

**2023 SENATE JUDICIARY**

**SB 2381**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

SB 2381  
2/8/2023

A bill relating to the deposit of a will.
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9:00 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estensen, Sickler, Braunberger and Paulson are present.

**Discussion Topics:**

- Court filings
- County recorder duties
- Locating records
- Storing records

9:00 AM Senator Cleary Introduced the bill.

9:02 AM Aaron Birst, Lobbyist, Association of Counties spoke in favor of the bill.

9:00 AM Carrie Krause, Wells County Recorder, spoke in favor of the bill and provided written testimony #19357, 19356.

9:13 AM Deborah Moeller, Recorder Cass County, testified in favor of the bill and provided written testimony #19265.

9:14 AM Katie Paulson, McKenzie County Recorder testified in favor of the bill and provided written testimony #19600.

9:17 AM Laurie Good, LaMoure County Recorder, testified in favor of the bill and provided written testimony #19277.

9:20 AM Chairman Larson closed the public hearing.

9:20 AM Senator Myrdal moved to Do Pass the bill. Motion seconded by Senator Luick.

9:20 AM Roll call vote was taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

Senator Sickler will carry the bill.

This bill does not affect workforce development.

**Additional written testimony:**

Nancy Seefeldt provided written testimony #19545

Missy Hanson provided written testimony #19082

Vicki Kubat provided written testimony #19538

9:22 AM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2381: Judiciary Committee (Sen. Larson, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2381 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

**2023 HOUSE JUDICIARY**

**SB 2381**

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

SB 2381  
3/13/2023

Relating to the deposit of a will.
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11:30 AM Chairman Klemin opened the hearing. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter.

## **Discussion Topics:**

- Appropriate court to Release a will
- Request the will in Writing
- Hand delivered or Certified Mail

Senator Cleary: Introduced the bill. Testimony #23990

Aaron Burst, Association of Counties: No written testimony.

Carrie Krause, Wells County Recorder: Testimony #24315

Laurie Good, LaMoure County Recorder, President ND County Recorders Association:  
Testimony #23712

Nancy Seefeldt, Morton County Recorder: Testimony #23877

The hearing closed at 11:53 AM.

Delores Shimek, Committee Clerk

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

SB 2381  
3/13/2023

Relating to the deposit of a will.
------------------------------------

2:34 PM Chairman Klemin opened the meeting. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter. Absent: Rep. Bahl

### Discussion Topics:

- Committee Action.
- Amendment.

Rep. Vetter moved amendment 23.1122.01001.  
Seconded by Rep. Christensen

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	A
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	A
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll call vote: 11 Yes 0 No 2 Absent Motion carried.

Rep. Vetter moved a Do Pass as Amended;  
Seconded by Rep. Christensen

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	A
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	A
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll call vote: 11 Yes 0 No 2 Absent; Motion carried.  
Carrier: Rep. S. Olson

The meeting closed at 2:40 PM

Delores Shimek, Committee Clerk



23.1122.01001  
Title.02000

Adopted by the House Judiciary Committee

March 13, 2023

AG  
3-B-23  
(1-1)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2381

Page 1, line 15, after "will" insert "to the appropriate court"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2381: Judiciary Committee (Rep. Klemin, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2381 was placed on the Sixth order on the calendar.

Page 1, line 15, after "will" insert "to the appropriate court"

Renumber accordingly

**TESTIMONY**

**SB 2381**

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

Senate Judiciary Committee

February 8, 2023

By: Deb Moeller, Cass County Recorder

RE: SB2381 Deposit of a Will

Good morning, Chairwoman Larson and Senate Judiciary Committee Members.

My name is Deb Moeller and I am the Cass County Recorder. My office is responsible for the proper release of wills submitted to my office by testators for safe keeping. I am here in support of Senate Bill 2381 which proposes to provide further direction to North Dakota recorders in determining the appropriate court to deliver a last will and testament upon the death of a testator, if a testator did not previously designate a person to receive the will upon their death.

Prior to being appointed the Cass County Recorder, I was employed as a trust and estate paralegal by a law firm which specialized in this practice area. From this experience I am aware there are a number of considerations in determining the proper court venue to commence a probate proceeding, such as the county where a testator resided or the county where the testator owned real property. A written request by an interested party or an attorney retained to commence a probate proceeding would provide the documentation and direction needed by North Dakota recorders in determining the appropriate court venue.

