

AMENDMENTS TO LB966

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 9 of this act shall be known and may be
4 cited as the Uniform Wills Recognition Act (1977).

5 In the Uniform Wills Recognition Act (1977):

6 (1) International will means a will executed in conformity with
7 sections 2 to 5 of this act; and

8 (2) Authorized person and person authorized to act in connection
9 with international wills mean a person who by section 9 of this act, or
10 by the laws of the United States including members of the diplomatic and
11 consular service of the United States designated by Foreign Service
12 Regulations, is empowered to supervise the execution of international
13 wills.

14 Sec. 2. (a) A will is valid as regards form, irrespective
15 particularly of the place where it is made, of the location of the
16 assets, and of the nationality, domicile, or residence of the testator,
17 if it is made in the form of an international will complying with the
18 requirements of the Uniform Wills Recognition Act (1977).

19 (b) The invalidity of the will as an international will shall not
20 affect its formal validity as a will of another kind.

21 (c) The Uniform Wills Recognition Act (1977) shall not apply to the
22 form of testamentary dispositions made by two or more persons in one
23 instrument.

24 Sec. 3. (a) The will shall be made in writing. It need not be
25 written by the testator personally. It may be written in any language, by
26 hand or by any other means.

27 (b) The testator shall declare in the presence of two witnesses and

1 of a person authorized to act in connection with international wills that
2 the document is the testator's will and that the testator knows the
3 contents thereof. The testator need not inform the witnesses, or the
4 authorized person, of the contents of the will.

5 (c) In the presence of the witnesses, and of the authorized person,
6 the testator shall sign the will or, if the testator has previously
7 signed it, shall acknowledge the testator's signature.

8 (d) When the testator is unable to sign, the absence of the
9 testator's signature does not affect the validity of the international
10 will if the testator indicates the reason for the testator's inability to
11 sign and the authorized person makes note thereof on the will. In these
12 cases, it is permissible for any other person present, including the
13 authorized person or one of the witnesses, at the direction of the
14 testator, to sign the testator's name for the testator, if the authorized
15 person makes note of this also on the will, but it is not required that
16 any person sign the testator's name for the testator.

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

19 Sec. 4. (a) The signatures shall be placed at the end of the will.
20 If the will consists of several sheets, each sheet will be signed by the
21 testator or, if the testator is unable to sign, by the person signing on
22 the testator's behalf or, if there is no such person, by the authorized
23 person. In addition, each sheet shall be numbered.

24 (b) The date of the will shall be the date of its signature by the
25 authorized person. That date shall be noted at the end of the will by the
26 authorized person.

27 (c) The authorized person shall ask the testator whether the
28 testator wishes to make a declaration concerning the safekeeping of the
29 testator's will. If so and at the express request of the testator, the
30 place where the testator intends to have the testator's will kept shall
31 be mentioned in the certificate provided for in section 5 of this act.

1 reason, and I have mentioned
2 this declaration on the will

3 *and the signature has been affixed
4 by (name, address)

5 7. (b) the witnesses and I have signed the will;

6 8. *(c) each page of the will has been signed
7 by and numbered;

8 9. (d) I have satisfied myself as to the identity of the testator
9 and of the witnesses as designated above;

10 10. (e) the witnesses met the conditions requisite to act as such
11 according to the law under which I am acting;

12 11. *(f) the testator has requested me to include the following
13 statement concerning the safekeeping of the testator's will:

14

15 12. PLACE

16 13. DATE

17 14. SIGNATURE

18 and, if necessary, SEAL

19 *to be completed if appropriate

20 Sec. 6. In the absence of evidence to the contrary, the certificate
21 of the authorized person shall be conclusive of the formal validity of
22 the instrument as a will under the Uniform Wills Recognition Act (1977).
23 The absence or irregularity of a certificate shall not affect the formal
24 validity of a will under the act.

25 Sec. 7. The international will shall be subject to the ordinary
26 rules of revocation of wills.

27 Sec. 8. Sections 1 to 7 of this act derive from Annex to Convention
28 of October 26, 1973, Providing a Uniform Law on the Form of an
29 International Will. In interpreting and applying the Uniform Wills
30 Recognition Act (1977), regard shall be had to its international origin
31 and to the need for uniformity in its interpretation.

1 Sec. 9. Individuals who have been admitted to practice law before
2 the courts of this state and who are in good standing as active law
3 practitioners in this state, are hereby declared to be authorized persons
4 in relation to international wills.

