

**2001 DRAFTING REQUEST**

**Bill**

Received: 01/16/2001

Received By: kahlepj

Wanted: As time permits

Identical to LRB:

For: Joanne Huelsman (608) 266-2635

By/Representing: Janean Cleveland

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Probate - miscellaneous

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Allow waiver of the fee for filing a will in probate court

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 01/19/2001	gilfokm 01/20/2001		_____			Local
/1			martykr 01/31/2001	_____	gretskl 01/31/2001		Local
/2	kahlepj 02/23/2001	gilfokm 02/26/2001	rschluet 02/27/2001	_____	lrb_docadmin 02/27/2001	lrb_docadmin 02/27/2001	

FE Sent For:

<END>

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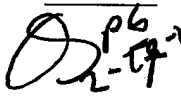
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FE Sent For:			 2-26-1	 2-27-1			<END>

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1?	kahlepj	1-1/kmg 20-01	km/31	<del>km/31</del> km/31			

FE Sent For:

<END>

# Bill Request Form

**Legislative Reference Bureau**  
100 N. Hamilton Street  
Legal Section 266-3561

*Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.  
Use this form only for bill draft requests. Attach more pages if necessary.*

Date January 16, 2001  
Legislator, agency, or other person requesting this draft Janne B. Huelsman  
Person submitting request (name and phone number) Janee Cleveland 62635  
Persons to contact for questions about this draft (names and phone numbers) Above

Describe the problem, including any helpful examples. How do you want to solve the problem?

*Address issue raised in attached letter*

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 1999 LRB-2345/1 or 1997 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES  NO

If yes:                      Anyone who asks?    YES    NO  
   Any legislator?        YES    NO

Only the following persons \_\_\_\_\_

Do you consider this request urgent?    YES  NO     If yes, please indicate why \_\_\_\_\_

Should we give this request priority over any pending request of this legislator, agency, or person?  
YES  NO

OAKTON AVENUE LAW OFFICES, S.C.

*good idea*

Daniel P. Fay  
Court Commissioner  
Licensed to practice in  
Wisconsin & Alaska

MAY 28 1998

200 Oakton Avenue  
Pewaukee, Wisconsin 53072  
Phone: (414) 691-2726  
Fax: (414) 691-4589

May 27, 1998

*proposed leg.*

Senator Joanne Huelsman  
Wisconsin State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882

Re: A Legislative Suggestion

Dear Joanne:

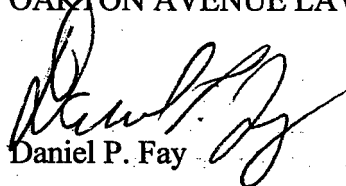
An issue has arisen that probably requires some legislative tinkering. Section 853.09 allows a Will to be deposited in the Probate Court. There is a fee associated with that filing.

However, I came across a situation, while unusual for me, is probably not all that unusual. There was once a lawyer in Pewaukee named Roland Aldrich. Roland lost his law license some time in the mid 1970's. He never practiced law after that date. During the course of my legal career, a number of lawyers called me to acquire about Wills that Roland had drafted. I did not take over Roland's practice. Therefore, I really did not know where those Wills existed. I had a passing acquaintanceship with Roland due to the fact that his oldest son and I have been friends since high school. In any case, Roland died last February. When the sons were cleaning out the basement, they found approximately 150 Wills in a box. They dropped them off at my office. I dropped them off at the Probate Court. Probate Court can't accept the Wills without a filing fee. The last time I talked to the Register in Probate, she didn't know what they were going to do with these Wills.

I would suggest a bill be drafted to provide for these situations. In essence, an individual could file a petition in the Circuit Court seeking that the Wills be filed in the Probate Court without a fee.

Very truly yours,

OAKTON AVENUE LAW OFFICES, S.C.

  
Daniel P. Fay

DPF/lmh



King

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

gen cat

1 AN ACT relating to: waiving the fee for deposit of a will.

**Analysis by the Legislative Reference Bureau**

Under current law, a person may deposit a will with the register in probate for safekeeping. The fee for doing so is \$10 per will. This bill allows a testator (someone who makes a will) or other person who wishes to deposit a will with the register in probate to file a petition, motion, or order to show cause with the probate court to request waiver of the \$10 fee. The court may, in its discretion, require the register in probate to waive all or part of the fee.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

2 SECTION 1. 814.66 (1) (f) of the statutes is amended to read:

3 814.66 (1) (f) ~~For~~ Subject to sub. (2) (g), for receiving a will for safekeeping,  
4 except under s. 856.05 (1), \$10.

History: 1981 c. 317; 1985 a. 329; 1989 a. 56; 1991 a. 220, 281; 1993 a. 160; 1995 a. 27, 38, 224; 1997 a. 83.

