

## STATE LAWS: NO-CONTEST CLAUSES

by

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This chart tracks the state law treatment of no-contest (in terrorem) clauses. It examines four specific questions:

- (1) The extent to which such clauses in a will are, or are not, enforceable;
- (2) The extent to which such clauses in a trust are, or are not, enforceable;
- (3) Whether a suit to construe the governing instrument is itself a challenge such that the clause would be enforced; and
- (4) Whether such clauses are strictly construed.

The survey of the law of the 50 states and the District of Columbia reveals that the legislatures or courts of 49 of the 51 jurisdictions have specifically addressed the question of enforceability. Vermont has no law on enforceability of no-contest clauses. The Alabama courts have never expressly ruled on the enforceability of these clauses, but several cases have recognized the general enforceability of these clauses, while refusing to enforce them under the facts in question.

No-contest clauses in a will are specifically unenforceable in only two states, Florida and Indiana.

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The largest group of states (22) adopt the Uniform Probate Code rule and state that no-contest clauses are enforceable, unless the contest is based on probable cause. Sixteen of these states have adopted Sections 2-517 and/or 3-905 of the Uniform Probate Code, to this effect. See Alaska, Arizona, Colorado, Hawaii, Idaho, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New Mexico, North Dakota, South Carolina, South Dakota, and Utah. Five more states, Iowa, Kansas, Maryland, Pennsylvania and Wisconsin, have a similar rule, but without using the specific language of the UPC.

Fourteen (14) states, the next largest group, enforce no-contest clauses without regard to probable cause or good faith. See D.C., Kentucky, Louisiana, Missouri, New Hampshire, New York, Ohio, Rhode Island, Virginia, Washington, and Wyoming.

Arkansas and Illinois enforce no-contest clauses unless the contest is based on good faith. (The law in Illinois is unclear, but one case refused to sustain a no-contest clause noting that the action in question had been brought in good faith.) Connecticut, Iowa, Nevada, North Carolina, Oklahoma, Tennessee, and West Virginia enforce these clauses unless the contest is based on both good faith and probable cause. Texas enforces these clauses, unless the contest is based on both just cause and good faith.

Georgia and Mississippi follow the older rule enforcing these clauses if there is a gift over of the forfeited property.

California, Delaware, New York, and Oregon have more comprehensive provisions that render no-contest clauses unenforceable with respect to certain types of actions (such as suits by a fiduciary). Delaware is unique in that it will enforce a no-contest clause unless the contest is successful.

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In twenty-one states, the rule applied to no-contest clauses in wills has been extended to no-contest clauses contained in trusts. See Florida and Indiana (clauses are unenforceable in both wills and trusts), and California, Delaware, D.C., Illinois, Kansas Kentucky, Massachusetts, Michigan, Missouri, Nevada, New Hampshire, New Jersey, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Virginia and Wyoming. Cases in Alabama, New York and North Dakota suggest a similar result, but did not enforce the clauses in question because, by their terms, they did not apply to the suit before the court. In no state have the legislatures or courts expressly adopted a different rule for wills than for trusts. In no state has a court or legislature stated expressly that the rule applicable to wills does not apply equally to trusts.

Generally, a contest that will trigger a forfeiture under a no-contest clause requires an attempt to set aside a will or trust or a provision of a will or trust. A suit to construe the terms of the instrument, to determine whether a particular fiduciary action is consistent with the governing instrument, or even to determine whether a particular challenge would violate the no-contest clause, does not usually result in a forfeiture. See Arkansas, California, Delaware, Georgia, Hawaii, Illinois, Kansas, Kentucky, Massachusetts, Missouri Nevada, New Hampshire, New Jersey, New Mexico (interpreting the UPC), New York, North Dakota, Ohio, Pennsylvania, Texas, Utah, and Virginia. Michigan, Montana and Oklahoma cases that suggest the same result.