5 Sec. 10. Section 30-2201, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 30-2201 Sections 30-401 to 30-406, 30-701 to 30-713, 30-2201 to
8 30-2902, 30-3901 to 30-3923, 30-4001 to 30-4045, and 30-4201 to 30-4210,
9 sections 11 to 13 of this act, and the Public Guardianship Act shall be
10 known and may be cited as the Nebraska Probate Code.

11 Sec. 11. An individual who is related to the decedent through two
12 lines of relationship is entitled to only a single share based on the
13 relationship that would entitle the individual to the larger share.

14 Sec. 12. (a) A parent is barred from inheriting from or through a
15 child of the parent if the parent's parental rights were terminated and
16 the parent-child relationship was not judicially reestablished.

17 (b) For the purpose of intestate succession from or through the
18 deceased child, a parent who is barred from inheriting under this section
19 is treated as if the parent predeceased the child.

20 Sec. 13. A will may provide for the passage of all property the
21 testator owns at death and all property acquired by the estate after the
22 testator's death.

23 Sec. 14. Section 30-2414, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 30-2414 Applications for informal probate or informal appointment
26 shall be directed to the registrar and verified by the applicant to be
27 accurate and complete to the best of the applicant's ~~his~~ knowledge and
28 belief as to the following information:

29 (1) Every application for informal probate of a will or for informal
30 appointment of a personal representative, other than a special or
31 successor representative, shall contain the following:

- 1 (i) a statement of the interest of the applicant;
- 2 (ii) the name and date of death of the decedent, the decedent's his
3 age, and the county and state of his domicile at the time of death, and
4 the names and addresses of the spouse, children, heirs and devisees and
5 the ages of any who are minors so far as known or ascertainable with
6 reasonable diligence by the applicant;
- 7 (iii) if the decedent was not domiciled in the state at the time of
8 his death, a statement showing venue;
- 9 (iv) a statement identifying and indicating the address of any
10 personal representative of the decedent appointed in this state or
11 elsewhere whose appointment has not been terminated;
- 12 (v) a statement indicating whether the applicant has received a
13 demand for notice or is aware of any demand for notice of any probate or
14 appointment proceeding concerning the decedent that may have been filed
15 in this state or elsewhere.

16 (2) An application for informal probate of a will shall state the
17 following in addition to the statements required by subdivision (1) of
18 this section:

19 (i) that the original of the decedent's last will or an
20 authenticated copy of a will probated in another jurisdiction:

21 (A) is in the possession of the court; ~~or~~

22 (B) accompanies the application; or ~~or that an authenticated copy~~
23 of a will probated in another jurisdiction accompanies the application;

24 (C) is in the possession of the applicant, that the applicant will
25 deliver such original or authenticated copy to the court within ten days
26 after the filing of the application, and that a true and accurate copy of
27 such original or authenticated copy accompanies the application;

28 (ii) that the applicant, to the best of the applicant's his
29 knowledge, believes the will to have been validly executed; and

30 (iii) that after the exercise of reasonable diligence the applicant
31 is unaware of any instrument revoking the will, and that the applicant

1 believes that the instrument which is the subject of the application is
2 the decedent's last will.

3 (3) An application for informal appointment of a personal
4 representative to administer an estate under a will shall describe the
5 will by date of execution and state the time and place of probate or the
6 pending application or petition for probate. The application for
7 appointment shall adopt the statements in the application or petition for
8 probate and state the name, address and priority for appointment of the
9 person whose appointment is sought.

10 (4) An application for informal appointment of an administrator in
11 intestacy shall state, in addition to the statements required by
12 subdivision (1) of this section:

13 (i) that after the exercise of reasonable diligence the applicant is
14 unaware of any unrevoked testamentary instrument relating to property
15 having a situs in this state under section 30-2210, or a statement why
16 any such instrument of which the applicant he may be aware is not being
17 probated;

18 (ii) the priority of the person whose appointment is sought and the
19 names of any other persons having a prior or equal right to the
20 appointment under section 30-2412.

21 (5) An application for appointment of a personal representative to
22 succeed a personal representative appointed under a different testacy
23 status shall refer to the order in the most recent testacy proceeding,
24 state the name and address of the person whose appointment is sought and
25 of the person whose appointment will be terminated if the application is
26 granted, and describe the priority of the applicant.

27 (6) An application for appointment of a personal representative to
28 succeed a personal representative who has tendered a resignation as
29 provided in subsection (c) of section 30-2453 ~~section 30-2453(c)~~, or
30 whose appointment has been terminated by death or removal, shall adopt
31 the statements in the application or petition which led to the

1 appointment of the person being succeeded except as specifically changed
2 or corrected, state the name and address of the person who seeks
3 appointment as successor, and describe the priority of the applicant.

