

**Effective 5/7/2025**

**75-2-501 Who may make will -- Testamentary capacity.**

- (1) An individual may make a will if the individual:
  - (a) is 18 years old or older; and
  - (b) has testamentary capacity at the time that the will is executed.
- (2) A testator has testamentary capacity under Subsection (1)(b) if the testator:
  - (a) can identify the testator's family members or other individuals in the testator's life;
  - (b) understands the testator's relationship to the individuals described in Subsection (2)(a);
  - (c) understands the nature and extent of the testator's property; and
  - (d) can form a plan in the testator's mind for the disposition of the testator's property.
- (3) A testator is not required to have any knowledge or understanding of the laws of inheritance by intestate succession for the testator to have testamentary capacity under Subsection (2).
- (4) There is a rebuttable presumption that testamentary capacity exists at the time that a will was executed even if the testator is subject to a guardianship or conservatorship or is otherwise unable to independently manage the testator's affairs.

Amended by Chapter 338, 2025 General Session