

Original sponsors: Koponen, Ellis
and Davidson

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 438 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to statutory wills."

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

8 * Section 1. AS 13.11 is amended by adding a new section to Article 5
9 to read:

10 Sec. 13.11.215. STATUTORY WILL FORM. The following is the form
11 for the Alaska basic will:

12

Alaska Basic Will

13

NOTICE TO THE PERSON WHO SIGNS THIS WILL:

14

1. EXECUTING THIS STATUTORY WILL WITHOUT THE ADVICE AND ASSIS-
15 TANCE OF A LAWYER MAY RESULT IN ADDITIONAL EXPENSES AT THE TIME OF
16 DISTRIBUTION AND MAY RESULT IN A DISTRIBUTION OF PROPERTY CONTRARY TO
17 THE INTENT OF THE TESTATOR.

18

2. THIS STATUTORY WILL HAS SERIOUS LEGAL EFFECTS ON YOUR FAMILY
19 AND PROPERTY. IF THERE IS ANYTHING IN THIS WILL THAT YOU DO NOT
20 UNDERSTAND, YOU SHOULD CONSULT A LAWYER FOR AN EXPLANATION.

21

3. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR
22 DEATH TO ANY PERSON BY OPERATION OF LAW OR BY CONTRACT. FOR EXAMPLE,
23 THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS, PARTNERSHIP ASSETS,
24 OR YOUR SPOUSE'S ELECTIVE SHARE, AND IT DOES NOT NORMALLY APPLY TO
25 PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENE-
26 FITS.

27

4. THIS WILL IS NOT DESIGNED TO REDUCE DEATH TAXES OR ANY OTHER
28 TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A
29 COMPETENT TAX ADVISOR.

1 5. YOU SHOULD MARK THROUGH ALL SECTIONS OR PARTS OF SECTIONS
2 THAT YOU DO NOT COMPLETE. YOU MAY REVOKE THIS ALASKA STATUTORY WILL
3 BY SIGNING A NEW WILL. YOU MAY AMEND THIS WILL BY CODICIL.

4 6. THIS WILL TREATS ADOPTED CHILDREN AS IF THEY ARE YOUR NATURAL
5 CHILDREN.

6 7. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD
7 MAKE AND SIGN A NEW WILL.

8 8. IF YOU HAVE ANOTHER CHILD AFTER YOU SIGN THIS WILL, YOU
9 SHOULD MAKE AND SIGN A NEW WILL.

10 9. IF YOU HAVE CHILDREN UNDER 21 YEARS OF AGE, YOU MAY WISH TO
11 USE ANOTHER TYPE OF WILL.

12 10. IF YOU ARE MAKING SPECIFIC GIFTS TOTALING MORE THAN \$10,000
13 TO PERSONS OUTSIDE OF YOUR IMMEDIATE FAMILY OR TO ORGANIZATIONS, YOU
14 SHOULD CONSULT A LAWYER. A GIFT OF SPECIFIC REAL OR PERSONAL PROPERTY
15 MAY PREVAIL OVER A GENERAL GIFT TO YOUR SPOUSE OR CHILDREN AND THUS
16 MAY REDUCE THE AMOUNT AVAILABLE TO YOUR SPOUSE OR CHILDREN.

17 11. COMMERCIAL FISHING ENTRY PERMITS PASS TO YOUR SPOUSE UNLESS
18 YOU HAVE EXPRESSED A CONTRARY INTENT IN YOUR WILL. IF YOU HAVE NO
19 SPOUSE, THE PERMIT WILL BE DISTRIBUTED AS PART OF YOUR PERSONAL PROP-
20 ERTY.

21 12. CERTAIN REAL PROPERTY, SUCH AS NATIVE ALLOTMENTS, HELD IN
22 TRUST FOR ALASKA NATIVES AND AMERICAN INDIANS BY THE FEDERAL GOVERN-
23 MENT ARE SUBJECT TO SPECIAL PROVISIONS OF FEDERAL LAW. IF YOU OWN
24 THIS TYPE OF PROPERTY, YOU SHOULD CONTACT A LAWYER, YOUR TRIBAL GOV-
25 ERNMENT, OR THE FEDERAL BUREAU OF INDIAN AFFAIRS BEFORE ATTEMPTING TO
26 USE THIS WILL FORM TO DISPOSE OF THE PROPERTY.