I ask that you recommend a DO PASS for SB 2381. Thank you for your time and consideration.

I remain ready to answer any questions you may have for me.

Senate Judiciary Committee

February 8, 2023

By: Laurie Good, LaMoure County Recorder

RE: SB 2381 Deposit of a Will

Good morning, Chairwoman Larson and Senate Judiciary Committee Members,

My name is Laurie Good and I am the LaMoure County Recorder and currently serve as President of the ND County Recorder's Association. I would like to address information presented to you for SB 2381 requesting language to clarify the current reading of the bill.

Our office is where the public can deposit their Wills for safekeeping. They are stored in a fire proof vault and are numbered in our system for tracking purposes. Upon presenting us with a sealed Will the Depositor has to fill out a Certificate of Deposit. On this form they are requested to give us the name or names of who they designate to withdraw the Will. Not everyone wants to make that designation but we are not able to refuse to file as a result of that.

Here inlays the issue for the Recorder's office. This person is now deceased and they decided against designating anyone to pick up their Will. We get a call from a family member and because of open record laws are able to tell them the Will is here but they are not able to pick it up. If proof of death is given, we are allowed to release the Will to the appropriate Court. For instance, maybe they at one time lived in my county, deposited their Will in my office but then sold their property and moved to a larger city to be closer to medical facilities. At this point how do we know what Court to release the Will to? By adding this verbiage to the current bill, it would ensure the Will is delivered safely to the proper Court. They submit to us in writing proof of death and complete instructions as to where to send the Will and by requesting a return receipt we are able to verify it has been appropriately delivered.

Wills can be cumbersome and scary if one was to fall in the wrong hands. We take it seriously as to where these Wills should be delivered. By clearing up the verbiage in this bill it takes away the speculation of our jobs and makes it clear in determining the appropriate Court.

Thank you for listening and your consideration. For this reason, I respectfully urge a DO PASS on SB 2381.

Do you have any questions for me? Thank you for your time.

Senate Judiciary Committee

February 8, 2023

By: Carrie K. Krause, Wells County Recorder

RE: SB2381 Deposit of a Will

Good Morning Chairwoman Larson and Senate Judiciary Committee Members.

For the record I am Carri Krause, Wells County Recorder. Thank you for allowing me to stand before you today to ask for support in SB 2381 dealing with the deposit and safe keeping of wills.

People can deposit wills into the Recorder's Office for safe keeping. They get indexed and placed in our vaults for safe keeping where they are kept as confidential records. They sign a Certificate of Deposit of Last Will and Testimony which I have also uploaded and can put the designee in or leave it blank. If they choose to leave it blank we can not refuse to file the will. We try to encourage them to fill it in but we can't force them to.

This is where the problem comes in, when a name is not designated for withdrawal by the testator, we have to make the determination of which the appropriate court is. It is an open record if someone calls to see if a will is deposited, we have to let them know. 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 there is no designee, now with the proof of death we can release it to the appropriate court. However, how do we know 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.

I have personally have had this issue in my office in the last year. Without any direction, I did to the best of my ability determine the appropriate court. I required the attorney's office requesting it to send me a certified copy of the death certificate and a written request stating the name of the testator and the name and complete address of the clerk of court it was to be sent to. I did send it certified mail with return receipt so I had proof it was delivered. I then filed all this documentation with the testator's name. The attorney's office was very gracious to accommodate with the requests I made. What's to say if someone wants the will delivered to a certain court and asks what in the statute states they have to provide that request to the Recorder's office.

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

With that I will stand for any questions.

STATE OF NORTH DAKOTA

Will No. \_\_\_\_\_

COUNTY OF WELLS

**CERTIFICATE OF DEPOSIT OF LAST WILL AND TESTAMENT**

This hereby certifies that \_\_\_\_\_ has this day deposited

with the Wells County Recorder, Fessenden, North Dakota, his/her **Last Will and Testament** sealed in an envelope and only to be released to the following designee(s) upon the death of testator, pursuant to NDCC 30.1-11-01.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

Or

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

The designee must present proof of death of testator before this will may be released.

