

PENNSYLVANIA CONSOLIDATED STATUTES
TITLE 20. DECEDENTS, ESTATES AND FIDUCIARIES
CHAPTER 25. WILLS

20 Pa.C.S. § 2502 (2004)

§ 2502. Form and execution of a will

Every will shall be in writing and shall be signed by the testator at the end thereof, subject to the following rules and exceptions:(1) WORDS FOLLOWING SIGNATURE. The presence of any writing after the signature to a will, whether written before or after its execution, shall not invalidate that which precedes the signature.(2) SIGNATURE BY MARK.-- If the testator is unable to sign his name for any reason, a will to which he makes his mark and to which his name is subscribed before or after he makes his mark shall be as valid as though he had signed his name thereto: Provided, That he makes his mark in the presence of two witnesses who sign their names to the will in his presence.(3) SIGNATURE BY ANOTHER. If the testator is unable to sign his name or to make his mark for any reason, a will to which his name is subscribed in his presence and by his express direction shall be as valid as though he had signed his name thereto: Provided, That he declares the instrument to be his will in the presence of two witnesses who sign their names to it in his presence.

Paragraph (2): This is taken in part from section 3 of the Wills Act of 1917. The requirement that two witnesses sign the will in the presence of the testator is new. It is believed that no mark should be recognized unless there are subscribing witnesses. Paragraph (3): This also is taken in part from section 3 of the Wills Act of 1917. Reasons for the precautions are slightly greater in this case than where execution is by mark. The requirements in addition to those where execution is by mark are: (1) Testator's name must be subscribed at his "express direction", and (2) Testator must declare the instrument to be his will in the presence of the witnesses. As a practical matter this clause seldom will be employed. Whether testator is able to sign his name or make his mark will depend largely upon his own decision. See *Rosato's Est.*, 322 Pa. 229, where the court at page 231 said: "As we view the act, the sufficiency of the reason for not signing his name is for the testator's determination; 'any' reason which moves him not to sign is sufficient provided there is compliance with the other requisites of the act."

LexisNexis (R) Notes:

CASE NOTES

TREATISES AND ANALYTICAL MATERIALS

LAW REVIEWS