

Alaska (USA)



2021 Alaska Statutes

Title 13. Decedents' Estates, Guardianships, Transfers, Trusts, and Health Care Decisions

Chapter 06. General Provisions, Definitions, and Probate Jurisdiction of Court

Article 3. Scope, Jurisdiction, and Courts; Choice of Law and Validity.

Sec. 13.06.060. Applicability.

Except as otherwise provided in AS 13.06 - AS 13.36, AS 13.06 - AS 13.36 apply to

- (1) the affairs and estates of decedents, missing persons, and persons to be protected, domiciled in this state;
- (2) the property of nonresidents located in this state or property coming into the control of a fiduciary who is subject to the laws of this state;
- (3) incapacitated persons and minors in this state;
- (4) survivorship and related accounts in this state; and
- (5) trusts subject to administration in this state.

Sec. 13.06.065. Subject matter jurisdiction.

To the full extent permitted by the constitution, the court has jurisdiction over all subject matter relating to

- (1) estates of decedents, including construction of wills and determination of heirs and successors of decedents, and estates of protected persons;
- (2) protection of minors and incapacitated persons; and
- (3) trusts.

Sec. 13.06.068. Choice of law; validity.

(a) Subject to the other provisions of this section, the formal validity, intrinsic validity, effect, interpretation, revocation, or alteration of a testamentary disposition of real property and the manner in which the property descends at death when not disposed of by will are determined by the law of the jurisdiction in which the land is situated.

(b) Subject to the other provisions of this section, the intrinsic validity, effect, revocation, or alteration of a testamentary disposition of personal property and the manner in which the

property devolves at death when not disposed of by will are determined by the law of the jurisdiction in which the decedent was domiciled at death.

(c) A will disposing of personal property, wherever situated, or real property situated in this state made within or outside this state by a domiciliary or nondomiciliary of the state where the property is situated, is formally valid and admissible to probate in this state if the will is in writing and signed by the testator and otherwise executed and attested to under the local law of

(1) this state;

(2) the jurisdiction where the will was executed at the time of execution; or

(3) the jurisdiction where the testator was domiciled, either at the time of execution or at death.

(d) A testamentary disposition of personal property intrinsically valid under the law of the jurisdiction where the testator was domiciled when the will was executed is not affected by a subsequent change in the domicile of the testator to a jurisdiction under the law of which the disposition is intrinsically invalid.

(e) The interpretation of a testamentary disposition of personal property shall be made under the local law of the jurisdiction where the testator was domiciled when the will was executed.

(f) Whether a testamentary disposition of personal property is effectively revoked or altered by a subsequent testamentary instrument or by a physical act to or on the will by which the testamentary disposition was made is determined by the local law of the jurisdiction where the testator was domiciled when the subsequent instrument was executed or the physical act performed.

(g) Subject to (d) - (f) of this section, the intrinsic validity, effect, revocation, or alteration of a testamentary disposition by which a power of appointment over personal property is exercised and the question of whether the power has been exercised at all are determined by

(1) in the case of a presently exercisable general power of appointment, the local law of the jurisdiction where the donee of the power was domiciled at the time of death;

(2) in the case of a general power of appointment exercisable by will alone or a special power of appointment, the local law of the jurisdiction

(A) that the donor of the power expressly selected in the governing instrument to govern the disposition; or

(B) where the donor of the power was domiciled at the time of death if the donor did not expressly select in the governing instrument a jurisdiction to govern the disposition.

(h) The formal validity of a will by which a power of appointment over personal property is exercised is determined under (b) of this section on the basis that the testator referred to in (b) of this section is the donee of the power.

(i) When a testator, who is not domiciled in this state at the time of death, provides in the testator's will that the testator elects to have the disposition of the testator's property situated in this state governed by the local law of this state, the intrinsic validity, including the testator's general capacity, effect, interpretation, revocation, or alteration of the provision, is determined by the local law of this state. The formal validity of the will is determined under (b) of this section.