No-contest clauses are usually construed strictly and narrowly, because they work a forfeiture. See Alabama, California, Georgia, Illinois, Kentucky, Massachusetts, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, and West Virginia. A New Mexico case under the UPC takes this position,

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which may be relevant in other UPC states that have no direct law themselves. A case in Michigan suggests a similar result. New Hampshire, by statute, provides that no-contest clauses are to be expansively construed to fulfill the testator's intentions as expressed in the instrument.

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State	Enforceability (Wills)	Enforceability (Trusts)
UPC	<p><b>§ 2-517 (Intestacy, Wills, and Donative Transfers) and § 3-905 (Probate of Wills and Administration). Penalty Clause for Contest</b></p> <p>A provision in a will purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings.</p>	N/A to trusts
UTC	Does not address no-contest clauses.	
Rest. 3d Prop.	<p><b>§ 8.5 No-Contest Clauses</b></p> <p>A provision in a donative document purporting to rescind a donative transfer to, or a fiduciary appointment of, any person who institutes a proceeding challenging the validity of all or part of the donative document is enforceable unless probable cause existed for instituting the proceeding.</p>	Applies to trusts and wills. Comment (i)
Rest. 2d Prop.	<p><b>§ 9.1 Restraints on Contest</b></p> <p>An otherwise effective provision in a will or other donative transfer, which is designed to prevent the acquisition or retention of an interest in property in the event there is a contest of the validity of the document transferring the interest or an attack on a particular provision of the document, is valid, unless there was probable cause for making the contest or attack.</p>	Applies to trusts and wills. Comment (I)

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State	Enforceability (Wills)	Enforceability (Trusts)
Rest. 1 <sup>st</sup> Prop.	<p><b>§ 428. Restraints on Will Contests</b></p> <p>(1) An otherwise effective condition precedent, special limitation, condition subsequent or executory limitation which is designed to prevent the acquisition or retention of a devised interest in and or in things other than land in the event of a contest of the will in which such devise is made is valid, except as stated in Subsection (2).</p> <p>(2) A provision such as is described in Subsection (1) is invalid to the extent that it applies to a contest of the will based upon a claim of forgery or upon a claim of subsequent revocation by a later will or codicil, provided there was probable cause for the making of such contest</p>	Not addressed
	<b>Bars Suits to Construe</b>	<b>Strict Construction</b>
UPC	Not covered	Yes. See <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005)
Rest. 3d Prop.	No. Comment (d)	Yes. Comment (d). "No-contest clauses are construed narrowly, consistent with their terms."
Rest. 2d Prop.	No. Comment (c)	Yes. Comment (b). "[T]he restraint should be construed as narrowly as possible consistent with its terms."
Rest. 1 <sup>st</sup> Prop.	Not covered	Not covered

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State	Enforceability (Wills)	Enforceability (Trusts)
Ala.	Enforceable. <i>Harrison v. Morrow</i> , 977 So.2d 457 (Ala. 2007); <i>Kershaw v. Kershaw</i> , 848 So.2d 942 (Ala. 2002); and <i>Donegan v. Wade</i> , 70 Ala. 501 (1881) (no-contest clauses not violated by specific actions, so court did not have to rule on enforceability)	Unsettled. But see <i>Goodman v. McMillan</i> , 258 Ala. 125, 61 So.2d 55 (1952) (no-contest clause in a trust not violated, so court did not have to rule on enforceability)
Alas.	UPC. Alas. Stat. § 13.16.555	Alas. Stat. § 13.36.330
Ariz.	UPC. Ariz. Rev. Stat. § 14-2517	No statute or case
Ark.	Enforceable, unless contest brought in good faith. <i>Seymour v. Biehslich</i> , 371 Ark. 359, 266 S.W. 3d 722 (2007)	No statute or case
Cal.	Effective January 1, 2010. For all instruments that become irrevocable on or after January 1, 2001, A no contest clause is enforceable except against: (1) direct contest (one alleging forgery, lack of due execution, lack of capacity, or menace, duress, fraud, or undue influence, revocation of a will or trust or other instrument, or disqualification of a beneficiary because of revocation of a will or trust, if brought with probable cause; (2) challenge to a transfer of property on the grounds that it was not the transferor's property at the time of the transfer, if the clause expressly covers this application; and (3) creditor's claim or prosecution of an action based on it, if the clause expressly covers this application. Cal. Prob. Code §§ 21310 & 21311. See also <i>Burch v. George</i> , 7 Cal. 4 <sup>th</sup> 246, 27 Cal. Rptr.2d 165, 866 P.2d 92 (1994)	Enforceable. Cal. Prob. Code § 21310(b)(5); also <i>Colburn v. Northern Trust Co.</i> , 59 Cal. Rptr. 3d 828, 151 Cal. App. 4th 439 (App. 2d Dist. 2007), <i>as modified, review denied</i>
	For instruments that became irrevocable before January 1, 2001, a no contest clause is enforceable except against a long list of specific challenges, including (1) filing a creditor's claim or prosecuting an action based upon it; (2) an action or proceeding to determine the character, title, or ownership of property;	

