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SB 49 Engrossed

DIGEST
2025 Regular Session

Miller

Present law (C.C. Art. 1575) provides the requirements of form for validity for olographic testaments, including that the testament be written, dated, and signed by the testator.

Proposed law maintains for validity that an olographic testament must be written, dated, and signed by the testator but eliminates the requirements that the signature appear at the end of the testament and that the date is sufficient if indicated by the day, month, and year.

Proposed law further provides that the signature of the testator may appear anywhere in the testament and is sufficient if it identifies the testator.

Proposed law further provides that the date may appear anywhere in the testament and may be clarified by extrinsic evidence.

Present law (C.C. Art. 1576) defines notarial testaments as those executed in accordance with certain formalities.

Proposed law provides that for validity the notarial testament shall be prepared in writing, dated, executed before a notary and two witnesses, and signed by the testator, each witness, and the notary.

Proposed law eliminates the requirement that the testator declare that the instrument is his testament and that the testament include an attestation clause.

Proposed law further provides that the signature of the testator may appear anywhere in the testament and is sufficient if it identifies the testator.

Proposed law provides that the date may appear anywhere in the testament and may be clarified by extrinsic evidence.

Present law (C.C. Art. 1577) provides the requirements of form for validity for notarial testaments, including a declaration that the instrument is the testator's testament, signatures on every page and at the end, and a declaration by the notary and the witnesses.

Proposed law repeals present law.

Present law (C.C. Art. 1578) provides the requirements of form for notarial testaments when the testator is literate and sighted but physically unable to sign.

Proposed law repeals present law.

Present law (C.C. Art. 1579) provides the requirements for form for notarial testaments when the testator is unable to read.

Proposed law repeals present law.

Present law (C.C. Art. 1580) provides for the execution of a notarial testament in braille.

Proposed law repeals present law.

Present law (C.C. Art. 1580.1) provides the requirements of form for notarial testaments when the testator is deaf or deaf and blind.

Proposed law repeals present law.

Present law (C.C. Art. 1581) provides that certain persons are incompetent to be witnesses to testaments.

Proposed law eliminates the prohibition against persons who are competent but deaf or unable to read from witnessing a notarial testament for a testator who is unable to read.

Proposed law (C.C.P. Art. 2887) provides the standard of proof for notarial testaments.

Proposed law provides that a notarial testament executed in accordance with C.C. Art. 1576 is self-proving if it is signed on every page and contains an attestation clause signed by the notary and the subscribing witnesses.

Proposed law further provides that a notarial testament executed in accordance with C.C. Art. 1576 is self-proving if it is signed on every page and the notary and the subscribing witnesses attach an affidavit executed after the date of the testament stating that the testator declared the instrument to be his testament and that the testator signed every page.

Proposed law provides that a notarial testament that is not self-proving may be proved to have been signed by the testator by the testimony of the notary and at least one subscribing witness or by the testimony of the two subscribing witnesses.

Proposed law further provides that if only the notary or only one subscribing witness is alive or can be located, the notarial testament that is not self-proving may be proved by the testimony of either.

Proposed law also provides that if the notary and none of the witnesses are available, the notarial testament may be proved by the testimony of two credible witnesses who recognize the signature of the testator.

Proposed law authorizes the testimony of the notary and the witnesses to be by affidavit or orally at

a hearing.

Proposed law (C.C.P. Art. 2891) provides that notarial testaments do not have to be proved to be probated.

Proposed law provides that if the notarial testament complies with the provisions of proposed law that make it self-proving, it does not have to be proved to be probated.

Proposed law provides that the provisions of proposed law apply prospectively and retroactively and shall be applied to existing and pending claims but shall not revive prescribed claims or final and definitive judgments.

Effective August 1, 2025.

(Amends C.C. Arts. 1575, 1576, and 1581 and C.C.P. Art. 2891; adds C.C.P. Art. 2887; repeals C.C. Arts. 1577 - 1580.1)