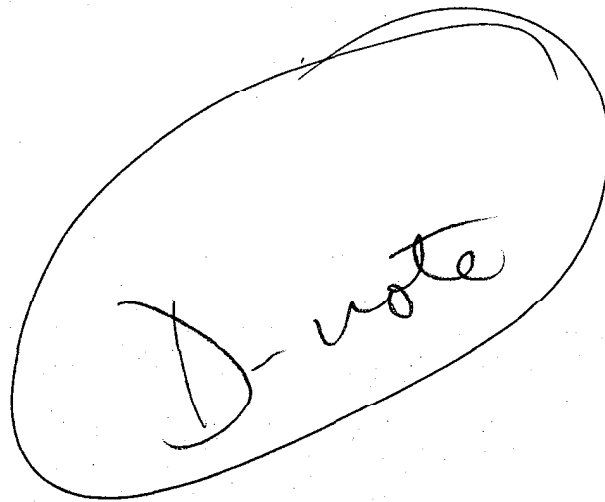
5 SECTION 2. 814.66 (2) (g) of the statutes is created to read:

6 814.66 (2) (g) A testator or other person who wishes to deposit a will with the  
7 register in probate under s. 853.09<sup>✓</sup> may request that the fee under sub. (1) (f) be

1 waived by filing, without fee, a petition, motion, or order to show cause with the court  
2 having probate jurisdiction for the county in which the testator resides. The court  
3 may, in its discretion, require the register in probate to waive any or all of the fee  
4 under sub. (1) (f).

5

(END)



D-note



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2105/1<sup>1</sup>fdn

PJK.....  
*img*

Would you prefer to authorize the register in probate to waive the fee, rather than requiring a judge to hear the matter? Another option would be to authorize a court commissioner to waive the fee. Under current law, a probate judge may (but would not necessarily) assign such a matter to a court commissioner under s. 757.69 (1) (e) or 757.72 (2).

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.state.wi.us](mailto:pam.kahler@legis.state.wi.us)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2105/1dn  
PJK:kmg:km

January 31, 2001

Would you prefer to authorize the register in probate to waive the fee, rather than requiring a judge to hear the matter? Another option would be to authorize a court commissioner to waive the fee. Under current law, a probate judge may (but would not necessarily) assign such a matter to a court commissioner under s. 757.69 (1) (e) or 757.72 (2).

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.state.wi.us](mailto:pam.kahler@legis.state.wi.us)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2105/1dn  
PJK:kmg:km

January 31, 2001

Would you prefer to authorize the register in probate to waive the fee, rather than requiring a judge to hear the matter? Another option would be to authorize a court commissioner to waive the fee. Under current law, a probate judge may (but would not necessarily) assign such a matter to a court commissioner under s. 757.69 (1) (e) or 757.72 (2).

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.state.wi.us

*Is it possible to have the fee waived  
by reg in probate OR ct. comm OR judge?*

*J. Kahler*



## 2001 BILL

*Sen. Cat*

1 AN ACT *to amend* 814.66 (1) (f); and *to create* 814.66 (2) (g) of the statutes;  
 2 relating to: waiving the fee for deposit of a will. Insert A-2

*Insert A-1*

**Analysis by the Legislative Reference Bureau** → *to*

*may*

Under current law, a person may deposit a will with the register in probate for safekeeping. The fee for doing so is \$10 per will. This bill allows ~~any person~~ <sup>any person</sup> who wishes to deposit ~~a will~~ <sup>a will</sup> ~~with the register in probate~~ <sup>with the register in probate</sup> to file a petition, motion, or order to show cause with the probate court to request waiver of the \$10 fee. ~~The court may, in its~~ <sup>the court may, in its</sup> discretion, require the register in probate to waive all or part of the fee.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 3 SECTION 1. 814.66 (1) (f) of the statutes is amended to read:  
 4 814.66 (1) (f) For Subject to sub. (2) (g), for receiving a will for safekeeping,  
 5 except under s. 856.05 (1), \$10.  
 6 SECTION 2. 814.66 (2) (g) of the statutes is created to read:

**BILL**

**SECTION 2**

1           814.66 (2) (g) A testator or other person who wishes to deposit a will with the  
2           register in probate under s. 853.09 may request that the fee under sub. (1) (f) be  
3           waived by filing, without fee, a petition, motion, or order to show cause with the court  
4           having probate jurisdiction for the county in which the testator resides. The court  
5           may, in its discretion, require the register in probate to waive any or all of the fee  
6           under sub. (1) (f).

7

(END)

← insert 2-b

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2105/2ins  
PJK:kmg:km

INSERT A-1

the register in probate to waive all or part of the \$10 fee for good cause shown. If the register in probate declines to act or refuses to waive the fee, the

(END OF INSERT A-1)

INSERT A-2

A judge, or court commissioner on authority delegated by a judge, may in his or her

(END OF INSERT A-2)

INSERT 2-6

1           814.66 (2) (g) A testator or other person who wishes to deposit a will with the  
2 register in probate under s. 853.09<sup>✓</sup> may request that the fee under sub. (1) (f) be  
3 waived. The register in probate may waive any or all of the fee for good cause shown.  
4 If the register in probate declines to act or to waive the fee, the testator or other  
5 person may request the court to order that the fee under sub. (1) (f) be waived by  
6 filing, without fee, a petition, motion, or order to show cause with the court having  
7 probate jurisdiction for the county in which the testator resides. The court may, in  
8 its discretion, require the register in probate to waive any or all of the fee under sub.

9 (1) (f). A court commissioner may hear and decide the matter.

(END OF INSERT 2-6)



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

February 27, 2001

### MEMORANDUM

To: Senator Huelsman

From: Pamela J. Kahler, Senior Legislative Attorney

Re: LRB-2105 Allow waiver of the fee for filing a will in probate court

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

\_\_\_\_\_ JACKET FOR ASSEMBLY     JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-2682 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.