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Cal contd	(3) a challenge to the validity of an instrument, contract, agreement, beneficiary designation, or other document, other than the instrument containing the no contest clause; (4) a pleading regarding an order annulling a marriage of the person who executed the instrument containing the no contest clause; (5) a pleading challenging the exercise of a fiduciary power; (6) a pleading regarding the appointment of a fiduciary or the removal of a fiduciary; (7) a pleading regarding an accounting or report of a fiduciary; (8) a pleading regarding the interpretation of the instrument containing the no contest clause or an instrument or other document expressly identified in the no contest clause; or (9) a pleading regarding the reformation of an instrument to carry out the intention of the person creating the instrument. Cal. Prob. Code §§ 21303 to 21305	
Colo.	UPC. Colo. Rev. Stat. §§ 15-11-517, 15.12.905; See, however, <i>In re Estate of Peppler</i> , 971 P. 2d 694 (Colo. App. 1998) (no-contest clauses in wills are not enforceable where beneficiary challenging will acted in good faith and contest based on probable cause)	No statute or case
Conn.	Enforceable, unless contest is begun in good faith, and there is probable cause and reasonable justification. <i>Griffin v. Sturgis</i> , 131 Conn. 471, 40 A.2d 758 (1944); <i>South Norwalk Trust Co. v. St. John</i> , 92 Conn. 168, 176, 101 A. 961 (1917); <i>Thompson v. Estate of Thompson</i> , 1999 WL 311241 (Conn.Super. 1999)	No statute or case

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Del.	Enforceable except for where the beneficiary is determined by the court to have prevailed substantially, and except for (1) suits brought by the trustee of a trust or the personal representative of an estate, (2) agreements among beneficiaries of the will or trust in settlement of a dispute relating to such will or trust; (3) actions to determine whether a proposed or pending motion, petition, or other proceeding constitutes a contest within the meaning of a no-contest provision otherwise previously listed; and (4) actions brought by a beneficiary under for a construction or interpretation of such will or trust instrument. 12 Del. Stat. § 3329	Yes. 12 Del. Stat. § 3329.
D.C.	Yes. See <i>Ackerman v. Genevieve Ackerman Family Trust</i> , 908 A.2d 1200 (D.C. Ct. App. 2006) (such clauses are enforced “notwithstanding good faith and probable cause in making the contest”); <i>Sullivan v. Bond</i> , 91 U.S.App. D.C. 99, 198 F.2d 529 (1952); <i>Barry v. American Security &amp; Trust Co.</i> , 77 U.S.App. D.C. 351, 135 F.2d 470 (1943)	Yes. See <i>Ackerman v. Abbott</i> , 978 A.2d 1250 (D.C. Ct. App. 2009) (“Although no-contest clauses ‘appear most frequently in wills, there appears to be no reason to apply a different test in determining the validity of such a clause in a living trust instrument...’”, quoting Bogert, <i>The Law of Trusts and Trustees</i> § 181 at 94 (rev. 2d ed. 1979 and 2005 Supp.)
Fla.	Unenforceable. Fl. Stat. § 732.517. Oddly, the Florida Statutes historical and statutory notes say that “This section is similar to § 3-905 of the Uniform Probate Code.”	Unenforceable. Fl. Stat. § 736.1108
Ga.	Enforceable if there is a “direction in the will as to the disposition of the property if the condition <i>in terrorem</i> is violated.” Ga. Code § 53-4-68; See also <i>Cox v. Fowler</i> , 279 Ga. 501, 614 S.E.2d 59 (2005), <i>reconsideration denied</i> (June 30, 2005)	No statute or case

