

Wills

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Many questions are asked of our staff on a daily basis regarding the topic of Wills deposited at the Probate Court. Most of you are aware the Probate Court will file the Wills of Oakland County residents for safekeeping, for a filing fee of \$25. The procedure is relatively simple. Upon presentation of an original Will, the court clerk will collect a filing fee of \$25 (made payable to the Oakland County Probate Court) and will require the depositor to complete an envelope, put the original Will in the envelope, seal it and return it to the clerk. Identifying information such as the decedent's complete name and Social Security number are required for the filing of the Will. This is to assure that, upon proper request, the correct Will shall be retrieved.

With respect to the administration of this Will, please be aware that while there is a fee to deposit a Will, there is no fee to withdraw it. However, if you want to redeposit the Will, an additional \$25 will be charged. Many practitioners have come to the court wanting to file codicils or new Wills and are surprised when we require an additional \$25 filing fee.

Be aware that once a Will is on deposition at the court, it is strictly confidential. The court will not release the contents of the Will nor will the court even indicate if there is a Will on file. Upon the person's request, of course, the Will would be released to them. Upon presentation of a death certificate, the Will can then be opened and made public record.

We often get requests from people who simply want to "review their Will." While we will certainly provide them with their original Will, you should advise your clients not to make changes on these existing original documents for fear of future questions and possible problems with the validity of the Will. (Remember, even if you want to just "review your Will," if you redeposit it again with the court, we will ask you for another \$25).

Once you have properly filed your Will for safekeeping, please be advised that we do not have the capacity in our file room to store all of our Wills. Accordingly, the majority of the Wills are kept in Record Retention, which is located in the courthouse but not adjacent to the Probate Court file room. The file room staff makes four scheduled trips to Record Retention per day. These pick-ups occur at approximately 9:30 a.m., 12:30 p.m., 2:30 p.m. and 4:30 p.m. If you are attempting to open an estate and you need the original Will, it is best to provide us with a proof of death and ask that the Will be pulled prior to coming in for filing. If a prior request is made, we will have the Will in the file room for your convenience and you will not have to wait until one of these scheduled times to retrieve the Will. We also ask that if you, as a courtesy, could give us at least a day or two notice, it would greatly assist our file room.

Finally, I do encourage people to file their Wills with the Probate Court for several reasons. First, it will help prevent the loss or destruction of the Will and it is typically the first place a relative looks for a Will once a loved one dies. We have had several instances where attorneys have passed away and their relatives or friends have brought us a box of original Wills that the attorney was keeping at his or her office. This provides an administrative nightmare and it is often difficult to locate friends or relatives of these people, who oftentimes do not know themselves where their original Will is being kept. Finally, be aware that the Probate Code does require that upon the death of a person their Will be filed with the court. Even if you do not deposit the Will during the decedent's lifetime, by law it must be filed upon their death whether there is an estate probated or not.

If you have any specific questions with respect to the filing of Wills, please do not hesitate to contact Jill Koney Daly or me. Stay tuned.