

75-3-303 Informal probate -- Proof and findings required.

- (1) In an informal proceeding for original probate of a will, the registrar shall determine whether:
 - (a) the application is complete;
 - (b) the applicant has made oath or affirmation that the statements contained in the application are true to the best of his knowledge and belief;
 - (c) the applicant appears from the application to be an interested person as defined in Subsection 75-1-201(24);
 - (d) on the basis of the statements in the application, venue is proper;
 - (e) an original, duly executed and apparently unrevoked will was presented to the court for electronic storage and electronic filing and is now in the possession of the applicant or the applicant's attorney, or is in the registrar's possession;
 - (f) any notice required by Section 75-3-204 has been given and that the application is not within Section 75-3-304; and
 - (g) it appears from the application that the time limit for original probate has not expired.
- (2) The application shall be denied if it indicates that a personal representative has been appointed in another county of this state or except as provided in Subsection (4), if it appears that this or another will of the decedent has been the subject of a previous probate order.
- (3) A will which appears to have the required signatures and which contains an attestation clause showing that requirements of execution under Section 75-2-502, 75-2-503, or 75-2-506 have been met shall be probated without further proof. In other cases, the registrar may assume execution if the will appears to have been properly executed, or he may accept a sworn statement or affidavit of any person having knowledge of the circumstances of execution, whether or not the person was a witness to the will.
- (4) Informal probate of a will which has been previously probated elsewhere may be granted at any time upon written application by any interested person, together with deposit of an authenticated copy of the will and of the statement probating it from the office or court where it was first probated.
- (5) A will from a place which does not provide for probate of a will after death and which is not eligible for probate under Subsection (1) above may be probated in this state upon receipt by the registrar of a duly authenticated copy of the will and a duly authenticated certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

Amended by Chapter 364, 2013 General Session