

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 321, L.D. 380)

2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 1575

7
8 H.P. 1182

House of Representatives, May 9, 1983

9 Reported by the Minority from the Committee on Judiciary and printed
10 under Joint Rule 2.

Original bill presented by Representative Paradis of Augusta.

11 Cosponsored by Senator Carpenter of Aroostook and Representative Kane of
So. Portland.

EDWIN H. PERT, Clerk

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-THREE
17

18 AN ACT to Create a Statutory Will.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 18-A MRSA §2-514 is enacted to read:

23 §2-514. Statutory wills

24 (a) Any person may execute a will on the follow-
25 ing form and the will shall be presumed to be reason-
26 able. This section does not limit any spousal
27 rights, rights to exempt property or other rights set
28 forth elsewhere in this Code.

29 Maine Statutory Will

30 NOTICE TO THE PERSON WHO SIGNS THIS WILL:

1 1. THIS STATUTORY WILL HAS SERIOUS LEGAL EFFECTS
2 ON YOUR FAMILY AND PROPERTY. IF THERE IS ANYTHING IN
3 THIS WILL THAT YOU DO NOT UNDERSTAND, YOU SHOULD CON-
4 SULT A LAWYER AND ASK HIM TO EXPLAIN IT TO YOU.

5 2. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH
6 PASSES ON YOUR DEATH TO ANY PERSON BY OPERATION OF
7 LAW OR BY CONTRACT. FOR EXAMPLE, THE WILL DOES NOT
8 DISPOSE OF JOINT TENANCY ASSETS OR YOUR SPOUSE'S
9 ELECTIVE SHARE, AND IT WILL NOT NORMALLY APPLY TO
10 PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR
11 RETIREMENT PLAN BENEFITS.

12 3. THIS WILL IS NOT DESIGNED TO REDUCE DEATH
13 TAXES OR ANY OTHER TAXES. YOU SHOULD DISCUSS THE TAX
14 RESULTS OF YOUR DECISIONS WITH A COMPETENT TAX ADVI-
15 SOR.

16 4. YOU CANNOT CHANGE, DELETE, OR ADD WORDS TO
17 THE FACE OF THIS MAINE STATUTORY WILL. YOU SHOULD
18 MARK THROUGH ALL SECTIONS OR PARTS OF SECTIONS WHICH
19 YOU DO NOT COMPLETE. YOU MAY REVOKE THIS MAINE STAT-
20 UTORY WILL AND YOU MAY AMEND IT BY CODICIL.

21 5. THIS WILL TREATS ADOPTED CHILDREN AS IF THEY
22 ARE NATURAL CHILDREN.

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

25 7. IF YOU HAVE ANOTHER CHILD AFTER YOU SIGN THIS
26 WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.

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

31 9. YOU SHOULD KEEP THIS WILL IN YOUR
32 SAFE-DEPOSIT BOX OR OTHER SAFE PLACE.

33 10. IF YOU HAVE ANY DOUBTS WHETHER OR NOT THIS
34 WILL ADEQUATELY SETS OUT YOUR WISHES FOR THE DISPOSI-
35 TION OF YOUR PROPERTY, YOU SHOULD CONSULT A LAWYER.

36 MAINE STATUTORY WILL OF

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(Print your name)

Article 1. Declaration

This is my will and I revoke any prior wills and codicils.

Article 2. Disposition of my property

2.1 REAL PROPERTY. I give all my real property to my spouse, if living; otherwise it shall be equally divided among my children who survive me; except as specifically provided below: (specific distribution not valid without signature.)

I leave the following specific real property to the person(s) named:

<u>(name)</u>	<u>(description of item)</u>	<u>(signature)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2.2 PERSONAL AND HOUSEHOLD ITEMS. I give all my furniture, furnishings, household items, personal automobiles, and personal items to my spouse, if living; otherwise they shall be equally divided among my children who survive me; except as specifically provided below: (specific distribution not valid without signature.)

I leave the following specific items to the person(s) named:

<u>(name)</u>	<u>(description of item)</u>	<u>(signature)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

1 2.3 CASH GIFT TO CHURCHES, CHARITABLE ORGANIZATIONS,
 2 OR INSTITUTIONS: I make the following cash gift(s) to
 3 the named churches, charitable organizations, or
 4 institutions in the amount stated. If I fail to sign
 5 this provision, no gift is made. If the church,
 6 charitable organization, or institution does not sur-
 7 vive me or accept the gift, then no gift is made.

8 (name) (amount) (signature)

9 _____
 10 _____
 11 _____

12 2.4 ALL OTHER ASSETS (MY "RESIDUARY ESTATE"). I
 13 adopt only one Property Disposition Clause by placing
 14 a mark in the box in front of the letter "A", "B"
 15 or "C" signifying which clause I wish to adopt. I
 16 place my signature after clause "A" or clause "B", or
 17 after each individual distribution in clause "C". I
 18 write the words "not used" in the remaining signature
 19 spaces. If I fail to sign the appropriate distribu-
 20 tion(s) or if I sign in more than one clause or if I
 21 fail to place a mark in the appropriate box or if I
 22 fail to write the words "not used" in any unused
 23 signature space, this paragraph 2.4 will be invalid
 24 and I realize that the remainder of my property will
 25 be distributed as if I did not make a will.

