

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used to admit and prove the will of the decedent.

FORMS INVOLVED. The form is an **Affidavit to Prove and Admit a Will**. You will need to fill in the necessary information with help from the instructions below and then file the affidavit with the court.

DUTY TO PRESENT WILL FOR PROBATE

Any custodian (person who has possession or knowledge of a will) is required to deliver the will to the Tribal Court within 30 days after they have knowledge of the decedent's death. Failure of the custodian to deliver the will to the court may be liable for damages to any injured party.

PROVING AND ADMITTING A WILL

The Tribal probate code requires that on starting a probate any known will be filed with the Court. The will can be admitted and proven by filing an affidavit of an attesting witness to the will that identifies the will as being the will that the decedent executed and declared to be his or her last will. Use the **Affidavit to Prove and Admit a Will** form. If none of the attesting witnesses is available to attest to the will, the Court can allow proof of the will be through testimony or other evidence that the signature of the testator or one of the witnesses to the will is genuine. This may require requesting a hearing to prove and admit a will were witnesses and other evidence would need to be provided to authenticate the will.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out this form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form.

Instructions for filling out the affidavit:

- (1) on this line insert the name of the decedent.
- (2) on this line insert Affiant's/Attesting Witness' name.
- (3) on this line insert the name of the decedent.
- (4) insert the date you witnessed the decedent executed and signed the will and declared it to be his or her last will.
- (5) on this line insert the name of the decedent.
- (6) on this line insert the day.
- (7) on this line insert the month.
- (8) on this line insert the year.
- (9) on this line insert your name by having the Affiant/Attesting Witness sign.

The Affiant/Attesting Witness must sign in front of a notary public swearing on their oath to the truthfulness of the Affidavit.

ROSEBUD TRIBAL COURT)
ROSEBUD INDIAN RESERVATION)SS
ROSEBUD, SOUTH DAKOTA)

IN CIVIL COURT

<p>IN RE THE ESTATE OF: (1) _____ _____, Decedent.</p>	<p>DOCKET _____ AFFIDAVIT TO PROVE AND ADMIT WILL TO PROBATE</p>
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(2) _____, being first duly sworn and upon oath, deposes that the content of this affidavit to be true to best of his or her knowledge, states and deposes as follows:

1. That I am an attesting witness to the will of (3) _____.
2. That I have reviewed the will being admitted into probate.
3. That on (4) _____ I witnessed (5) _____ execute and sign the will as being the will of the decedent and the decedent declared it to be his or her last will.

Dated this (6) _____ day of (7) _____, (8) _____.

(9) _____
Affiant/Attesting Witness

Sworn and subscribed to before me this _____ day of _____, _____.

My commission expires:

Notary Public