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Hawaii	UPC. Haw. Rev. Stat. §§560:3-905, 560:2-517, 560:3-905	Haw. Rev. Stat. § 560:3-905
Idaho	UPC. Ida. Rev. Stat. §15-3-905	No statute or case
Ill.	Enforceable, unless contest is brought in good faith (apparent holding). <i>Estate of Wojtalewicz</i> , 93 Ill.App.2d 1061, 1063, 49 Ill.Dec. 564, 418 N.E.2d 418, 420 (Ill App. 1 <sup>st</sup> Dist. 1981); <i>Estate of Mank</i> , 298 Ill.App. 3d 821, 699 N.E.2d 1103, 232 Ill.Dec. 918 (Ill. App. 1 <sup>st</sup> Div. 1998)	Yes. <i>Ruby v. Ruby</i> , ___ N.E.2d ___, 2012 WL 555913 (Ill.App. 1 Dist. 2012)
Ind.	Unenforceable. Ind. Code §29-1-6-2	Unenforceable. Ind. Code §30-4-2.1-3
Iowa	Enforceable, unless contest brought in good faith and with probable cause. <i>Cocklin's Estate v. Watkins</i> , 236 Iowa 98, 17 N.W.2d 129 (1945)	No statute or case
Kan.	Enforceable when "the beneficiary attacks the validity of the will without probable cause to do so." <i>In re Estate of Foster</i> , 190 Kan. 498, 500, 376 P.2d 784 (1962); <i>In the Matter of the Estate of Barfoot</i> , 193 P.3d 920 (Kan.App. 2009)	Enforceable. <i>Tustin v. Baker</i> , 119 P.3d 704 (2005)
Ky.	Enforceable. <i>Johnson v. Smith</i> , 885 S.W.2d 944 (1994); <i>Dravo v. Liberty Nat. Bank &amp; Trust Co.</i> , 267 S.W. 2d 95 (1954)	Enforceable. <i>Johnson v. Smith</i> , 885 S.W.2d 944 (1994); <i>Ladd v. Ladd</i> , 323 S.W.3d 772 (Ky. App., 2010); <i>Commonwealth Bank &amp; Tr. Co. v. Young</i> , ___ S.W.3d ___, 2012 WL 592196 (Ky.App. 2012)

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State	Enforceability (Wills)	Enforceability (Trusts)
La.	Enforceable. <i>Succession of Scott</i> , 950 So.2d 846 (La. App. 1st Cir. 2006) (stating that no-contest clause did not apply to contestant, with no suggestion that it was otherwise invalid); <i>Succession of Kern</i> , 252 So.2d 507 (La. App. 4 <sup>th</sup> Cir., 1971) (striking particular no-contest clause that left estate to certain family members but provided that if “any heir”, whether or not benefitting under the will, contests, the entire estate passes to a specific charity. Clause invalid under La. Civ. Code art. 1519, which states that “In all dispositions inter vivos and mortis causa impossible conditions, those which are contrary to the laws or to morals, are reputed not written”)	No statute or case
Maine	UPC. 18-A Me. Rev. Stat. § 3-905	No statute or case
Md.	Enforceable unless there is probable cause for the contest. Md. Est. & Tr. Code § 4-413	No statute or case
Mass.	UPC. Beginning March 2, 2012, Mass. Gen. Law 190B § 2-517.	Enforceable. <i>Hanselman v. Frank</i> , 2010 WL 2507827 (Mass. App. Ct. 2010)
Mich.	UPC. Mich. Comp. Laws §§700.2518; 700.3905	Enforceable unless contest based on probable cause. Mich. Comp. Laws § 700.7113.
Minn.	UPC. Minn. Code §§ 524.2-517, 524.3-905	No statute or case
Miss.	Enforceable, if there is a gift over. <i>Pringle v. Greenbury L. Dunkley and Wife</i> , 14 Smedes & M. 16, 22 Miss. 16 (Miss.Err. & App. 850)	No statute or case