(j) Notwithstanding the definition of "real property," as set out in (l) of this section, whether an estate in, leasehold of, fixture, mortgage, or other lien on land is real property governed by (a) of this section or personal property governed by (b) of this section is determined by the local law of the jurisdiction where the land is situated.

(k) Notwithstanding the other provisions of AS 13.06 - AS 13.36, the provisions of this section govern in AS 13.06 - AS 13.36.

(l) In this section,

(1) "effect" means the legal consequences attributed under the local law of a jurisdiction to a valid testamentary disposition;

(2) "formal validity" means the formalities established by the local law of a jurisdiction for the execution and attestation of a will;

(3) "interpretation" means the procedure of applying the law of a jurisdiction to determine the meaning of language employed by the testator if the testator's intention is not otherwise ascertainable;

(4) "intrinsic validity" means the rules of substantive local law by which a jurisdiction determines the legality of a testamentary disposition, including the general capacity of the testator;

(5) "local law" means the law that the courts of a jurisdiction apply when adjudicating legal questions that are not related to another jurisdiction;

(6) "personal property" means property other than real property, and includes tangible and intangible property;

(7) "real property" means land or an estate in land, and includes leaseholds, fixtures, and mortgages or other liens on land;

(8) "testamentary disposition" means disposition under a will.

Sec. 13.06.070. Venue; multiple proceedings; transfer.

(a) Where a proceeding under AS 13.06 - AS 13.36 could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to proceed.

(b) If proceedings concerning the same estate, protected person, ward, or trust are commenced in more than one court of this state, the court in which the proceeding was first commenced shall continue to hear the matter, and the other courts shall hold the matter in

abeyance until the question of venue is decided, and if the ruling court determines that venue is properly in another court, it shall transfer the proceeding to the other court.

(c) If a court finds that in the interest of justice a proceeding or a file should be located in another court of this state, the court making the finding may transfer the proceeding or file to the other court.

Sec. 13.06.080. Records and certified copies.

The clerk of the court shall keep a record for each decedent, ward, protected person, or trust involved in any document that may be filed with the court under AS 13.06 - AS 13.36, including petitions and applications, demands for notices or bonds, trust registrations, and of any orders or responses relating thereto by the registrar or court, and establish and maintain a system for indexing, filing, or recording that is sufficient to enable users of the records to obtain adequate information. Upon payment of the fees required by law, the clerk shall issue certified copies of any probated wills, letters issued to personal representatives, or any other record or paper filed or recorded. Certificates relating to probated wills must indicate whether the decedent was domiciled in this state and whether the probate was formal or informal. Certificates relating to letters must show the date of appointment.

Sec. 13.06.085. Jury trial.

(a) If duly demanded, a party is entitled to trial by jury in any proceeding in which any controverted question of fact arises as to which any party has a constitutional right to trial by jury.

(b) If there is no right to trial by jury under (a) of this section or the right is waived, the court in its discretion may call a jury to decide any issue of fact, in which case the verdict is advisory only.

Sec. 13.06.090. Performance of registrar's powers.

The acts and orders that AS 13.06 - AS 13.36 specify as performable by the registrar may be performed either by a judge of the court or by a person, including the clerk, designated by the court by a written order filed and recorded in the office of the court.

Sec. 13.06.100. Oath, affirmation, or statement included in filed documents.

Except as otherwise specifically provided in AS 13.06 - AS 13.36 or by rule, every document filed with the court under AS 13.06 - AS 13.36 including applications, petitions, and demands for notice, shall be considered to include an oath, affirmation, or statement to the effect that its representations are true as far as the person executing or filing it knows or is informed, and penalties for perjury may follow deliberate falsification in the document.

Chapter 12. Intestacy, Wills, and Donative Transfers

Article 5. Wills, Will Contracts, and Custody and Deposit of Wills.

Sec. 13.12.506. Choice of law as to execution.

Except as provided by AS 13.06.068, a written will is valid if executed in compliance with AS 13.12.502 or if its execution complies with the law at the time of execution of the place

where the will is executed or of the law of the place where, at the time of execution or at the time of death, the testator is domiciled, has a place of abode, or is a national.