



# Senate

General Assembly

**File No. 523**

February Session, 2008

Senate Bill No. 705

*Senate, April 7, 2008*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## ***AN ACT CONCERNING THE EXECUTION OF WILLS AND CODICILS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-251 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 A will or codicil shall not be valid to pass any property unless it is in  
4 writing, subscribed by the testator or subscribed in the testator's name  
5 by some other individual in the testator's conscious presence and by  
6 the testator's express direction and attested by two witnesses, each of  
7 them subscribing in the testator's presence; but any will executed  
8 according to the laws of the state or country where it was executed  
9 may be admitted to probate in this state and shall be effectual to pass  
10 any property of the testator situated in this state.

11 Sec. 2. Section 45a-258 of the general statutes is repealed and the  
12 following is substituted in lieu thereof (*Effective October 1, 2008*):

13 Every devise or bequest given in any will or codicil to a subscribing

14 witness, [or to the husband or wife] the spouse of such subscribing  
 15 witness, an individual at the request of the testator pursuant to section  
 16 45a-251, as amended by this act, or the spouse of such individual, shall  
 17 be void unless such will or codicil is legally attested without the  
 18 signature of such witness or individual, or unless such devisee or  
 19 legatee is an heir to the testator. The competency of such witness or  
 20 individual shall not be affected by any such devise or bequest. The  
 21 interest of any witness or individual in any community, church,  
 22 society, association or corporation, beneficially interested in any devise  
 23 or bequest, shall not affect such devise or bequest or the competency of  
 24 such witness or individual.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	45a-251
Sec. 2	<i>October 1, 2008</i>	45a-258

**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 09 \$</b>	<b>FY 10 \$</b>
Probate Court	PCAF - None	None	None

Note: PCAF=Probate Court Administration Fund

**Municipal Impact:** None

**Explanation**

The bill would result in no fiscal impact to the Probate Court Administration Fund as the Probate Court is charged with probating a decedent's estate regardless of whether or not such person had a will.

**The Out Years**

There would be no fiscal impact to the Probate Court in the out years.

**OLR Bill Analysis****SB 705*****AN ACT CONCERNING THE EXECUTION OF WILLS AND CODICILS.*****SUMMARY:**

Under current law, a will or codicil must be in writing and subscribed by the testator. This bill also allows a will or codicil to be subscribed in the testator's name by some other individual in the testator's conscious presence and at the testator's express direction.

Under current law, every devise or bequest given in any will or codicil to a subscribing witness, or to the witness's husband or wife, is void unless (1) it is legally attested without the signature of such witness or (2) such devisee or legatee is the testator's heir. The bill makes these same rules apply to a person who signs a will or codicil for the testator and to his or her spouse.

EFFECTIVE DATE: October 1, 2008

**BACKGROUND*****Codicil***

A codicil is an addition to a will that (1) explains, modifies, or revokes a previous will provision or (2) adds an additional provision. A codicil must be signed and witnessed with the same formalities as those used in executing the will.

***Devise and Bequest***

A bequest is the act of giving personal property by will. A "devise" is a gift of real property.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (03/24/2008)