

Senate Judiciary Committee

February 8, 2023

By: Missy Hanson, Burleigh County Recorder

RE: SB2381 Deposit of a Will

Good morning Chairwoman Larson and Senate Judiciary Committee Members.

For the record I am Missy Hanson, Burleigh County Recorder. I appreciate the opportunity to write to you today to ask for support in SB 2381 dealing with the deposit and safe keeping of wills.

People are allowed to deposit Wills for safe keeping into the Recorder's Office. The Wills get receipted and placed in our fireproof vaults where they are kept as confidential records. The individuals sign a Certificate of Deposit of Last Will and Testament in which they can include designee or leave it blank. If they choose to leave the designee portion blank, we cannot refuse to file the will. We encourage the individual to add a designee, but we cannot force them to do so.

This is where the issue lies, when a name is not designated for withdrawal by the testator, we must make the determination of which the appropriate court is. If someone calls or comes to the office, we are allowed to tell them if we have a Will deposited in our office but let them know what is needed to release that Will. 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 it to them and then file the proof of death and certificate of withdrawal. If a designee is not provided, with the proof of death we can release it to the appropriate court. Now the question lies, how do we know which is 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.

My office specifically has not had any issues with the withdrawal process for wills, but have witnessed other counties having issues, and believe that the change in the process would benefit the Recorder's Offices as a whole.

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

Sincerely,

Missy Hanson, Burleigh County Recorder