26 Property Disposition Clauses. (select one).

27 ___ A. I leave all my remaining property to my
 28 spouse, if living. If not living, then in equal
 29 shares to my children and the descendants of any
 30 deceased child. _____.

31 (signature)

32 ___ B. I leave the following stated amount to my
 33 spouse _____ and the remainder in equal
 34 shares to my children and the descendants of any
 35 deceased child. If my wife is not living, her share
 36 shall be distributed in equal shares to my children
 37 and the descendants of any deceased child.

38 _____
 39 (signature)

40 ___ C. I leave the following stated amounts to the

1 persons named:

2 _____
3 (name) (amount) (signature)

4 _____
5 (name) (amount) (signature)

6 _____
7 (name) (amount) (signature)

8 _____
9 (name) (amount) (signature)

10 _____
11 (name) (amount) (signature)

12 2.5 UNDISTRIBUTED PROPERTY. If I have any property
13 which, for any reason, does not pass under the other
14 parts of this will, all of that property shall be
15 distributed as follows: (Fill up any unused space
16 with lines or other markings.)

17 _____
18 (this paragraph only valid if signed)

19 Article 3. Nomination of guardian,
20 conservator and personal representative

21 3.1 GUARDIAN. (If you have a child under 18 years
22 of age, you should name at least one person to serve
23 as guardian for the child.)

24 If a guardian is needed for any child of mine,
25 then I nominate the first guardian named below to
26 serve as guardian of that child. If the person does
27 not serve, then the others shall serve in the order I
28 list them. My nomination of a guardian is not valid

1 without my signature.

2 FIRST GUARDIAN _____
3 (signature)

4 SECOND GUARDIAN _____
5 (signature)

6 THIRD GUARDIAN _____
7 (signature)

8 3.2 CONSERVATOR. (A conservator may be named to
9 manage the property of a minor child. You do not
10 need to name a conservator if you wish the guardian
11 to act as conservator. If you wish to name a conser-
12 vator in addition to a guardian, complete this para-
13 graph, 3.2. You may name any person over 14 years of
14 age or an institution to act as conservator. If you
15 do not wish to name a separate conservator, do not
16 complete this paragraph.)

17 I nominate the first conservator named below to
18 serve as conservator for any minor children of mine.
19 If the first conservator does not serve, then the
20 others shall serve in the order I list them. My nom-
21 ination of a conservator is not valid without my sig-
22 nature.

23 FIRST CONSERVATOR _____
24 (signature)

25 SECOND CONSERVATOR _____
26 (signature)

27 THIRD CONSERVATOR _____
28 (signature)

29 3.3 PERSONAL REPRESENTATIVE. (Name at least one.) I
30 nominate the person or institution named as first
31 personal representative below to serve as personal
32 representative of this will. If that person or
33 institution does not serve, then I nominate the
34 others to serve in the order I list them. My nomina-
35 tion of a personal representative is not valid with-
36 out my signature.

37 FIRST PERSONAL

1 REPRESENTATIVE _____
2 _____ (signature)

3 SECOND PERSONAL
4 REPRESENTATIVE _____
5 _____ (signature)

6 THIRD PERSONAL
7 REPRESENTATIVE _____
8 _____ (signature)

9 I sign my name to this Maine Statutory Will on _____
10 at _____ in the State of _____
11 (date) (city)

12 _____
13 Signature of Testator

14 STATEMENT OF WITNESSES (You must have two witnesses.)

15 Each of us declares that the testator willingly
16 signed this Maine Statutory Will in our presence or
17 willingly directed another to sign it for him or her
18 or that the testator acknowledged that the signature
19 on this Maine Statutory Will is his or hers or that
20 the testator acknowledged that this Maine Statutory
21 Will is his or her will and sign below as witnesses.

22 Signature _____

23 Printed name _____

24 Address _____

25 Signature _____

26 Printed name _____

27 Address _____

28 (b) Forms for executing a statutory will shall
29 be provided at all Probate Courts for a cost equiva-
30 lent to the reasonable cost of printing and storing

1 the forms. A statutory will shall be deemed to be
2 valid if the blanks are filled in with a typewriter
3 or in the handwriting of the person making the will.
4 Failure to complete or mark through any section or
5 part of a section in the statutory will shall not
6 invalidate the will. Failure to sign any section or
7 part of a section in the statutory will requiring a
8 signature shall only invalidate the part not signed,
9 except as specifically provided in paragraph 2.4.

10 (c) A statutory will may be self-proved in the
11 same manner as any other will.

12 STATEMENT OF FACT

13 This new draft replaces the original bill. It
14 amends the originally proposed statutory will by add-
15 ing warnings to the testator, providing a space for
16 a personal representative to be nominated, by requir-
17 ing witnesses, and by eliminating the certification
18 of the signature by the register of probate. It also
19 revises the format of the statutory will to create
20 slightly different categories and to require the
21 testator's signature on each item to avoid the pos-
22 sibility of someone else filing in any blank spaces
23 after the testator dies.

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