27 13. THIS WILL IS NOT VALID UNLESS IT IS SIGNED BY AT LEAST TWO
28 WITNESSES. YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCE-
29 DURE DESCRIBED AT THE END OF THIS WILL.

1 14. YOU SHOULD DEPOSIT THIS WILL WITH THE SUPERIOR COURT NEAREST
2 TO YOUR COMMUNITY. YOU SHOULD ALSO KEEP AN INVENTORY OF YOUR IMPOR-
3 TANT PROPERTY WITH YOUR WILL. THE INVENTORY SHOULD INCLUDE INFORMA-
4 TION ON YOUR BANK ACCOUNTS, SAFE DEPOSIT BOXES, INSURANCE POLICIES,
5 STOCKS, BONDS, AND SIMILAR PROPERTY.

6 15. YOU SHOULD NOT CHANGE, DELETE, OR ADD WORDS TO THE FACE OF
7 THIS ALASKA STATUTORY WILL WITHOUT CONSULTING A LAWYER. IF YOU HAVE
8 ANY DOUBTS WHETHER OR NOT THIS WILL ADEQUATELY SETS OUT YOUR WISHES
9 FOR THE DISPOSITION OF YOUR PROPERTY, YOU SHOULD CONSULT A LAWYER.

10 16. DEFINITIONS.

11 A. "CODICIL" MEANS AN AMENDMENT OR ADDITION TO A WILL; IT MAY
12 EXPLAIN, MODIFY, QUALIFY, ALTER, OR REVOKE PROVISIONS OF A WILL.

13 B. "ELECTIVE SHARE" MEANS THAT PORTION OF A DECEDENT'S ESTATE
14 WHICH A SPOUSE MAY CHOOSE TO RECEIVE IF THE DECEDENT'S SPOUSE DECIDES
15 TO REJECT THE PROVISIONS MADE FOR THE SPOUSE IN THE DECEDENT'S WILL;
16 THE ELECTIVE SHARE IS EQUAL TO ONE-THIRD OF THE DECEDENT'S ESTATE.

17 C. "JOINT TENANCY ASSET" MEANS PROPERTY OWNED JOINTLY BY TWO OR
18 MORE PERSONS AND WHICH PASSES TO THE SURVIVING PERSONS AT THE DEATH OF
19 ONE OF THE JOINT OWNERS RATHER THAN PASSING THROUGH THE ESTATE OF THE
20 DECEASED; "JOINT TENANCY ASSET" INCLUDES A TENANCY BY THE ENTIRETIES
21 WITH RIGHT OF SURVIVORSHIP ASSET, BUT DOES NOT INCLUDE A TENANCY IN
22 COMMON ASSET.

23 D. "PARTNERSHIP ASSETS" MEANS PROPERTY OF ANY KIND THAT BELONGS
24 TO THE PARTNERSHIP AND THAT IS NOT THE SEPARATE PROPERTY OF THE PART-
25 NERS.

26 E. "PERSONAL PROPERTY" MEANS AN ITEM OF PROPERTY THAT IS NOT
27 REAL PROPERTY.

28 F. "REAL PROPERTY" MEANS LAND AND ANYTHING THAT IS CONSTRUCTED
29 UPON, GROWING UPON, OR ATTACHED TO LAND.

1 G. "TENANCY BY THE ENTIRETIES WITH RIGHT OF SURVIVORSHIP ASSET"
2 MEANS PROPERTY OWNED JOINTLY BY A HUSBAND AND WIFE AND WHICH PASSES TO
3 THE SURVIVING SPOUSE AT THE DEATH OF THE OTHER SPOUSE RATHER THAN
4 PASSING THROUGH THE ESTATE OF THE DECEASED SPOUSE.

5 H. "TENANCY IN COMMON ASSET" MEANS PROPERTY OWNED SIMULTANEOUSLY
6 BY TWO OR MORE PERSONS AND WHICH PASSES THROUGH THE ESTATE OF A
7 DECEASED OWNER RATHER THAN PASSING TO THE SURVIVING CO-OWNERS.