\_\_\_\_\_  
Testator's signature

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ (A.M./P.M.)

\_\_\_\_\_  
Wells County Recorder

By: \_\_\_\_\_  
Deputy

Seal



Senate Judiciary Committee

February 8, 2023

By: Vicki Kubat

RE: SB2381 Deposit of a Will

Good morning, Chairwoman Larson and Senate Judiciary Committee Members.

My name is Vicki Kubat and I am the Cavalier County Recorder. My office is responsible for the proper release of wills submitted to my office by testators for safe keeping. I am in support of Senate Bill 2381 which proposes to provide further direction to North Dakota recorders in determining the appropriate court to deliver a last will and testament upon the death of a testator, if a testator did not previously designate a person to receive the will upon their death.

I am aware there are a number of considerations in determining the proper court venue to commence a probate proceeding, such as the county where a testator resided or the county where the testator owned real property. A written request by an interested party or an attorney retained to commence a probate proceeding would provide the documentation and direction needed by North Dakota recorders in determining the appropriate court venue.

I ask that you recommend a DO PASS for SB 2381. Thank you for your time and consideration.

Senate Judiciary Committee

February 7, 2023

By: Nancy Seefeldt, Morton County Recorder

RE: SB2381 Deposit of a Will

Good Morning Chairwoman Larson and Senate Judiciary Committee Members.

My name is Nancy Seefeldt, I am the Morton County Recorder and Past President of the North Dakota County Recorder's Association. I am asking for support in passing SB2381. The passing of this bill is needed for the clarification in handling of the wills.

The Recorder's office is responsible for the deposit and safe keeping of wills. When we receive wills we index them in our wills book and file the actual will in a safe. When someone passes away we receive requests to view or withdrawal the wills.

Where we run into a problem is when there isn't a designee noted for a specific will. According to ND Century Code 30.1-11-01. "Upon being informed of the testator's death, the recorder shall notify any person designated to receive the will and deliver it to that person on request or **the recorder may deliver the will to the appropriate court.**" We now are in the position of wondering what the appropriate court is. Is this the court in the County they currently reside in? is this the county where they filed it and resided in years ago?

Our office knows how important a will may be to the heirs of a loved one. The passing of bill SB2381 would help bring clarity to us and help us insure that the will gets in the right hands to carry out the affairs of the deceased.

I ask that you recommend a DO PASS on SB2381.

To: Chairperson Larson & Senate Judiciary Committee

From: Katie Paulson McKenzie County Recorder

Re: SB 2381

Chairperson Larson & Committee Members,

My name is Katie Paulson and I am the McKenzie County Recorder in Watford City.

I am encouraging your committee to Do Pass Senate Bill 2381 in relation to the established procedures for releasing a will kept for safekeeping upon the death of the testator. Having clear guidelines for the recorders and interested parties requirements rooted in law protects everyone. Without this established procedure the county recorders hold a high liability for not getting the sealed will to the right place. The update to these procedures will provide clear guidelines that can easily be followed by both the public and the county office.

Please vote Do Pass for SB 2381.

Thank you for your time and consideration,

Katie Paulson

McKenzie County Recorder

House Judiciary Committee

March 13, 2023

By: Laurie Good, LaMoure County Recorder

RE: SB 2381 Deposit of a Will

Good morning, Chairman Klemin and House Judiciary Committee Members,

My name is Laurie Good and I am the LaMoure County Recorder and currently serve as President of the ND County Recorder's Association. I would like to address information presented to you for SB 2381 requesting language to clarify the current reading of the bill.

Our office is where the public can deposit their Wills for safekeeping. They are stored in a fire proof vault and are numbered in our system for tracking purposes. Upon presenting us with a sealed Will the Depositor has to fill out a Certificate of Deposit. On this form they are requested to give us the name or names of who they designate to withdraw the Will. Not everyone wants to make that designation but we are not able to refuse to file as a result of that.

