



Iowa Judicial Branch

**Administrative Directive of the State Court Administrator
2013-2
Clerk of Court Procedures Regarding Depositing of Wills**

Purpose: To clarify how wills are deposited and filed in counties under Chapter 16 of the Iowa Court Rules and pursuant to Iowa Code sections 633.285 – 633.290, and to provide uniform procedures to be followed in all clerk of court offices for depositing and filing of wills.

Definitions:

- A. "Depositing" or "delivering" a will is bringing the original will to the clerk of court office for safekeeping.
- B. "Filing" a will is presenting it to the clerk of court to be time-stamped for initiating a probate case or admitting the will to probate.

Policy Statement: All clerk of court offices shall comply with the procedures for depositing wills as described below:

1. Iowa Code section 633.286 provides that, while living, a testator or a person on behalf of a testator, may deposit a will with the clerk for safekeeping.
 - a. The clerk shall place the deposited will in a sealed wrapper with the name of the testator, the name of the depositor, the date of the deposit, and if provided, the name of the person to be notified of the deposit upon the death of the testator. [Iowa Code section 633.286]
 - b. Depositing a will for safekeeping does not constitute a filing, and the clerk shall not enter the event into ICIS as a case. The clerk may maintain a searchable listing of such deposited wills (i.e., in a database or electronic spreadsheet).
 - c. The deposited will shall be placed in a secure location.
2. Iowa Code sections 633.643 – 633.645 provide that the will of a living ward shall be immediately delivered to the court. The court may open the will, read it, reseal the will, and deposit the will with the clerk to be held in safekeeping pursuant to Iowa Code sections 633.286 – 633.289. Upon the will being deposited with the clerk of court, the clerk shall follow the same procedures as outlined in paragraph 1 above.
3. Iowa Code sections 633.285 and 633.286 provide that, when deceased, a person having custody of the testator's will shall deliver it to the court. Depositing a will in this

situation occurs when there is no petition to open a probate case. This is commonly known among clerks as a "will only."

- a. Depositing or delivering a deceased testator's will with the clerk of court does not constitute a filing, and the clerk shall not enter the event into ICIS as a case. The clerk may maintain a searchable listing of such deposited wills (i.e., in a database or electronic spreadsheet).
 - b. The deposited will shall be placed in a secure location.
4. Under Iowa Ct. Rule 16.411, when the law requires the filing of an original document, such as a will, the filer shall scan the original document and file the scanned document in the electronic filing system.
- a. When filing a petition to open a probate case, the will shall be scanned and e-filed in accordance with rule 16.411.
 - b. When a petition opening a probate case is filed, the original, signed, non-electronic will may be deposited with the clerk. If so deposited, the clerk shall retain the original will in a secure location. The original will shall not be scanned by the clerk as the will is required to be e-filed with the petition initiating the opening of the probate case.

The Clerk of Court shall instruct all staff to comply with these procedures, which shall be effective immediately.

Dated this 25th day of March, 2013.



David K. Boyd
State Court Administrator

cc: Clerks of the District Court
Chief Judges
District Court Administrators
Deputy State Court Administrator
Director of Information Systems and Technology
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