8 (A printed form for the Alaska basic will must set
9 out the above notice in 10-point boldface type.)

10 ALASKA BASIC WILL OF

11 _____
12 (Print your name)

13 Article 1. Declaration.

14 This is my will and I revoke all prior wills and codicils.

15 Article 2. Disposition of my property.

16 2.1 REAL PROPERTY. Except as provided in paragraph 2.3, I give
17 all my real property to my spouse, if living; otherwise it shall be
18 equally divided among my children who survive me. If my spouse does
19 not survive me and if none of my children survives me, my real pro-
20 perty that is not distributed by paragraph 2.3 shall become part of
21 the residuary estate.

22 2.2 PERSONAL AND HOUSEHOLD ITEMS. Except as provided in para-
23 graph 2.3, I give my spouse, if my spouse survives me, all my books,
24 jewelry, clothing, personal automobiles, recreational equipment,
25 household furnishings and effects, and other tangible articles of a
26 household, recreational, or personal use, together with all policies
27 of insurance insuring these items. If my spouse does not survive me,
28 the personal representative shall distribute these items among my
29 children who survive me, in as nearly equal shares as feasible in the

1 personal representative's discretion. If my spouse does not survive
2 me and if none of my children survives me, the items described in this
3 paragraph shall become part of the residuary estate.

4 2.3 GIFTS TO PERSONS OR CHARITIES. I make the following gifts
5 of real or personal property to the persons or charities in the cash
6 amount stated in words (.....Dollars) and figures (\$.....) or of the
7 property described. I SIGN OPPOSITE EACH GIFT MADE. I WRITE THE
8 WORDS "NOT USED" ON THE REMAINING LINES. If I fail to sign opposite
9 any gift, then that gift is not made. If the person mentioned does
10 not survive me or if the charity does not accept the gift, then that
11 gift is not made.

12	FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
13	OR CHARITY TO RE-	OR DESCRIPTION OF	TESTATOR.
14	CEIVE GIFT. (Name only	PROPERTY.	
15	one. Please print.)		

16 _____
17
18
19

21	FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
22	OR CHARITY TO RE-	OR DESCRIPTION OF	TESTATOR.
23	CEIVE GIFT. (Name only	PROPERTY.	
24	one. Please print.)		

25
26 _____
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28

29	FULL NAME OF PERSON	AMOUNT OF CASH GIFT	SIGNATURE OF
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1 OR CHARITY TO RE- OR DESCRIPTION OF TESTATOR.
2 CEIVE GIFT. (Name only PROPERTY.
3 one. Please print.)
4
5
6
7

8 FULL NAME OF PERSON AMOUNT OF CASH GIFT SIGNATURE OF
9 OR CHARITY TO RE- OR DESCRIPTION OF TESTATOR.
10 CEIVE GIFT. (Name only PROPERTY.
11 one. Please print.)
12
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14

15
16 FULL NAME OF PERSON AMOUNT OF CASH GIFT SIGNATURE OF
17 OR CHARITY TO RE- OR DESCRIPTION OF TESTATOR.
18 CEIVE GIFT. (Name only PROPERTY.
19 one. Please print.)
20

21 2.4 ALL OTHER ASSETS (MY "RESIDUARY ESTATE"). I adopt only one
22 Property Disposition Clause by placing my initials on the line in
23 front of the letter "A," "B," or "C" signifying which clause I wish to
24 adopt. I place my signature after clause "A," clause "B," or clause
25 "C." If I fail to sign the appropriate distribution(s) or if I sign
26 in more than one clause or if I fail to place my initials on the
27 appropriate line, this paragraph will be invalid and the remainder of
28 my property shall be distributed as if I did not make a will as set
29 out in AS 13.11.005 - 13.11.065 or a subsequent provision of law.

1 of age, you may name at least one person to serve as guardian for the
2 child or children.)

3 A. If a guardian is needed for my child or children, then I
4 nominate the first guardian named below to serve as guardian of my
5 child or children. If the person does not serve, then the others
6 shall serve in the order I list them. My nomination of a guardian is
7 not valid without my signature.