Here inlays the issue for the Recorder's office. This person is now deceased and they decided against designating anyone to pick up their Will. We get a call from a family member and because of open record laws are able to tell them the Will is here but they are not able to pick it up. If proof of death is given, we are allowed to release the Will to the appropriate Court. For instance, maybe they at one time lived in my county, deposited their Will in my office but then sold their property and moved to a larger city to be closer to medical facilities. At this point how do we know what Court to release the Will to? By adding this verbiage to the current bill, it would ensure the Will is delivered safely to the proper Court. They submit to us in writing proof of death and complete instructions as to where to send the Will and by requesting a return receipt we are able to verify it has been appropriately delivered.

Wills can be cumbersome and scary if one was to fall in the wrong hands. We take it seriously as to where these Wills should be delivered. By clearing up the verbiage in this bill it takes away the speculation of our jobs and makes it clear in determining the appropriate Court.

Thank you for listening and your consideration. For this reason, I respectfully urge a DO PASS on SB 2381.

Do you have any questions for me? Thank you for your time.

House Judiciary Committee

March 13, 2023

By: Nancy Seefeldt, Morton County Recorder

RE: SB2381 Deposit of a Will

Good Morning Chairman Klemin and House Judiciary Committee Members.

My name is Nancy Seefeldt, I am the Morton County Recorder and Past President of the North Dakota County Recorder's Association. I am asking for support in passing SB2381. The passing of this bill is needed for the clarification in handling of the wills.

The Recorder's office is responsible for the deposit and safe keeping of wills. When we receive wills we index them in our wills book and file the actual will in a safe. We then can receive requests to view or checkout the will.

Where we run into the problem is when there isn't a designee noted for a specific will. According to ND Century Code 30.1-11-01. "Upon being informed of the testator's death, the recorder shall notify any person designated to receive the will and deliver it to that person on request or **the recorder may deliver the will to the appropriate court.**" We now are in the position of wondering what the appropriate court is. Is this the court in the County the testator currently resides in? Is this the county where the testator filed the will and resided in years ago? Is this the county that the heirs reside in?

Our office knows how important a will may be to the heirs of the Testator. The passing of bill SB2381 would help bring clarity to us and help us ensure that the will gets in the right hands to carry out the affairs of the deceased..

I ask that you recommend a DO PASS on SB2381

**Testimony in Support of SB2381 — Release of Wills**  
**House Judiciary Committee**  
**Sean Cleary, District 35 — Bismarck, North Dakota Senate**

Chairman Klemin and Members of the House Judiciary Committee,

I am here to introduce SB 2381, a bill to clarify the deposit of wills process.

**Purpose of the Bill**

The bill aims to address confusion that arises when determining the appropriate court to release a will, especially when there isn't a designated person to receive the will.

**Issues with the Current Process**

County recorders have the responsibility to deposit and safely keep wills. However, issues arise when they receive requests to view or withdraw wills that don't have a designee listed. There is uncertainty regarding what the appropriate court is to send the will.

**Proposed Changes:**

- An interested person as defined in the NDCC may request the will in writing. It must contain the complete address of the appropriate court and a copy of the death certificate or obituary.
- The will must be hand-delivered or sent by certified mail with a return receipt, depending on the location of the appropriate court.

**Conclusion**

This legislation will bring clarity to the process and prevent the potential confusion. Thank you for your time and consideration of this bill. I am available to answer any questions or provide additional information as needed.

Respectfully,

Sean Cleary  
North Dakota Senate  
District 35 — Bismarck

House Judiciary Committee

March 13, 2023

By: Carrie K. Krause, Wells County Recorder

RE: SB2381 Deposit of a Will

Good Morning Chairman Klemin and House Judiciary Committee Members.

For the record I am Carrie Krause, Wells County Recorder. Thank you for allowing me to stand before you today to ask for support in SB 2381 dealing with the deposit and safe keeping of wills.

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I have personally have had this issue in my office in the last year. Without any direction, I did to the best of my ability determine the appropriate court. I required the attorney's office requesting it to send me a certified copy of the death certificate and a written request stating the name of the testator and the name and complete address of the clerk of court it was to be sent to. I did send it certified mail with return receipt so I had proof it was delivered. I filed all this documentation with the testator's name and indexed it in the database the withdrawal date. The attorney's office was very gracious to accommodate with the requests I made. What's to say if someone wants the will delivered to a certain court and asks what in the statute states they have to provide a request to the Recorder's office.

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

With that I will stand for any questions.