

RÉSUMÉ DIGEST

ACT 30 (SB 49)

2025 Regular Session

Miller

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

New 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.

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

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

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

New 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.

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

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

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

Prior law (C.C. Art. 1577) provided 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.

New law repeals prior law.

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

New law repeals prior law.

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

New law repeals prior law.

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

New law repeals prior law.

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

New law repeals prior law.

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

New 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.

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

New 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.

New 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.

New 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.

New 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.

New 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.

New law authorizes the testimony of the notary and the witnesses to be by affidavit or orally at a hearing.

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

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

New law provides that the provisions of new 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)