

**HOUSE BILL No. 2284**

By Committee on Judiciary

1-30

9 AN ACT concerning probate; relating to the execution and attestation of  
10 wills; amending K.S.A. 59-606 and repealing the existing section.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 59-606 is hereby amended to read as follows: 59-  
14 606. (a) Every will, except an oral will as provided in K.S.A. 59-608 and  
15 amendments thereto, shall be:

16 (1) In writing, ~~and~~;

17 (2) signed at the end by the party making the will, or by some other  
18 person in the presence and by the express direction of the testator. ~~Such~~  
19 ~~will shall be;~~

20 (3) *dated; and*

21 (4) (A) Attested and subscribed in the presence of ~~such party the~~  
22 *testator* by two or more competent witnesses, who saw the testator sub-  
23 scribe or heard the testator acknowledge the will; *or*

24 (B) *acknowledged before a notary public.*

25 (b) Such will, at the time of its execution or at any subsequent date  
26 during the lifetimes of the testator and the witnesses *or notary public*,  
27 may be made self-proved, and the testimony of the witnesses *or notary*  
28 *public* in the probate of the will may be made unnecessary by the ac-  
29 knowledgments of the will and the affidavits of the testator and *by* the  
30 attesting witnesses *or notary public*. Such acknowledgments and affidavits  
31 shall be made before an officer authorized to take acknowledgments to  
32 deeds of conveyance and to administer oaths. *If the acknowledgments and*  
33 *affidavits are made by a notary public, the officer shall be someone other*  
34 *than the notary public before whom the will was acknowledged.*

35 (c) Such acknowledgments and affidavits shall be evidenced by the  
36 certificate, with official seal affixed, of such officer attached or annexed  
37 to such will in form and contents substantially as follows:

38 (1) *For a will attested and subscribed by two or more competent*  
39 *witnesses:*

40 State of \_\_\_\_\_

41 County of \_\_\_\_\_ ss.

42 Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_,  
43 \_\_\_\_\_, and \_\_\_\_\_, known to me to be the testator and the witnesses, re-

1 spectively, whose names are subscribed to the annexed or foregoing instrument in their  
 2 respective capacities, and, all of such persons being by me first duly sworn, such \_\_\_\_\_,  
 3 testator, declared to me and to the witnesses in my presence that such instrument is the  
 4 testator's last will and testament, and that the testator had willingly made and executed it  
 5 as the testator's free and voluntary act and deed for the purposes therein expressed. Such  
 6 witnesses, each on the witness' oath stated to me, in the presence and hearing of the testator,  
 7 that the testator had declared to them that such instrument is the testator's last will and  
 8 testament, and that the testator executed same as such and wanted each witness to sign it  
 9 as a witness. Upon their oaths each witness stated further that they did sign the will as  
 10 witnesses in the presence of each other and in the presence of the testator and at the  
 11 testator's request, and that the testator at that time possessed the rights of majority, was of  
 12 sound mind and under no restraint.

13 \_\_\_\_\_(Testator)  
 14 \_\_\_\_\_(Witness)  
 15 \_\_\_\_\_(Witness)

16 Subscribed, acknowledged and sworn to before me by \_\_\_\_\_, testator, and  
 17 \_\_\_\_\_ and \_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_.  
 18 (seal)

19 (Signed) \_\_\_\_\_  
 20 \_\_\_\_\_  
 21 (Official capacity of officer)

22 (2) *For a will acknowledged before a notary public:*

23 State of \_\_\_\_\_  
 24 County of \_\_\_\_\_ss.

25 *Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_*  
 26 *and \_\_\_\_\_, known to me to be the testator and the notary public, respectively, whose*  
 27 *names are subscribed to the annexed or foregoing instrument in their respective capacities,*  
 28 *and, each of such persons being by me first duly sworn, said testator, declared to me and to*  
 29 *the notary public in my presence that such instrument is the testator's last will and testament,*  
 30 *and that the testator had willingly made and executed it as the testator's free and voluntary*  
 31 *act and deed for the purposes therein expressed. Such notary public, under oath stated to*  
 32 *me, in the presence and hearing of the testator, that the testator had declared to such notary*  
 33 *public that such instrument is the testator's last will and testament, and that the testator*  
 34 *executed same as such and wanted the notary public to acknowledge it as a notary public.*  
 35 *Under oath, the notary public stated further that such person did notarize the testator's*  
 36 *signature on the Will in the presence of the testator and at the testator's request, and that*  
 37 *the testator at that time possessed the rights of majority, was of sound mind and under no*  
 38 *restraint.*

39 \_\_\_\_\_(Testator)  
 40 \_\_\_\_\_(Notary Public)

41 Subscribed, acknowledged and sworn to before me by the aforesigned testator and the  
 42 aforesigned notary public this \_\_\_\_\_day of \_\_\_\_\_, A.D. \_\_\_\_.  
 43 (seal)

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(Signed)

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*Official capacity of officer)*

(d) If an affidavit substantially in conformance with the affidavit described in this section is executed at the time of the execution of the will, no other signatures of the witnesses, *or notary public* or any other attestation clause is required.

(e) A self-proved will, unless contested, shall be admitted to probate without the testimony of any subscribing witness *or notary public*, but otherwise it shall be treated no differently than a will not self-proved. A self-proved will may be contested or be revoked, or be amended by a codicil in the same fashion as a will not self-proved. A codicil or the consent to take under the will by the spouse may be self-proved in the same manner as a will may be self-proved.

Sec. 2. K.S.A. 59-606 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.