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State	Enforceability (Wills)	Enforceability (Trusts)
Mo.	Enforceable. <i>Chambers' Estate v. Chambers</i> , 322 Mo. 1086, 18 S.W.2d 30 (1929). See also <i>Cox v. Fisher</i> , 322 S.W.2d 910, 915 (Mo.1959); <i>Liggett v. Liggett</i> , 341 Mo. 213, 108 S.W.2d 129, 134 (1937); <i>Chaney v. Cooper</i> , 954 S.W.2d 510 (Mo.App. W.D.,1997) (such clauses are enforceable “where it is clear that the trustor (or testator) intended that the conduct in question should forfeit a beneficiary's interest under the indenture (or will)”)	Enforceable “where it is clear that the trustor (or testator) intended that the conduct in question should forfeit a beneficiary's interest under the indenture (or will).” <i>Tobias v. Korman</i> , 141 S.W.3d 468 (Mo. Ct. App. Eastern Div. 2004) (beneficiaries “with knowledge of the existence and implications of the clause” pursued litigation)
Mont.	UPC. Mont. Code §72-2-537	No statute or case
Neb.	UPC. Neb. Rev. St. § 30-24,103	No statute or case
Nev.	<p>Enforceable unless action brought in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that there was a substantial likelihood that the will was invalid. Nev. Rev. Stat. § 137.005(4).</p> <p>A no-contest clause must be construed to carry out the testator's intent. Except to the extent the will is vague or ambiguous, extrinsic evidence is not admissible to establish the testator's intent concerning the no-contest clause. Nev. Rev. Stat. § 137.005(2).</p>	<p>Enforceable unless action brought in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that there was a substantial likelihood that the trust or other trust-related instrument was invalid. Nev. Rev. Stat. § 163.00195(4).</p> <p>A no-contest clause must be construed to carry out the grantor's intent. Except to the extent the trust is vague or ambiguous, extrinsic evidence is not admissible to establish the intent concerning the no-contest clause. Nev. Rev. Stat. § 163.00195(2).</p>

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State	Enforceability (Wills)	Enforceability (Trusts)
N.H.	<p>After Sept. 10, 2011, enforceable according to the express terms of the instrument without regard to the presence or absence of probable cause or good faith. N.H. Rev. Stat. § 551:22(II).</p> <p>Before September 11, 2011, enforceable if there is a gift over, regardless of good faith and probable cause. <i>Burtman v. Butman</i>, 97 N.H. 254, 85 A.2d 892 (1952)</p>	<p>After Sept. 10, 2011, same as wills. N.H. Rev. Stat. § 564-B:1-1014.</p> <p>Before Sept. 11, 2011, no statute or case.</p>
N.J.	<p>UPC. N.J. Stat. §§ 3A:2A-32, 3B:3-47. See also <i>Haynes v. First Nat'l State Bank of New Jersey</i>, 87 N.J. 163, 432 A.2d 890 (1981)</p>	<p>Enforceable unless there is probable cause for the contest. <i>Haynes v. First Nat'l State Bank of New Jersey</i>, 87 N.J. 163, 432 A.2d 890 (1981)</p>
N.M.	<p>UPC. N.M. Stat. § 45-2-517; see <i>Matter of Seymour's Estate</i>, 93 N.M. 328, 600 P.2d 274 (1979)</p>	<p>No statute or case</p>
N.Y.	<p>Enforceable, unless contest based on probable cause. Not enforceable against: (1) contest, based on probable cause, to establish that the will is a forgery or was revoked by a later will,; (2) contest by an infant or incompetent; (3) objection to jurisdiction of the court in which the will was offered for probate; (4) disclosure to any of the parties or to the court of any information relating to any document offered for probate as a last will, or relevant to the probate proceeding; (5) refusal or failure to join in a petition for the probate of a document as a last will, or to execute a consent to, or waiver of notice of a probate proceeding; (6) preliminary examination of a proponent's witnesses, the person who prepared the will, the nominated executors and the proponents in a probate proceeding; or (7) bringing or joining or acquiescing in a proceeding for the construction of a will or any provision thereof. N.Y. EPTL § 3-3.5(b)</p>	<p>No cases or statutes, but see <i>Matter of Stralem</i>, 181 Misc.2d 715, 695 N.Y.S.2d 274 (Surrogate's Court, Nassau County 1999) (suit to construe will and inter vivos trust did not jeopardize either, because constructions permitted of will and because trust had no <i>in terrorem</i> clause)</p>

