

Signature Pages for Will and Self-Proving Affidavit (MO)

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Signature pages that comply with the execution requirements for Missouri wills, including an attestation clause, signature lines for the testator and witnesses, and a self-proving affidavit. This Standard Clause contains integrated notes and drafting tips.

DRAFTING NOTE: READ THIS BEFORE USING DOCUMENT

To make a valid will in Missouri, a person must be either:

- At least eighteen years of age.
- A minor emancipated by:
 - adjudication;
 - marriage; or
 - entry into active military duty.

(§ 474.310, RSMo.)

A self-proving affidavit is not required to create a valid will. However, a court can admit to probate a self-proved will without having to submit additional proof that the will was executed in conformity with Missouri law (§§ 473.065(1) and 474.337, RSMo). The purpose of a self-proving affidavit is to avoid the need to call the witnesses to a will to testify to probate the will at the testator's death.

This Standard Clause provides the signature pages that can be used with a Missouri will, including:

- An attestation clause.
- A signature line for the testator.
- Signature lines for witnesses.
- A self-proving affidavit.

BRACKETED ITEMS

The drafting party should replace bracketed language in ALL CAPS with case-specific facts or other information. Bracketed language in sentence case is optional language that the drafting party may include, modify, or delete in its discretion. A forward slash between words or phrases indicates that the drafting party should include one of the words or phrases contained in the brackets in the document.

IN WITNESS WHEREOF, I have hereunto subscribed my hand to this my Last Will and Testament this [DATE] day of [MONTH], [YEAR].

[TESTATOR NAME], Testator (SIGNATURE)

This Will was signed, sealed, published and declared by [TESTATOR NAME], the Testator, as and for the Testator's Last Will and Testament in the presence of us and each of us, and we at the

same time, at the Testator's request, and in the Testator's presence and in the presence of each other, and believing the Testator to be of sound mind, have hereunto subscribed our names as attesting witnesses this [DATE] day of [MONTH], [YEAR].

WITNESSES:

ADDRESSES OF WITNESSES:

DRAFTING NOTE: TESTATOR'S SIGNATURE

If the testator is physically capable of signing the will, the testator should do so, even if the testator's signature is shaky or the testator is only able to sign the testator's initials or sign with an "X". If necessary, the testator can have another person sign for the testator (§ 474.320, RSMo). If the testator requests that another person sign for the testator at the testator's direction, the signature block should be modified to reflect this fact. The attorney should carefully document this in the file, which may help if the signature is later challenged.

WITNESS SIGNATURES AND NOTARY

In Missouri, at least two competent witnesses must sign a will in the testator's presence (§ 474.320, RSMo.). Any person competent to be a witness generally in Missouri may act as a witness to a will (§ 474.330(1), RSMo.). The following persons are generally incompetent witnesses under Missouri law:

- A mentally incapacitated person.
- A child under 10 years of age if the child appears incapable of understanding the facts of the situation.
- An attorney, if concerning communications with the client, unless the client consents.

(§ 491.060(1), (2), and (3), RSMo.)

Except as stated above, there is no express age requirement under Missouri law, but using an adult (an individual age 18 or older) as a witness is recommended.

Using an interested witness (a witness potentially receiving a bequest or appointed as fiduciary under the will) does not invalidate a will. However, an interested witness forfeits the amount of the gift made in the will that exceeds the value of what the witness was to receive if the testator died intestate (§ 474.330(2), RSMo).

A witness is not interested merely because the witness is:

- A creditor of the testator's estate.
- Named as executor or personal representative.

(§ 474.330(3), RSMo.)

Although Missouri does not require a will to be notarized, most Missouri practitioners use two witnesses and a notary to make the will self-proving (see Drafting Note, Self-Proving Affidavit).

INITIALING EACH PAGE

To minimize fraud, some attorneys have the testator initial each page of the will, particularly if there is any concern about a person altering the will after execution. Counsel may add in blank lines for initials at the bottom of each page or have the client initial on a blank space at the bottom of each page.

A downside of initialing is the extra time it takes at the will signing. There is also the risk that the testator can inadvertently skip a page at the signing, potentially resulting in a

and the witnesses should sign the affidavit in each other's presence and in the presence of a notary acknowledging their signatures.

Use of either of self-proving affidavits creates a rebuttable presumption that

the will satisfies all requirements for due execution on filing the will, eliminating the need for live testimony or affidavits from the witnesses after the testator's death, unless there is evidence of fraud or forgery. (§§ 473.065(1), RSMo).

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