



**KANSAS BAR
ASSOCIATION**

TO: The Honorable Fred Patton, Chair
And Members of the House Judiciary Committee

FROM: Timothy O'Sullivan
On behalf of the Kansas Bar Association

RE: KBA Support for HB 2125 – Amending KSA 59-618a to allow a copy of a will filed within six months after death of the testator to be admitted to probate.

DATE: February 4, 2021

Chairman Patton and members of the House Judiciary Committee, my name is Timothy O'Sullivan and I appear on behalf of the Kansas Bar Association in **SUPPORT** of HB 2125 which would allow the filing of a COPY of a will to probate within six months of death. The Kansas Bar Association Probate, Trust and Real Property Section proposed this bill because it will increase efficiency of probated estates and modernize the estate process.

As background, I represent clients primarily in connection with their estate and tax planning and the administration of trusts and estates. I develop and implement both simple and complex estate planning techniques. I represent both individual and institutional fiduciaries in the administration of trusts and estates. I am a member and past president of the Kansas Bar Association Probate & Trust Section. I am also an Adjunct Professor in Estate Planning for Washburn Law School.

HB 2125 would simply modify existing statute K.S.A. 59-618a to clearly provide that a copy of a will may also be preserved for later admission to probate in the same manner as the original of a will, subject to all applicable defenses otherwise applicable to such admission. Copies of a will can be admitted to probate, but the Petitioner must rebut the presumption that the original has not been revoked, which would include by its intentional destruction.

The current statute only refers to a will being preserved, not a copy. Not all that infrequently, the original will of a decedent has been lost. Many courts have been permitting copies of will to be preserved under the statute, but explicit authority to do so is desirable to remove any doubt in that regard.

Thank you for your time and attention. I am happy to stand for questions when appropriate.

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals. Its more than 7,200 members include lawyers, judges, law students, and paralegals. www.ksbar.org

