

The following amendment to 14 V.S.A. § 107(b) is proposed to reinstate the court's authority to allow a will that is not a self-proving will on the testimony of only one subscribing witness when parties have not consented to allowance, but no objections are filed:

§ 107. Allowance of will; custody of property

(a) If consents are filed by all the heirs at law and surviving spouse, a will may be allowed without hearing. If consents are not obtained, the court shall schedule a hearing and notice shall be given as provided by the Rules of Probate Procedure.

(b) Objections to allowance of the will must be filed in writing not less than seven days prior to the hearing. In the event that no timely objections are filed, the ~~will may be allowed without hearing if it meets criteria set out in section 108 of this title.~~ **the court may:**

(1) allow the will on the testimony of only one of the subscribing witnesses, if the witness testifies that the will was executed as provided in chapter 1 of this title; or

(2) allow the will without hearing if it meets the criteria set out in section 108 of this title.

(c) After delivery of the will to the court, the person named as executor in the will shall have power pending allowance thereof, to assume custody of the estate for its preservation until a special or other administrator is appointed and qualifies.

Prior to the requested amendment, § 107(b) required that objections to the will must be filed in writing at least seven days prior to the hearing and also provided that absent timely objections, the will may be allowed without hearing if it meets criteria in § 108. However, as a result of several statutory amendments, § 108 currently only applies to self-proving wills. The proposed amendment will reinstate the ability to prove wills, which are not self-proving, on the testimony of only one subscribing witness, a procedure that was statutorily authorized and utilized by the probate courts for many years.