



CALIFORNIA BAR EXAMINATION CONTENT MAP WILLS AND SUCCESSION

Applicants should be familiar with the following provisions of the California Probate Code and understand California law in the specific areas noted:

Division 2. General Provisions.

Part 1. Effect of Death of Married Person on Community and Quasi-Community Property, Sections 100-103.

Part 3. Contractual Arrangements Relating to Rights at Death, Sections 140-147.

Part 5. Simultaneous Death, Sections 220, 222-224.

Part 6. Distribution Among Heirs or Beneficiaries, Section 240.

Division 6. Wills and Intestate Succession.

Part 1. Wills.

Chapter 1. General Provisions, Sections 6100, 6101, 6104, 6105.

Chapter 2. Execution of Wills, Sections 6110-6113.

Chapter 3. Revocation and Revival, Sections 6120, 6121, 6123.

Part 2. Intestate Succession, Sections 6400-6402.

Division 11. Construction of Wills, Trusts and Other Instruments.

Part 1. Rules of Interpretation of Instruments, Sections 21105, 21109, 21110.

Part 6. Family Protection: Omitted Spouses and Children [for decedents dying on or after January 1, 1998].

Chapter 2. Omitted Spouses, Sections 21610-21612.

Chapter 3. Omitted Children, Sections 21620-21623.

The topics listed below are illustrative of those covered in Wills and Succession, but are not exhaustive.

I. General provisions

- A. Effect of death of married person on property
 - 1. Community property
 - 2. Quasi-community property
 - 3. Recapture by surviving spouse
 - 4. Effect where unclear which spouse survived the other
- B. Contractual arrangements relating to rights at death
 - 1. Surviving spouse's waiver of rights

- C. Simultaneous death
 - 1. Standard for proof of survival
 - 2. Survival of beneficiaries
 - 3. Joint tenants
 - 4. Life or accident insurance

II. Intestate succession

- A. Property subject to intestacy provisions
- B. Intestate share of surviving spouse
- C. Intestate shares of other heirs
- D. Relatives of halfblood
- E. Adopted children
- F. Method of intestate distribution of shares
- G. Escheat

III. Validity of wills

- A. Testamentary capacity
- B. Property which may be disposed of by will
- C. Effect of duress, menace, fraud, or undue influence
- D. Conditional will
- E. Rules of interpretation of instruments
 - 1. Changes occurring after execution
 - a. Will to pass all property
 - b. Will passes after-acquired property
 - 2. Predeceased transferee
 - 3. Anti-lapse provisions
 - a. Issue of predeceased transferee as substitute transferee
 - b. Kindred, non-spouse, requirement

IV. Execution of wills

- A. Witnessed will
 - 1. Writing requirement
 - 2. Signature and acknowledgment of testator
 - 3. Testator's intent
 - 4. Signature of conservator pursuant to court order
- B. Holographic will
 - 1. Handwriting requirement
 - a. Signature
 - b. Material provisions
 - 2. Date
 - 3. Statement of testamentary intent
 - a. Testator's handwriting
 - b. Use of commercial forms
 - 4. Testamentary capacity

- C. Admissibility of extrinsic evidence
 - 1. Proof of lost or destroyed wills
 - 2. Mistake, misdescription, or omission
- D. Witnesses
- E. Choice of law as to validity of execution of will
 - 1. Alternatives for validity
 - a. Executed in compliance with the requirements for an attested or holographic will
 - b. Execution complies with the law of place where will is executed
 - c. Execution complies with the law of the place where testator is domiciled at execution or at time of death

V. Component parts of will

- A. Integration of wills
- B. Republication by codicil
 - 1. Requirements of codicil
- C. Incorporation by reference
- D. Acts of independent significance

VI. Revocation and revival of wills

- A. Revocation by subsequent will
- B. Revocation by physical act
- C. Revocation of will executed in duplicate
- D. Second will revoking first will
- E. Effect of revocation of second will
- F. Dependent relative revocation

VII. Omitted spouses

- A. Share of omitted spouse marrying after execution of testamentary instruments
- B. Circumstances under which spouse receives no share
- C. Manner of satisfying share of spouse

VIII. Omitted children

- A. Share of omitted child born or adopted after execution of testamentary instruments
- B. Circumstances for denial of share
- C. Decedent's erroneous belief that omitted child had never been born or was dead
- D. Manner of satisfying share of omitted child