

House Judiciary Committee

March 13, 2023

By: Carrie K. Krause, Wells County Recorder

RE: SB2381 Deposit of a Will

Good Morning Chairman Klemin and House Judiciary Committee Members.

For the record I am Carrie Krause, Wells County Recorder. Thank you for allowing me to stand before you today to ask for support in SB 2381 dealing with the deposit and safe keeping of wills.

People can deposit wills into the Recorder's Office for safe keeping. They get indexed and placed in our vaults for safe keeping where they are kept as confidential records. They sign a Certificate of Deposit of Last Will and Testimony which I have also uploaded and can put the designee in or leave it blank. If they choose to leave it blank we can not refuse to file the will. We try to encourage them to fill it in but we can't force them to.

This is where the problem comes in, when a name is not designated for withdrawal by the testator, we have to make the determination of which the appropriate court is. It is an open record if someone calls to see if a will is deposited, we have to let them know. If they are the designee we can tell them to bring in the proof of death, they sign the Certificate of Withdrawal and we release the will to them. We then file the proof of death and certificate of withdrawal. If there is no designee, now with the proof of death we can release it to the appropriate court. However, how do we know the appropriate court to release it too. This change to ND Century Code 30.1-11-01. (2-515) Deposit of will in testator's lifetime would help us to determine that appropriate court.

I have personally have had this issue in my office in the last year. Without any direction, I did to the best of my ability determine the appropriate court. I required the attorney's office requesting it to send me a certified copy of the death certificate and a written request stating the name of the testator and the name and complete address of the clerk of court it was to be sent to. I did send it certified mail with return receipt so I had proof it was delivered. I filed all this documentation with the testator's name and indexed it in the database the withdrawal date. The attorney's office was very gracious to accommodate with the requests I made. What's to say if someone wants the will delivered to a certain court and asks what in the statute states they have to provide a request to the Recorder's office.

Thank you again for your time and consideration. With that I ask you to please recommend a DO PASS on SB 2381.

With that I will stand for any questions.