

# West's 50 State Surveys

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## TRUSTS AND ESTATES

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### Statutory Tables

- Amendment and Revocation of Wills
- Creation of a Trust
- Durable Powers of Attorney
- Living Wills
- Modification of a Trust
- Proving Validity of Wills
- Reporting of Trust Assets,  
Disbursements, and Other Transactions
- Rights of Beneficiaries
- Termination of a Trust
- Will Contests

2013

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50 State Surveys

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## PREFACE

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This publication contains selected tables from West's 50 State Surveys database (SURVEYS) on Westlaw covering statutory law for Trusts and Estates topics relating to wills, trusts, powers of attorney, and living wills. The tables include State, District of Columbia, and Federal statutes and regulations; summary descriptions of each specific topic; important subtopics; complete citations for easy reference; and applicable statutory references for Guam, Puerto Rico, and the Virgin Islands. The tables are prepared by attorneys and are updated annually.

For additional information or research assistance call the West reference attorneys at 1-800-REF-ATTY (1-800-733-2889). Contact West's editorial department directly with your questions and suggestions by e-mail at [west.editor@thomson.com](mailto:west.editor@thomson.com).

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## **TRUSTS AND ESTATES**

### **ESTATE PLANNING**

#### **AMENDMENT AND REVOCATION OF WILLS**

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Many states have passed laws that set forth procedures by which a person may revoke and/or amend a will. The majority of these laws address the revocation of wills, but some also address amendments or codicils to wills. This table contains state statutes that address all aspects of revoking and amending a will, including the requisite formalities for performing such acts, how revoking and amending wills affect prior wills, revoking and amending international wills, and which changes of life circumstances (such as marriage or divorce) revoke wills that were executed before such life changes occurred.

## Amendment and Revocation of Wills

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State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revive a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
Alabama	By a subsequent will which revokes the prior will or part expressly or by inconsistency; by being burned, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking it by the testator or by another person in his presence by his consent and direction AL ST § 43-8-136	No AL ST § 43-8-138	None	None
Alaska	Executing a subsequent will that revokes the previous will or part expressly or by inconsistency; by performing a revocatory act on the will, if the testator performed the	No AK ST § 13.12.509	Ordinary rules of revocation apply AK ST § 13.12.917	None

State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revoke a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
	act with the intent and for the purpose of revoking the will or part of the will or if another individual performed the act in the testator's conscious presence and by the testator's direction AK ST § 13.12.507			
Arizona	By executing a subsequent will that revokes the previous will or part expressly or by inconsistency; by performing a revocatory act on the will if the testator performs the act with this intent or if another person performs the act in the testator's conscious presence and by	No AZ ST § 14-2509	None	None



## Amendment and Revocation of Wills

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State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revive a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
	the testator's direction AZ ST § 14-2507			
Arkansas	By a subsequent will which revokes the prior will or part expressly or by inconsistency; By being burned, torn, cancelled, obliterated, or destroyed, with the intent and for the purpose of revoking it by the testator or by another person in the testator's presence and by the testator's direction AR ST § 28-25-109	No AR ST § 28-25-110	None	None
California	A subsequent will which revokes the prior will or part expressly or by inconsistency; being burned,	No CA PROBATE § 6123	Ordinary rules of revocation apply CA PROBATE § 6386	Any additions to or deletions from the California statutory will on the face of the California statutory will

State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revive a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
	<p>torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking it, by either</p> <p>(1) the testator or (2) another person in the testator's presence and by the testator's direction</p> <p>CA PROBATE § 6120</p>			<p>form, other than in accordance with the instructions, shall be given effect only where clear and convincing evidence shows that they would effectuate the clear intent of the testator</p> <p>CA PROBATE § 6226</p>
Colorado	<p>By executing a subsequent will that revokes the previous will or part expressly or by inconsistency; or by performing a revocatory act on the will, if the testator performed the act with the intent and for the purpose of revoking the will or part of it or if another individual</p>	<p>No</p> <p>CO ST § 15-11-509</p>	<p>Ordinary rules of revocation apply</p> <p>CO ST § 15-11-1008</p>	<p>None</p>

