

CHAPTER 30.1-08.1
ANTE-MORTEM PROBATE OF WILLS

30.1-08.1-01. Declaratory judgment.

Any person who executes a will disposing of the person's estate in accordance with this title may institute a proceeding under chapter 32-23 for a judgment declaring the validity of the will as to the signature on the will, the required number of witnesses to the signature and their signatures, and the testamentary capacity and freedom from undue influence of the person executing the will.

30.1-08.1-02. Parties - Process.

Any beneficiary named in the will and all the testator's present intestate successors shall be named parties to the proceeding. For the purposes of this chapter, any beneficiary named in the will and all the testator's present intestate successors shall be deemed possessed of inchoate property rights.

Service of process upon the parties to the proceeding shall be made in accordance with rule 4 of the North Dakota Rules of Civil Procedure.

30.1-08.1-03. Finding of validity - Revocation.

If the court finds under chapter 32-23 that the will has been properly executed and that the plaintiff testator has the requisite testamentary capacity and freedom from undue influence, it shall declare the will valid and order it placed on file with the court. For the purposes of section 30.1-12-02, a finding of validity under this chapter shall constitute an adjudication of probate. The will shall be binding in North Dakota unless and until the plaintiff-testator executes a new will and institutes a new proceeding under this chapter naming the appropriate parties to the new proceeding as well as the parties to any former proceeding brought under this chapter.

30.1-08.1-04. Admissibility of facts - Effect on other actions.

The facts found in a proceeding brought under this chapter shall not be admissible in evidence in any proceeding other than one brought in North Dakota to determine the validity of a will; nor shall the determination in a proceeding under this chapter be binding, upon the parties to such proceeding, in any action not brought to determine the validity of a will.