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N.C.	Enforceable unless contest based on good faith and probable cause. <i>Ryan v. Wachovia Bank &amp; Trust Co.</i> , 235 N.C. 585, 70 S.E.2d 853 (1952); <i>Haley v. Pickelsimer</i> , 261 N.C. 293, 134 S.E.2d 697 (1964)	No statute or case
N.D.	UPC. N.D. Code § 30.1-20-05 (codifying UPC §2-517)	No statute or case, but see <i>Langer v. Pender</i> , 764 N.W. 2d 159 (2009) (no-contest clause in trust did not prevent suit to construe trust)
Ohio	Enforceable, regardless of good faith or probable cause. <i>Bender v. Bateman</i> , 33 Ohio App. 66, 168 N.E. 574 (5th Dist. Muskingum County 1929); <i>Bradford v. Bradford</i> , 19 Ohio St. 546 (1869); <i>Modie v. Andrews</i> , 2002 WL 31386482 (Ohio App. 9 Dist. 2002)	No statute or case
Ok.	Enforceable, unless contest brought in good faith and for probable cause. <i>Whitmore v. Smith</i> , 1923 OK 1102, 94 Okla. 90, 221 P. 775 (1923); <i>Bridgeford v. Estate of Chamberlin</i> , 1977 OK 206, 573 P.2d 694 (1997); <i>In re Estate of Massey</i> , 1998 Civ. App. 116, 964 P.2d 238 (1998)	Enforceable. <i>Barr v. Dawson</i> , 158 P.3d 1073 (Ok. App. Div. 4, 2007); <i>In re Estate of Zarrow</i> , 1984 OK 27, 688 P.2d 47 (1984); <i>In re Estate of Massey</i> , 1998 Civ. App. 116, 964 P.2d 238 (1998)
Ore.	Enforceable, even if there is probable cause, except for contests (a) based on probable cause to believe that the will is a forgery or has been revoked; or (b) brought by a fiduciary on behalf of a protected person, a guardian ad litem appointed for a minor, or a guardian ad litem appointed for an incapacitated or financially incapable person. Ore. Rev. Stat. § 112.272	Enforceable, even if there is probable cause, except for contests (a) based on probable cause to believe that the will is a forgery or has been revoked; or (b) brought by a fiduciary on behalf of a protected person, a guardian ad litem appointed for a minor, or a guardian ad litem appointed for an incapacitated or

