

SENATE No. 97

SENATE, Jan. 16, 1911.

Introduced on leave by Senator Evans of Middlesex. Legal Affairs.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Eleven.

AN ACT

To provide for Proof of Wills or Codicils in the Lifetime of the Testator.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Any person authorized by law to
2 make a will may at any time present for proof, in
3 the probate court of the county in which he lives,
4 any instrument signed by him as his will or a
5 codicil thereto; and thereupon notice of hearing
6 thereon shall be given by personal service or by
7 mail to all persons who would be heirs at law or
8 next of kin of the testator if then deceased, and any
9 such person may in writing waive notice. Upon
10 such hearing the testator and any witnesses pro-
11 duced by him or by any person entitled to notice as

12 aforesaid shall be examined under oath on the ques-
13 tions whether the testator is mentally competent to
14 make a will, and whether the instrument presented
15 for proof was procured by the undue influence of
16 any other person. If the testator is found to be
17 mentally competent to make a will, and if such in-
18 strument is not found to have been procured by
19 undue influence as aforesaid, the same shall be de-
20 creed to be the will or codicil of the testator, as
21 the case may be, and shall remain on the files of
22 the court; and upon the death of the testator such
23 instrument, if not then revoked in the manner here-
24 inafter provided or otherwise in accordance with
25 law, shall take effect as his will or codicil without
26 further proceedings, and its validity as such shall
27 not thereafter be drawn in question in or by any
28 other proceeding; and no appeal shall lie from such
29 decree.

1 SECTION 2. Such instrument, at the option of the
2 testator, may be presented for proof in a sealed
3 envelope or wrapper, identified by the name of the
4 testator, the date of presentation and the character
5 of the instrument written thereon, and if so pre-
6 sented shall so remain, and the testator shall not be
7 required at the hearing or otherwise to disclose
8 the contents of any part thereof. The testator may
9 at any time withdraw such instrument, whether
10 sealed or unsealed, from the files, or the register
11 may at any time, without withdrawal thereof, open
12 such envelope or wrapper at the request of the tes-
13 tator for the purpose of making for him a copy of
14 such instrument, after which the same shall be re-
15 sealed and no disclosure shall be made of the con-

16 tents thereof. Upon withdrawal by the testator of
17 any such will or codicil from the files, a record
18 thereof shall be made by the register and thereupon
19 such will or codicil shall be deemed to be revoked.
20 Any such will or codicil remaining sealed in the
21 custody of the register shall be opened and filed
22 upon notice and evidence satisfactory to him of the
23 testator's death, and thereupon letters of executor-
24 ship or of administration may be issued thereon as
25 in other cases.

AN ACT

