

Will Registries

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Issue

Do laws in other states allow a testator (a person who has made a will) to deposit the will with a will registry or court for safekeeping?

Summary

In some states, a testator may deposit his or her will with a court or government office for safekeeping. We looked at laws in New England, Delaware, Maryland, New York, and New Jersey. Of those states:

1. three (Massachusetts, New York, and Vermont) have laws permitting a testator to deposit his or her will with the court for safekeeping;
2. one (New Jersey) has a law allowing a testator to register information about his or her will (e.g., the date it was made and its location), but not the actual will, in a will registry maintained by the secretary of state;
3. two (Delaware and Maryland) have laws permitting a testator to deposit the will in a register of wills office;
4. three (Connecticut, New Hampshire, and Rhode Island) have no such laws; and
5. Maine prohibits testators from filing their will with the court for safekeeping after September 19, 1997 ([18-A Me. Rev. Stat. § 2-901](#)).

In such states that permit testators to file wills, the filing fees range from \$5 to \$75.

Generally, deposited wills may only be viewed by the testator or his or her authorized representative during the testator's lifetime. The laws specify steps the court or register of wills office must take when notified of the testator's death (e.g., notify the person designated to receive it).

Laws in Select States

Delaware

The law permits testators and attorneys to deposit wills for safekeeping in the register of wills office for New Castle County. (It appears that this is the only register of wills office in which a testator or attorney may make such a deposit.)

The register, upon receiving the will, must:

1. give the testator or attorney a receipt,
2. place the will in an envelope and seal it securely in the testator's or attorney's presence,
3. number the envelope and note the testator's name,
4. record the date,
5. list the name of the person who will serve as personal representative upon the testator's death, and
6. index the will alphabetically in a permanent index.

The register must carefully preserve the envelope containing the will unopened unless it is returned to the attorney or testator within the testator's lifetime. The law specifies that filing a will with the register does not create any presumption regarding the authenticity of the document, signatures on the will, or its admissibility to probate ([12 Del. Code § 2513](#)).

Maryland

Maryland law allows a testator or his or her agent to deposit a will for safekeeping with the county register of wills office. The will must be enclosed in a sealed wrapper, with the endorsement "Will of" followed by the testator's name and his or her address and social security number, if available. The register must endorse on the wrapper the date of receipt and the deliverer. During the testator's lifetime, the deposited will may only be delivered to the testator or a person he or she authorized in writing to receive it ([MD Code, Est. & Trusts § 4-201](#)).

Massachusetts

Massachusetts law allows a testator or his or her agent to deposit a will with the probate court for safekeeping, under the court's rules. The will must be sealed and kept confidential. During the testator's lifetime, the will may only be delivered to him or her or a person he or she authorizes in writing to receive it ([Mass. Gen. Law ch. 190B § 2-515](#)).

New Jersey

New Jersey law requires the secretary of state to create and maintain a will registry in which a testator or his or her attorney may register information regarding the will, including the testator's name, the date the will was made, and sufficient identification of the will's location at the time of registration. The law specifies that (1) the registry does not contain actual wills, (2) registration or failure to register is not evidence in any proceeding related to the will, and (3) failure to register is not a factor in determining a will's validity.

The law permits specified interested persons (e.g., children, spouses, and potential heirs) and their representatives to search the registry for a fee ([N.J. Stat. § 3B:3-2.1](#)). There is a \$10 fee to (1) register a will and (2) search the registry.

New York

Under New York law, any county surrogate court may receive and deposit a will of a county resident for safekeeping. The court may also receive and file a witness' affidavit stating the facts to which he or she would be required to testify in order to prove the will (i.e., convince the court that the document is truly the testator's will). Affidavits from certified medical examiners that certify that the testator was of sound mind when the will was executed may also be filed with the will, along with any facts supporting such opinion.

The will must be enclosed in a sealed wrapper so that its contents cannot be read. The wrapper must list the testator, his or her domicile, and the date the will was delivered to the court. It may not be opened, read, or examined until delivered to a person entitled to receive it (generally the testator or a person he or she authorizes in writing) or required by court authority ([N.Y. Surr. Ct. Pro. § 2507](#)).

Vermont

Under Vermont law, a testator may deposit a will for safekeeping in the probate court for the district in which he or she resides. The law requires the court to give the testator a certificate of deposit and to safely keep an index of the deposited wills. The will must be in a sealed wrapper, indicating

the name and residence of the testator and the day when and the person by whom it was deposited. The wrapper may also have the name of the person to whom the will is to be delivered after the testator's death. The wrapper cannot be opened until it is delivered to a person entitled to receive it.

While the testator is alive, the will may only be delivered to him or her or in accordance with his or her written order. But the testator's legal guardian may inspect and copy the will at any time in the presence of a judge, court operations manager, or register ([14 VT. Stat. Ann. § 2](#)).

Filing Fees

In the above states that permit testators to file wills in a court or government office, the filing fees range from \$5 to \$75 (see Table 1).

Table 1: Fees to Deposit Wills for Safekeeping, Select States

<i>State</i>	<i>Fee</i>	<i>Notes</i>
Delaware	\$10	Will held in register of wills office for New Castle County; additional \$2 for the testator to examine the envelope contents in the register's office
Maryland	\$ 5	Will held in register of wills office
Massachusetts	\$75	Will held in probate court; no additional fee to file a substitution for a previously filed or withdrawn will
New York	\$45	Will held in surrogate court (similar to probate court); court may reduce or dispense with the fee
Vermont	\$30	Will held in probate court; an additional \$30 fee may be imposed if a subsequent will is filed for safekeeping

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