**Amendment and Revocation of Wills**

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State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revive a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
	performed the act in the testator's conscious presence and by the testator's direction CO ST § 15-11-507			
Connecticut	A will or codicil shall not be revoked in any other manner except by burning, cancelling, tearing or obliterating it by the testator or by some person in the testator's presence by the testator's direction, or by a later will or codicil CT ST § 45a-257	None	None	None
Delaware	A last will and testament, or any clause thereof, shall not be altered, or revoked, except by	None	Ordinary rules of revocation apply DE ST TI 12 § 257	None

State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revive a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
	<p>canceling by the testator, or by some person in the testator's presence and by the testator's express direction, or by a valid last will and testament, or by a writing signed by the testator, or by some person subscribing the testator's name in the testator's presence and by the testator's express direction, and attested and subscribed in the testator's presence by 2 or more credible witnesses; but this clause shall not preclude nor extend to an implied revocation                      DE ST TI 12 § 208</p>			

**Amendment and Revocation of Wills**

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State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revive a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
District of Columbia	By executing a later will, codicil, or other writing declaring the revocation, executed as provided by §§ 18-103 or 18-107; or burning, tearing, cancelling, or obliterating the will or codicil, or the part thereof, with the intention of revoking it, by the testator himself, or by a person in his presence and by his express direction and consent DC CODE § 18-109	No DC CODE § 18-109	Ordinary rules of revocation apply DC CODE § 18-707	None
Florida	By a subsequent inconsistent will or codicil, even though the subsequent inconsistent will or codicil does not expressly	No FL ST § 732.508	None	The revocation of a will revokes all codicils to that will; the execution of a codicil referring to a

State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revive a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
	<p>revoke all previous wills or codicils, but the revocation extends only so far as the inconsistency; by a subsequent will, codicil, or other writing executed with the same formalities required for the execution of wills declaring the revocation; by the testator, or some other person in the testator's presence and at the testator's direction, by burning, tearing, canceling, defacing, obliterating, or destroying it with the intent, and for the purpose, of revocation FL ST § 732.505</p>			<p>previous will has the effect of republishing the will as modified by the codicil FL ST § 732.509 FL ST § 732.5105</p>

## Amendment and Revocation of Wills

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State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revive a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
	FL ST § 732.506			
Georgia	<p>A revocation may be express or implied. An express revocation occurs when the testator by writing or action expressly annuls a will. An express revocation takes effect instantly. An implied revocation results from the execution of a subsequent inconsistent will that does not by its terms expressly revoke the previous will. An implied revocation takes effect only when the subsequent inconsistent will becomes effective. If the subsequent inconsistent will</p>	<p>No GA ST § 53-4-45</p>	<p>None</p>	<p>None</p>

State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revive a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
	<p>fails to become effective from any cause, the implied revocation is not completed. An express revocation may be effected by any destruction or obliteration of the will done by the testator with an intent to revoke or by another at the testator's direction                      GA ST § 53-4-42                      GA ST § 53-4-43                      GA ST § 53-4-44</p>			
Hawaii	<p>Executing a subsequent will that revokes the previous will or part expressly or by inconsistency; or performing a revocatory act on the will, if the testator performed the</p>	<p>No                      HI ST § 560:2-509</p>	<p>None</p>	<p>None</p>



## Amendment and Revocation of Wills

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State	Procedure for Revoking Will through Writing or Act	Does Revoking a Subsequent Will Automatically Revive a Previously Revoked Will?	Procedure for Revoking International Will	Statutes Directly Addressing Amendments or Codicils
	act with the intent and for the purpose of revoking the will or part or if another individual performed the act in the testator's conscious presence and by the testator's direction HI ST § 560:2-507			
Idaho	By a subsequent will which revokes the prior will or part expressly or by inconsistency; or by being burned, torn, canceled, obliterated or destroyed, with the intent and for the purpose of revoking it by the testator or by another person in his presence and by his direction	No ID ST § 15-2-509	None	None