 mentary dispositions made by two or more persons in one instrument.

20 Sec. 13.11.360. REQUIREMENTS. (a) The will shall be made in
21 writing. It need not be written by the testator himself, and it may be
22 written in any language, by hand or by any other means.

23 (b) The testator shall declare in the presence of two witnesses,
24 and of a person authorized to act in connection with international
25 wills, that the document is his will and that he knows the contents of
26 it. The testator need not inform the witnesses, or the authorized
27 person, of the contents of the will.

28 (c) In the presence of the witnesses and of the authorized person,
29 the testator shall sign the will or, if he has previously signed it,

1 shall acknowledge his signature.

2 (d) When the testator is unable to sign, the absence of his signa-
3 ture does not affect the validity of the international will if the
4 testator indicates the reason for his inability to sign and the autho-
5 rized person makes note of the reason on the will. In such a case, it
6 is permissible for any other person present, including the authorized
7 person or one of the witnesses, at the direction of the testator, to
8 sign the testator's name for him if the authorized person makes note of
9 this on the will, but it is not required that any person sign the testa-
10 tor's name for him.

11 (e) The witnesses and the authorized person shall there and then
12 attest the will by signing in the presence of the testator.

13 Sec. 13.11.370. OTHER POINTS OF FORM. (a) The signatures shall
14 be placed at the end of the will. If the will consists of several
15 sheets, each sheet must be signed by the testator or, if he is unable to
16 sign, by the person signing on his behalf or, if there is no such per-
17 son, by the authorized person. In addition, each sheet shall be
18 numbered.

19 (b) The date of the will must be the date of its signature by the
20 authorized person. That date must be noted at the end of the will by
21 the authorized person.

22 (c) The authorized person shall ask the testator whether he wishes
23 to make a declaration concerning the safekeeping of his will. If ex-
24 pressly requested by the testator, the place where he intends to have
25 his will kept shall be mentioned in the certificate provided for in
26 AS 13.11.380.

27 (d) A will executed in compliance with AS 13.11.360 is not invalid
28 merely because it does not comply with this section.

29 Sec. 13.11.380. CERTIFICATE. The authorized person shall attach

1 to the will a certificate establishing that the requirements of AS 13.-
2 11.350 - 13.11.440 for valid execution of an international will have
3 been complied with. The authorized person shall keep a copy of the
4 certificate and deliver another to the testator. The certificate shall
5 be substantially in the following form:

6 "CERTIFICATE

7 I, _____ (name, address, and capacity) _____, a person authorized to
8 act in connection with international wills, certify that on _____ (date)
9 at _____ (place) _____, _____ (testator) _____, _____ (address,
10 date and place of birth) _____, in my presence and that of the witnesses,
11 _____ (name, address, date and place of birth) _____, and _____ (name,
12 address, date and place of birth) _____, has declared that the attached
13 document is his will and that he knows the contents thereof.

14 I furthermore certify that:

15 (1) in my presence and in that of the witnesses, the testator
16 has signed the will or has acknowledged his signature previously affixed;

17 *(2) following a declaration of the testator stating that he
18 was unable to sign his will for the following reason: _____

19 _____, I have mentioned this declaration on the will, and the
20 signature has been affixed by _____ (name and address) _____;

21 (3) the witnesses and I have signed the will;

22 *(4) each page of the will has been signed by _____
23 _____ and numbered;

24 (5) I have satisfied myself as to the identity of the testa-
25 tor and of the witnesses as designated above;

26 (6) the witnesses met the conditions according to the law
27 under which I am acting;

28 *(7) the testator has requested me to include the following
29 statement concerning the safekeeping of his will: _____

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PLACE OF EXECUTION _____
DATE _____
SIGNATURE _____

* to be completed when appropriate"

Sec. 13.11.390. EFFECT OF CERTIFICATE. In the absence of evidence to the contrary, the certificate of the authorized person is conclusive of the formal validity of the instrument as a will under AS 13.11.350 - 13.11.440. The absence or irregularity of a certificate does not affect the formal validity of a will under this chapter.

Sec. 13.11.400. REVOCATION. An international will is subject to the ordinary rules of revocation of wills.

Sec. 13.11.410. SOURCE AND CONSTRUCTION. AS 13.11.350 - 13.11.400 and AS 13.11.440 derive from Annex to Convention of October 26, 1973, Providing a Uniform Law on the Form of an International Will. In interpreting and applying AS 13.11.350 - 13.11.400 and AS 13.11.440, their international origin and the need for uniformity in their interpretation shall be considered.

Sec. 13.11.420. PERSONS AUTHORIZED TO ACT IN RELATION TO INTERNATIONAL WILL; ELIGIBILITY; RECOGNITION BY AUTHORIZING AGENCY. Individuals who have been admitted to practice law before the courts of this state, and who are currently licensed to do so, are authorized persons in relation to international wills.

Sec. 13.11.430. INFORMATION REGISTRATION. The lieutenant governor shall establish a registry system by which authorized persons may register, in a central information center, information regarding the execution of international wills, keeping that information in strictest confidence until the death of the maker and then making it available to any person desiring information about any will, who presents to the

1 center a death certificate or other satisfactory evidence of the testa-
2 tor's death. Information that may be received, preserved in confidence
3 until death, and reported as indicated, is limited to the name, social
4 security or any other individual-identifying number established by law,
5 if any, address, and date and place of birth of the testator, and the
6 intended place of deposit or safekeeping of the instrument pending the
7 death of the maker. The lieutenant governor, at the request of the
8 authorized person, may cause the information he receives about execution
9 of any international will to be transmitted to the registry system of
10 another jurisdiction as identified by the testator, if that other system
11 has rules protecting the confidentiality of the information similar to
12 those established in this state.

13 Sec. 13.11.440. DEFINITIONS. In AS 13.11.350 - 13.11.440, unless
14 the context requires otherwise,

15 (1) "authorized person" and "person authorized to act in
16 connection with international wills" means a person who by AS 13.11.420,
17 or by the laws of the United States including members of the diplomatic
18 and consular service of the United States designated by Foreign Service
19 Regulations, is empowered to supervise the execution of international
20 wills;

21 (2) "international will" means a will executed in conformity
22 with AS 13.11.350 - 13.11.380.
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