

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

# A Bill

HOUSE BILL 2581

5 By: Representative T. Bradford  
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7

## For An Act To Be Entitled

8 AN ACT CONCERNING THE DEPOSITING OF WILLS WITH  
9 THE COURT; AND FOR OTHER PURPOSES.  
10

## Subtitle

11 AN ACT CONCERNING THE DEPOSITING OF  
12 WILLS WITH THE COURT.  
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 SECTION 1. Arkansas Code § 28-25-108 is amended to read as follows:  
20 28-25-108. Deposit of will with court in testator's lifetime -

21 Disposition.

22 (a) Deposit of Will. A will may be deposited by the person making it,  
23 or by some person for him or her, with the circuit court of the county of his  
24 or her residence, to be safely kept until delivered or disposed of as  
25 provided in this section. On being paid the fee of two dollars (\$2.00), the  
26 clerk of the court shall receive and keep the will and give a certificate of  
27 deposit for it.

28 (b) How Enclosed. Every will intended to be deposited as provided in  
29 subsection (a) of this section shall be enclosed in a sealed wrapper, which  
30 shall have endorsed thereon "Will of," followed by the name of the testator.  
31 The clerk of the court shall endorse thereon the day when and the person by  
32 whom it was delivered. The wrapper ~~may~~ shall also be endorsed with the name  
33 of the person to whom the will is to be delivered after the death of the  
34 testator. It shall not be opened or read until delivered to a person entitled  
35 to receive it, or otherwise disposed of as provided in this section.

36 (c)(1) To Whom Delivered. During the lifetime of the testator, the



1 will shall be delivered only to him or her, or to some person authorized by  
2 him or her by an order in writing duly signed by him or her and acknowledged  
3 before an officer authorized to administer oaths or attested by the  
4 signatures of two (2) persons competent to witness the will.

5 (2) After the testator's death, the clerk shall ~~notify the~~  
6 ~~person named in the endorsement on the wrapper of the will, if there is a~~  
7 ~~person so named, and~~ deliver the will to the person named in the endorsement  
8 on the wrapper of the will if that person requests the will either in person  
9 or in writing.

10 (3) If the request under subdivision (c)(2) of this section is  
11 in person, the clerk shall require proof of identification before delivering  
12 the will.

13 (4) If the request under subdivision (c)(2) of this section is  
14 in writing, the clerk shall require an affidavit of the person requesting the  
15 will in substantially the following form:

16 "STATE OF ARKANSAS

17  
18 COUNTY OF \_\_\_\_\_

19  
20 BE IT KNOWN THAT on this ... day of ....., ..., before me, the  
21 undersigned notary, personally came and appeared:

22  
23 .....

24  
25 who after being duly sworn by me, a notary, deposed and stated his or her  
26 name and address.

27  
28 SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF ....., .....

29  
30 .....

31  
32 .....

33  
34 NOTARY PUBLIC"

35 (d)(1) When Will to Be Opened. If the will is not delivered to a  
36 person named in the endorsement on the wrapper, it shall be publicly opened

1 in the court within thirty (30) days after notice of the testator's death,  
2 and be retained by the court until offered for probate.

3 (2) Notice shall be given to the executor, if any, named therein  
4 and to such other persons as the court may designate.

5 (3) If the proper venue is in another court, the will shall be  
6 transmitted to that court, but, before such a transmission, a true copy shall  
7 be made and retained in the court in which the will was deposited.

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