8 FIRST GUARDIAN _____

9 (signature of testator)

10 SECOND GUARDIAN _____

11 (signature of testator)

12 THIRD GUARDIAN _____

13 (signature of testator)

14 B. A guardian of the person or of the estate shall have all of
15 the powers conferred by law. All powers of the guardian may be ex-
16 ercised without court authorization.

17 3.2 CONSERVATOR. (A conservator may be named to manage the
18 property of a minor child or minor children. You do not need to name
19 a conservator if you wish the guardian to act as conservator. If you
20 wish to name a conservator in addition to a guardian, complete this
21 paragraph. If you do not wish to name a separate conservator, do not
22 complete this paragraph.)

23 A. I nominate the first conservator named below to serve as
24 conservator for my minor child or minor children. If the first con-
25 servator does not serve, then the others shall serve in the order I
26 list them. My nomination of a conservator is not valid without my
27 signature.

28 FIRST CONSERVATOR _____

29 (signature of testator)

1 SECOND CONSERVATOR _____

2 (signature of testator)

3 THIRD CONSERVATOR _____

4 (signature of testator)

5 B. The conservator shall have all of the powers conferred by
6 law.

7 3.3 PERSONAL REPRESENTATIVE. (Name at least one.)

8 A. I nominate the person or institution named as first personal
9 representative below to administer the provisions of this will. If
10 that person or institution does not serve, then I nominate the others
11 to serve in the order I list them. My nomination of a personal repre-
12 sentative is not valid without my signature.

13 FIRST PERSONAL

14 REPRESENTATIVE _____

15 (signature of testator)

16 SECOND PERSONAL

17 REPRESENTATIVE _____

18 (signature of testator)

19 THIRD PERSONAL

20 REPRESENTATIVE _____

21 (signature of testator)

22 B. In addition to powers conferred upon personal representatives
23 by law, the personal representative may sell estate assets at public
24 or private sale, for cash or on credit terms; lease estate assets
25 without restriction as to duration; or invest surplus money of the
26 estate in real or personal property, as the personal representative
27 considers advisable. The personal representative may distribute
28 estate assets otherwise distributable to a minor beneficiary to the
29 guardian of the minor's person or estate, an adult person with whom

1 the minor resides and who has the care, custody, or control of the
2 minor, or a custodian, serving on behalf of the minor under the Uni-
3 form Gifts to Minors Act of any state, or the Uniform Transfers to
4 Minors Act of any state. The personal representative is free of
5 liability and is discharged from further accountability for distribut-
6 ing assets in compliance with this paragraph.

7 On any distribution of assets from the estate, the personal
8 representative may partition, allot, and distribute the assets in
9 kind, including undivided interests in an asset or in any part of it;
10 partly in cash and partly in kind; or entirely in cash. If a distri-
11 bution is being made to more than one beneficiary, the personal repre-
12 sentative may distribute assets among them on a prorated or nonpro-
13 rated basis, with the assets valued as of the date of distribution.

14 3.4 BOND. (The bond provides a fund to pay those who do not
15 receive the share of your estate to which they are entitled, including
16 your creditors, because of improper performance of duties by the
17 personal representative or guardian. Bond premiums are paid out of
18 your estate.)

19 My signature means that a bond is not required for any individual
20 named in this will as personal representative or guardian. If I do
21 not sign, then a bond is required for each of those persons as set out
22 in the Alaska Uniform Probate Code.

23

24

(signature of testator)

25

I sign my name to this Alaska

26

Statutory Will

27

on _____ at _____, _____

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Date

City

State

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(signature of testator)

STATEMENT OF WITNESSES (You must use two competent witnesses. It is advisable, but not required in most instances, that you do not allow persons who receive property under your will to serve as witnesses.)

Each of us declares under penalty of perjury under the laws of Alaska that the testator signed this Alaska statutory will in our presence, all of us being present at the same time, and we now, at the testator's request, in the testator's presence, and in the presence of each other, sign below as witnesses, declaring that the testator appears to be of sound mind and under no duress, fraud, or undue influence.

Signature _____ Residence Address: _____

Print Name _____

Here: _____

Signature _____ Residence Address: _____

Print Name _____

Here: _____