

HOUSE BILL NO. 1363

Introduced by

Representatives Sanford, Owens

1 A BILL for an Act to amend and reenact sections 30.1-08.1-01, 30.1-08.1-03, and 30.1-08.1-04
2 of the North Dakota Century Code, relating to ante-mortem probate of wills.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 30.1-08.1-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **30.1-08.1-01. Declaratory judgment.**

7 ~~Any person~~A testator who executes a will disposing of the ~~person's~~testator's estate in
8 accordance with this title, ~~a person nominated in a will to serve as a personal representative or~~
9 ~~with the testator's consent, an interested party, or the testator's legal guardian, conservator, or~~
10 ~~power of attorney~~ may institute a proceeding under chapter 32-23 for a judgment declaring the
11 validity ~~or invalidity~~ of the ~~testator's~~ will as to the signature on the will, the required number of
12 witnesses to the signature and ~~their~~the witnesses' signatures, and the testamentary capacity
13 and freedom from undue influence of the ~~person executing the will~~testator.

14 **SECTION 2. AMENDMENT.** Section 30.1-08.1-03 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **30.1-08.1-03. Finding of validity - Revocation.**

- 17 1. If the court finds under chapter 32-23 that the will has been properly executed and ~~that~~
18 ~~the plaintiff~~ testator has the requisite testamentary capacity and freedom from undue
19 influence, ~~it~~the court shall declare the will valid and order ~~it~~the will placed on file with
20 the court.
- 21 2. ~~If under chapter 32-23 the court finds the will has not been properly executed or the~~
22 ~~testator lacks the requisite testamentary capacity or freedom from undue influence, the~~
23 ~~court shall declare the will invalid.~~

1 ~~3.~~ For the purposes of section 30.1-12-02, a finding of validity under this chapter shall
2 ~~constitute~~constitutes an adjudication of probate. The

3 ~~4.~~ A will shall be declared valid under this chapter is binding in North Dakota this state
4 unless and until the ~~plaintiff-testator~~testator executes a new will and institutes a new
5 proceeding under this chapter naming the appropriate parties to the new proceeding
6 as well as the parties to any former proceeding brought under this chapter.

7 **SECTION 3. AMENDMENT.** Section 30.1-08.1-04 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **30.1-08.1-04. Admissibility of facts - Effect on other actions.**

10 The facts found in a proceeding brought under this chapter shall ~~are~~ be admissible in
11 evidence in any proceeding other than one brought in ~~North Dakota~~this state to determine the
12 validity or invalidity of a will; ~~nor shall the~~ A determination in a proceeding under this chapter
13 ~~beis not~~ binding, upon on the parties to ~~such~~the proceeding; in any action not brought to
14 determine the validity or invalidity of a will.