

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB966

Hearing Date: Wednesday January 29, 2020
Committee On: Judiciary
Introducer: DeBoer
One Liner: Adopt the Uniform Wills Recognition Act (1977)

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Brandt, Chambers, DeBoer, Lathrop, Morfeld, Pansing Brooks, Wayne
Nay:		
Absent:		
Present Not Voting:	1	Senator Slama

Oral Testimony:

Proponents:

Senator Wendy DeBoer
Tim Hruza
Steven Willborn

Representing:

Introducer
Nebraska State Bar Association
Nebraska Uniform Law Commission

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 966 adopts the Uniform Wills Recognition Act that provides a process for the recognition of international wills. The Act provides standards for when an international will can be valid including that it is written (even if in a different language), is witnessed, and signatures on each sheet and at the end of the will. The Act defines an authorized person to witness or attest to the will and provides a certificate to be attached to the will. The Act requires the Secretary of State to establish a registry in a central information center that allows authorized persons to submit information about an international will and allows the Secretary of State to provide information to another jurisdiction at the request of the authorized person.

Section by section

Section 1 Provides a title of Uniform Wills Recognition Act and defines an authorized person as a Nebraska licensed attorney or diplomatic or consular officials of the United States.

Section 2 Treats a will as valid regardless of where made, or residence of the testator if it complies with the Act. Prohibits a will signed or dispositions made by two or more people.

Section 3 Requires that the will be in writing although not necessarily by the testator and can be in any language. Requires two witnesses and an authorized person when the testator declares that it is their will and knows the contents. The testator signs or acknowledges the will in the witnesses' presence. The witnesses' sign in the presence of the testator.

Section 4 Signatures are placed on each sheet and at the end of the will. The date is the date signed by the authorized person. The testator can provide information regarding the safekeeping of the will and if so is included on the

certification.

Section 5 The section provides a certification form completed by the authorized person and attached to the will.

Section 6 The certificate provides for conclusive validity of the will absent other evidence.

Section 7 Revocation of the will is subject to ordinary rules.

Section 8 Provides language that when interpreting the Act, consideration should be given to the fact that it is an international will and the need for uniformity.

Section 9 Provides that Nebraska licensed attorney are authorized persons for the purposes of the Act.

Section 10 Requires the Secretary of State to establish a registry where authorized persons can information on international wills including identifying information on the testator and the safekeeping location of the will. The information remains confidential until the death of the testator. At the request of the authorized person, the Secretary of State may provide the information to another jurisdiction.

Explanation of amendments:

Committee Amendment AM 2947 is a white copy amendment that includes the provisions of LB 966 and four additional bills: LB 895, LB 1031, LB 964 and LB 1115.

LB 966 is described above although AM2947 strikes Section 10 of the original bill which required the Secretary of State to establish a registry.

The remaining bills in AM 2947 are described below:

LB 895 (found in Sections 10 to 13 of AM 2947) proposes changes to the Probate Code to add language in three situations. First, it prohibits and individual from claiming more than one share even if the individual is related to the decedent through two lines of relationship. The proposal also prohibits a parent from inheriting from a child decedent if parental rights were terminated. The bill also adds a section providing that a will can provide the transfer of the testator's or estate's property.

Section by section in AM2947

Section 10 Amends 30-2201 to include sections 12 through 13 in the Nebraska Probate Code.

Section 11 A new section that prohibits an individual from receiving more than one share despite having two lines of relationship.

Section 12 A new section that prohibits a parent from inheriting from a child if the parental rights were terminated. Subsection (2) Provides that in an intestate situation, the parent who is banned is treated as if the parent predeceased the child.

Section 13 A new section that provides that a will can provide for the transfer of the testator or estate's property.

LB 895 had a public hearing on 1/29/2020

Proponents:

Senator Adam Morfeld, Introducer

Tim Hruza, Nebraska State Bar Association

Steven Willborn, Nebraska Uniform Law Commission

Opponents - NONE

LB 1031 (found in sections 14 to 16 of AM 2947) proposes changes to both formal and informal probate applications or petitions to remove a requirement that an original, duly executed, will accompany the application or petition. Instead, a copy may be submitted at the time of application with the original submitted within 10 days. This would allow for development of an electronic filing process by the court.

Section by section In AM 2947

Section 14 Amends 30-2414 regarding applications for informal probate, to allow an accurate copy of the will along to be submitted with the application along with a statement that the original is in the applicant's possession and will be delivered to the court within 10 days.

Section 15 Amends 30-2416 regarding duties of the registrar in informal probate, to determine several items including that the applicant has provided an accurate copy of the original will and the statement that the original is in the applicant's possession and will be delivered within 10 days.

Section 16 Amends 30-24-26 regarding petitions for formal probate or adjudication of intestacy, to allow the will to be filed electronically and deliver the original within 10 days.

LB 1031 had a public hearing on 1/29/2020

Proponents:

Senator Steve Lathrop, Introducer

Corey Steel, Administrative Office of Courts & Probation

Tim Hruza, Nebraska State Bar Association

Opponents - NONE

LB 964, found in sections 17 and 18 of AM 2947 provides definitions for "biological mother" and "birth mother". Under the bill, biological mother is defined as the person related to the child as the source of the egg that resulted in the conception of the child. Birth mother is defined as the person who gave birth to the child.

The bill also requires the Department of Health and Human Services to prepare a form to allow the biological mother and birth mother to acknowledge that the biological mother is the legal mother of the child.

LB 964 had a public hearing on 1/30/2020

Proponents:

Senator Mike McDonnell, Introducer

Lisa Auten, self

Christina Williamson, self

Tracy Hightower-Henne, Nebraska State Bar Association

Opponents - NONE

LB 1115 (found in section 19 of AM 2947) amends transfer on death deed provisions to provide for a revocation process and protections for a bona fide purchasers.

Section by section In AM 2947

Section 19 Amends 76-3413 to add an additional situation where a recorded transfer on death deed may be revoked by adding language regarding a deed to a bona fide purchaser that expressly or by inconsistency revokes the original transfer on death deed (subsection (a)(1)(D)). The proposal requires the instrument to be recorded within 30 days or prior to the transferor's death, whichever is later. The bill also provides a definition of bona fide purchaser to include purchased for value and without notice of adverse claim. In addition, the bill removes a 30 day after execution recording deadline for other revocation instruments (subsections (a)(1)(A through C)).

LB 1115 had a public hearing on 2/27/2020

Proponents:

Senator Matt Hansen, Introducer

Ward Hoppe, Nebraska Bar Association & Nebraska Realtors Association

Opponents - NONE

Steve Lathrop, Chairperson