

LDIR#205

ART.I

WILLS

PROPOSED ALASKA PROBATE CODE

ARTICLE I

WILLS

Part 1. Execution

Section 1.01. WHO MAY EXECUTE A WILL. Every person of sound mind, who has attained the age of 19 years, or who is or has been lawfully married, or who is a member of the armed forces of the United States or of the auxiliaries thereof, or of the maritime service, may make a will.

COMMENT:

Present Alaska law permits a person who is 21 years of age to make a will. Sec. 59-1-2, ACLA 1949. However, in view of the fact that the state constitution permits persons age 19 to vote, and that the general age of majority has recently been changed to 19 (Sec. 20-1-1, ACLA 1949, as amended by Ch. 37, SLA 1959) the present law is amended to reflect these policy decisions.

Many states make exceptions of varying degrees for persons in the armed forces or married. See Rees, "American Wills Statutes," 46 VIR. L. REV. 613 at 635-5 (1960). The complete alleviation of the age requirement is taken from the Indiana provision. Ind. Ann. Stat. (Repl. Vol. 1953) Sec. 6-501. See also, Gen. Tex. Probate Code Ann. (1956) Sec. 57.

Sec. 1.02. EXECUTION. The execution of a will, other than a holographic or nuncupative will, must be by the signature of the testator and of at least two witnesses as follows:

(1) Testator. The testator shall signify to the attesting witnesses that the instrument is his will and either

- (a) Himself sign, or
- (b) Acknowledge his signature already made, or
- (c) At his direction and in his presence have