4 Sec. 15. Section 30-2416, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 30-2416 (a) In an informal proceeding for original probate of a
7 will, the registrar shall determine whether:

8 (1) the application is complete;

9 (2) the applicant has made oath or affirmation that the statements
10 contained in the application are true to the best of the applicant's ~~his~~
11 knowledge and belief;

12 (3) the applicant appears from the application to be an interested
13 person as defined in subdivision (21) of section 30-2209 ~~section~~
14 ~~30-2209(21)~~;

15 (4) on the basis of the statements in the application, venue is
16 proper;

17 (5) either:

18 (i) an original, duly executed, and apparently unrevoked will is in
19 the registrar's possession; or ~~and~~

20 (ii) The applicant has represented that an original, duly executed,
21 and apparently unrevoked will is in the applicant's possession, the
22 applicant has provided a true and accurate copy of such original will
23 with the application, and the applicant has represented that the
24 original, duly executed, and apparently unrevoked will will be delivered
25 to the court within ten days after the filing of the application; and

26 (6) any notice required by section 30-2413 has been given and that
27 the application is not within section 30-2417.

28 (b) The application shall be denied if it indicates that a personal
29 representative has been appointed in another county of this state or,
30 except as provided in subsection (d) of this section below, if it appears
31 that this or another will of the decedent has been the subject of a

1 previous probate order.

2 (c) A will which appears to have the required signatures and which
3 contains an attestation clause showing that requirements of execution
4 under section 30-2327, 30-2328, or 30-2331 have been met shall be
5 probated without further proof. In other cases, the registrar may assume
6 execution if the will appears to have been properly executed, or the
7 registrar he may accept a sworn statement or affidavit of any person
8 having knowledge of the circumstances of execution, whether or not the
9 person was a witness to the will.

10 (d) Informal probate of a will which has been previously probated
11 elsewhere may be granted at any time upon written application by any
12 interested person, together with deposit of an authenticated copy of the
13 will and of the statement probating it from the office or court where it
14 was first probated.

15 (e) A will from a place which does not provide for probate of a will
16 after death and which is not eligible for probate under subsection (a) of
17 this section ~~above~~ may be probated in this state upon receipt by the
18 registrar of a duly authenticated copy of the will and a duly
19 authenticated certificate of its legal custodian that the copy filed is a
20 true copy and that the will has become operative under the law of the
21 other place.

22 Sec. 16. Section 30-2426, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 30-2426 (a) Petitions for formal probate of a will, or for
25 adjudication of intestacy with or without request for appointment of a
26 personal representative, must be directed to the court, request a
27 judicial order after notice and hearing and contain further statements as
28 indicated in this section. A petition for formal probate of a will

29 (1) requests an order as to the testacy of the decedent in relation
30 to a particular instrument which may or may not have been informally
31 probated and determining the heirs,

1 (2) contains the statements required for informal applications as
2 stated in subdivisions (1)(i) through (v) of section 30-2414 ~~the five~~
3 ~~subparagraphs under section 30-2414(1),~~ the statements required by
4 subdivisions (2)(ii) subparagraphs (ii) and (iii) of section 30-2414
5 ~~30-2414(2), and~~

6 (3) states whether the original of the last will of the decedent is
7 in the possession of the court, ~~or~~ accompanies the petition, or has been
8 filed electronically and will be delivered to the court within ten days
9 after the filing of the application.

10 ~~The~~ If the original will is neither in the possession of the court
11 ~~nor accompanies the petition and no authenticated copy of a will probated~~
12 ~~in another jurisdiction accompanies the petition,~~ the petition also must
13 state the contents of the will and indicate that it is lost, destroyed,
14 or otherwise unavailable if the original will or an authenticated copy of
15 the will probated in another jurisdiction: -

16 (i) is not in the possession of the court;

17 (ii) did not accompany the application; and

18 (iii) has not been filed electronically, subject to delivery within
19 ten days after the filing of the application.

20 (b) A petition for adjudication of intestacy and appointment of an
21 administrator in intestacy must request a judicial finding and order that
22 the decedent left no will and determining the heirs, contain the
23 statements required by subdivisions (1) and (4) of section 30-2414 and
24 indicate whether supervised administration is sought. A petition may
25 request an order determining intestacy and heirs without requesting the
26 appointment of an administrator, in which case the statements required by
27 subdivision (4)(ii) subparagraph (ii) of section 30-2414 ~~30-2414(4) above~~
28 may be omitted.

29 Sec. 17. Section 71-601, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 71-601 Sections 71-601 to 71-649 and section 18 of this act shall be

1 known and may be cited as the Vital Statistics Act.

