

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 1062

Amending Probate Rule 5(a)
concerning deposits of wills.

IT IS ORDERED:

1. Probate Rule 5(a) is amended to provide:

(a) **Deposit of Will.** Upon the deposit of a will by the testator or the testator's agent for safekeeping in the superior court, the clerk or registrar in the probate division shall:

1. Require the testator or the testator's agent to sign an agreement setting forth the names and addresses of the person or persons to receive the will upon the death of the testator, and the clerk or registrar shall in turn sign a receipt for the will to be given to the testator or the testator's agent. If the agreement is signed by the testator's agent, the agent's written authorization from the testator to deposit the will with the court, or a copy of a general power of attorney of the agent from the testator, must be attached to the agreement. The agent shall provide the court with the address of the testator and the court shall mail a copy of the "Agreement and Receipt for Deposit of Will" to the testator. The agreement and receipt will be in form and content substantially as follows:

AGREEMENT AND RECEIPT FOR DEPOSIT
OF WILL

The purpose of depositing a Will with the court is to provide a safe place for the Will. It is not required by law that a Will be deposited with the court. The acceptance of a will for safekeeping by the court in no way ensures the validity of any provision contained in the will, nor does acceptance in any way enhance the force or effect of the Will.

AGREEMENT

I, the undersigned, deposit the Last Will and Testament of _____ for safekeeping with the Superior Court of Alaska. I state that _____, whose address is _____, is named personal representative in the Will [MY WILL] and is designated to receive a copy of the Will upon testator's [MY] death and that _____, whose address is _____, is named alternate personal representative and is designated [DESIGNED] to receive a copy of the [MY] Will upon testator's [MY] death if the [AND IN THE EVENT MY] personal representative [ABOVE] named above is unable to serve or receive the Will. The original Will shall be kept by the court for safekeeping until filed in an estate proceeding.

[IT IS UNDERSTOOD THAT UPON THE DEATH OF THE TESTATOR THE CLERK OF THE SUPERIOR COURT OR THE SUPERIOR COURT REGISTRAR IS AUTHORIZED TO OPEN AND INSPECT THE WILL IN ORDER THAT ANY BURIAL OR OTHER EMERGENCY PROVISIONS OF THE WILL MAY BE CARRIED OUT WITHOUT DELAY IN THE EVENT THE PERSONAL REPRESENTATIVE OR THE ALTERNATE ABOVE NAMED IS NOT IMMEDIATELY AVAILABLE TO RECEIVE THE WILL.]

This Will is a confidential document before the testator dies and cannot be released except to the testator or someone with the testator's written authority without court order. After death, it becomes a matter of public record.

[DATED THIS _____ DAY OF _____,
19____.]

Date

Testator/Agent
(Agent's authorization must be attached)

RECEIPT

I [HEREBY] acknowledge receipt of the above mentioned Will for safekeeping. [THE ACCEPTANCE OF THE WILL FOR SAFEKEEPING BY THE COURT IN NO WAY ENSURES THE VALIDITY OF ANY PROVISION CONTAINED IN THE WILL, NOR DOES ACCEPTANCE IN ANY WAY ENHANCE THE FORCE OR EFFECT OF THE WILL. THE PURPOSE OF ACCEPTING THE WILL IS TO PROVIDE A SAFE

PLACE FOR THAT LEGAL DOCUMENT AND TO
PROVIDE FOR THE ORDERLY ADMINISTRATION OF
THE DECEDENT'S ESTATE.]

Attached is the agent's written author-
ization or general power of attorney from
the testator as required by Probate Rule 5.

Date Superior Court Clerk/Registrar

2. Assign a number to the will upon
its deposit and shall maintain an alpha-
betical index to all wills on deposit.

3. Store the wills in a locked
fireproof filing cabinet or safe.

4. During the lifetime of the
testator, allow the will to be viewed by or
released only to the testator upon showing
of positive identification, or to the
person to whom the testator has given the
specific power in writing to receive or
view the will, and who shall also be
required to show positive identification.
A conservator of the testator may examine
the deposited will only after showing
proper positive identification.

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DATED: March 21, 1991

EFFECTIVE DATE: July 15, 1991

Chief Justice Rabinowitz

Justice Burke

Justice Matthews

Justice Compton

Justice Moore