

DEPOSITING YOUR WILL FOR SAFEKEEPING

Oakland County Probate Court

**Honorable Jennifer Callaghan
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A series of brochures presented to you by the Oakland County Probate Court

You have just signed your Last Will and Testament. (That makes you a “testator.”) Perhaps you were wondering where you should keep it. Some options include storing it with your other important paperwork, having your attorney keep it, depositing it in a safe deposit box, or depositing it with the probate court. This brochure will highlight court procedures for depositing and retrieving your will at the court and retrieving your will from a safe deposit box. However, for more detailed information, you should contact an attorney.

DEPOSITING YOUR WILL WITH THE PROBATE COURT

CONFIDENTIALITY

- Wills on file with the probate court are not public records during the testator’s lifetime. Therefore, your will and any information regarding your will, will not be released to anyone except you or a person you designate.
- Wills on file with the court remain with the court after the death of the testator.
- Original wills are considered permanent court records. They must be retained for at least 82 years from deposit in their original form – then they are microfilmed and kept “forever.”
- Copies of your will may be released by the court only upon proof of death.

DEPOSIT

MCL 700.2515(1)

- You must be an Oakland County resident to deposit your will at the Oakland County Probate Court.
- Your will may be deposited by you or by someone under your direction.
- Your will should be placed in a sealed envelope* with the following information printed on the outside:

- Your name, your address, and your identification number (either social security number or Michigan driver's license number)
 - Date delivered
 - Name of the person who delivered the will
- There is a \$25.00 deposit fee
 - Your will envelope will be stamped "filed," signed by the Chief Judge of Probate, dated, and initialed by the clerk
 - You will be given a receipt with the will identification number
- * Oakland County Probate Court provides will envelopes for your convenience.**

RETRIEVAL

MCL 700.2515(2)

During your lifetime, you may retrieve your will at any time. However, there will be a \$25 fee each time your will is re-deposited.

To retrieve your will, you must present your will receipt, if available, and personal identification (either your driver's license or state ID card).

If you are unable to present yourself personally, you may request your will by mail. However, you must complete and forward form PC 548, *Authorization to Release Will Held for Safekeeping*, to the court before your will is released.

WILL LOCATED IN A SAFE DEPOSIT BOX

MCL 700.2517(2)

The court may order the opening of a safe deposit box if:

- An interested person petitions the court (PC 551, *Petition and Order to Open Safe Deposit Box to Locate Will or Burial Deed*)
- It appears that the box may contain the decedent's will or deed to a burial plot; and
- An officer or other authorized employee of the financial institution where the box is located is present when the box is opened

If an alleged will or deed to a burial plot is found in the box, the person named in the order must deliver the documents to the probate court.

Within seven (7) days, all those in attendance at the opening of the safe deposit box must present to the court form PC 552, *Safe Deposit Box Certificate and Receipt*. This form indicates whether or not a will and/or deed to a burial plot were found and that no other items were removed from the safe deposit box. This form also serves as a receipt for a will and/or deed to a burial plot.

A court appointed fiduciary may open a safe deposit box and remove its contents. However, if the safe deposit box is jointly leased, the fiduciary may only examine the contents in the presence of an officer or employee of the financial institution.

At the time of opening the safe deposit box, all individuals in attendance must execute a written statement certifying what was removed by the fiduciary. Within seven (7) days, the fiduciary must serve the joint lessee with a copy of the certified statement.

A surviving joint lessee of a joint safe deposit box generally has full access to the safe deposit box.

WILL DELIVERY TO PROBATE COURT

MCL 700.2516

Regardless of where your will is stored, upon death, your will must be delivered to the probate court of your county of residence.

If your will is not stored with the court, the custodian or person having possession of the will must deliver it (personally or by registered mail) to the probate court with reasonable promptness upon your death.

A person who neglects to promptly deliver your will (without reasonable cause) is liable for damages.

A person who willfully refuses or fails to deliver your will after being ordered by the court to do so is guilty of contempt of court and subject to penalty for contempt (fine or jail).

OAKLAND COUNTY PROBATE COURT

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The Probate Court for the County of Oakland does not discriminate on the basis of disability in admission or access to its programs, activities or services as required by Title II of the Americans with Disabilities Act of 1990.

We are an Equal Opportunity Employer

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For more information and forms go to:

www.oakgov.com/probate