2 Sec. 18. (1) For purposes of this section:

3 (a) Biological mother means a person who is related to a child as
4 the source of the egg that resulted in the conception of the child; and

5 (b) Birth mother means the person who gave birth to the child.

6 (2) During the period immediately before or after the in-hospital
7 birth of a child whose biological mother is not the same as the birth
8 mother, the person in charge of such hospital or his or her designated
9 representative shall provide to the child's biological mother and birth
10 mother the documents and written instructions for such biological mother
11 and birth mother to complete a notarized acknowledgment of maternity.
12 Such acknowledgment, if signed by both parties and notarized, shall be
13 filed with the department at the same time at which the certificate of
14 live birth is filed.

15 (3) Nothing in this section shall be deemed to require the person in
16 charge of such hospital or his or her designee to seek out or otherwise
17 locate an alleged mother who is not readily identifiable or available.

18 (4) The acknowledgment shall be executed on a form prepared by the
19 department. Such form shall be in essentially the same form provided by
20 the department. The acknowledgment shall include, but not be limited to,
21 (a) a statement by the birth mother consenting to the acknowledgment of
22 maternity and a statement that the biological mother is the legal mother
23 of the child, (b) a statement by the biological mother that she is the
24 biological mother of the child, (c) written information regarding
25 parental rights and responsibilities, and (d) the social security numbers
26 of the mothers.

27 (5) The form provided for in subsection (4) of this section shall
28 also contain instructions for completion and filing with the department
29 if it is not completed and filed with a birth certificate as provided in
30 subsection (2) of this section.

31 (6) The department shall accept completed acknowledgment forms. The

1 department may prepare photographic, electronic, or other reproductions
2 of acknowledgments. Such reproductions, when certified and approved by
3 the department, shall be accepted as the original records, and the
4 documents from which permanent reproductions have been made may be
5 disposed of as provided by rules and regulations of the department.

6 (7) The department shall enter on the birth certificate of any child
7 described in this section the name of the biological mother of the child
8 upon receipt of an acknowledgment of maternity as provided in this
9 section signed by the biological mother of the child and the birth mother
10 of the child.

11 (8) The department may adopt and promulgate rules and regulations to
12 establish a nominal payment and procedure for payment for each
13 acknowledgment filed with the department.

14 Sec. 19. Section 76-3413, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 76-3413 (a) Subject to subsection (b) of this section, an instrument
17 is effective to revoke a recorded transfer on death deed, or any part of
18 it, only if the instrument:

19 (1) Is one of the following:

20 (A) A transfer on death deed that revokes the deed or part of the
21 deed expressly or by inconsistency;

22 (B) An instrument of revocation that expressly revokes the deed or
23 part of the deed and that is executed with the same formalities as
24 required in section 76-3409;~~or~~

25 (C) An inter vivos deed that expressly or by inconsistency revokes
26 the transfer on death deed or part of the deed; or and

27 (D) An inter vivos deed to a bona fide purchaser that expressly or
28 by inconsistency revokes the transfer on death deed or part of the deed;
29 and

30 (2) Is an instrument under subdivisions (1)(A), (B), and (C) of this
31 subsection that is ~~is~~ acknowledged by the transferor after the

1 acknowledgment of the deed being revoked and is recorded ~~(i) within~~
2 ~~thirty days after being executed, (ii) before the transferor's death. For~~
3 any instrument under subdivision (1)(D) of this subsection, such
4 instrument must be acknowledged by the transferor after the
5 acknowledgment of the deed being revoked and must be recorded before the
6 later of thirty days after being executed or the transferor's death. Any
7 instrument under this subsection shall be recorded , ~~and (iii)~~ in the
8 public records in the office of the register of deeds of the county where
9 the deed being revoked is recorded.

10 (b) If a transfer on death deed is made by more than one transferor:

11 (1) Revocation by a transferor does not affect the deed as to the
12 interest of another transferor; and

13 (2) A deed of joint owners is revoked only if it is revoked by all
14 of the living joint owners who were transferors.

15 (c) After a transfer on death deed is recorded, it may not be
16 revoked by a revocatory act on the deed.

17 (d) This section does not limit the effect of an inter vivos
18 transfer of the property.

19 (e) A bona fide purchaser is a purchaser for value in good faith and
20 without notice of any adverse claim.

21 Sec. 20. Original sections 30-2414, 30-2416, 30-2426, 71-601, and
22 76-3413, Reissue Revised Statutes of Nebraska, and section 30-2201,
23 Revised Statutes Cumulative Supplement, 2018, are repealed.