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State	Enforceability (Wills)	Enforceability (Trusts)
Ore (contd)		financially incapable person. Ore. Rev. Stat. § 130.235
Pa.	Enforceable, unless contest based on probable cause. 20 Pa. Con. Stat. § 2521	Enforceable, unless contest based on probable cause. 20 Pa. Con. Stat. § 2521
R.I.	Enforceable, regardless of good faith and probable cause. <i>Elder v. Elder</i> , 84 R.I. 13, 120 A.2d 815 (1956)	No statute or case
S.C.	UPC. S.C. Code § 62-3-905; <i>Russell v. Wachovia Bank, N.A.</i> , 370 S.C. 5, 633 S.E.2d 722 (2005)	No statute or case
S.D.	UPC. S.D. Codified Laws §§ 29A-2-517 and 29A-3-905	Enforceable unless probable cause exists for instituting the proceeding on the grounds of: (1) fraud; (2) duress; (3) revocation; (4) lack of contractual capacity; (5) undue influence; (6) mistake; (7) forgery; or (8) irregularity in the execution of the trust document. A no contest clause is not enforceable against a beneficiary to the extent the beneficiary, in good faith and based upon probable cause, contests a provision that benefits any of the following persons: (1) a person who drafted or transcribed the instrument; (2) a person who gave directions to the drafter of the instrument concerning

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**State            Enforceability (Wills)**

**Enforceability (Trusts)**

S.D.  
(contd)

dispositive or other substantive contents of the provisions or who directed the drafter to include the no contest clause in the instrument (unless the settlor affirmatively instructed the drafter to include the contents of the provision or the no contest clause); or (3) a person who acted as a witness to the instrument. A no contest clause in a trust is enforceable against a beneficiary to the extent the beneficiary elects to contest or otherwise challenge the settlor's signature whereby such a challenge does not in any manner constitute good, probable, or reasonable cause if the settlor's signature was witnessed by nonrelative witnesses or a duly qualified nonrelative notary public or both. House Bill No. 1045, §§ 8-12, effective July 1, 2012.

Tenn.    Enforceable, unless the contest is pursued “in good faith and upon probable cause.” *Tate v. Camp*, 147 Tenn. 137, 149, 245 S.W. 839, 842 (1922); *Winningham v. Winningham*, 966 S.W. 2d 48 (Tenn., 1998)

No statute or case

Tex.    Enforceable, unless there are both good faith and just cause. Tex. Prob. Code § 64.

Enforceable, unless there are both good faith and just cause. Tex. Trust Code § 112.038.

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State	Enforceability (Wills)	Enforceability (Trusts)
Utah	UPC. Utah Code § 75-3-905	No statute or case
Vt.	No statute or case	No statute or case
Va.	Enforceable. <i>Keener v. Keener</i> , 278 Va. 435, 682 S.E.2d 545 (2009); <i>Womble v. Gunter</i> , 198 Va. 522, 529, 95 S.E. 2d 213, 219 (1956)	Enforceable. <i>Keener v. Keener</i> , 278 Va. 435, 682 S.E.2d 545 (2009)
Wash.	Enforceable. <i>Estate of Kubick v. Potter</i> , 9 Wash.App. 413, 513 P.2d 76 (Wash. App. Div. 2, 1973) (enforcing no-contest clause that did not, by its terms, apply where challenge was brought in good faith and with probable cause)	No statute or case
W.Va.	Enforceable, unless contest brought with <i>probabilis causa litigandi</i> (in good faith and with probable cause). <i>Dutterer v. Logan</i> , 103 W.Va. 216, 137 S.E. 1 (1927)	No statute or case
Wisc.	Enforceable, unless contest brought with probable cause. Wisc. Stat. § 854.19	No statute or case
Wyo.	Enforceable, without regard to whether contest is brought in good faith and with probable cause. <i>Dainton v. Watson</i> , 658 P.2d 79 (Wyo. 1983)	Enforceable. <i>Briggs v. Wyoming National Bank of Casper</i> , 836 P.2d 263 (1992)

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<b>State</b>	<b>Applies to Suit to Construe</b>	<b>Strict Construction</b>
Ala.	No statute or case	Enforceable no-contest clauses are to be “construed narrowly to avoid a forfeiture.” <i>Harrison v. Morrow</i> , 977 So.2d 457 (Ala. 2007); <i>Kershaw v. Kershaw</i> , 848 So.2d 942 (Ala. 2002)
Alas.	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be “strictly construed”
Ariz.	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be “strictly construed”
Ark.	No. <i>Jackson v. Braden</i> , 290 Ark. 117, 717 S.W. 2d 206 (1986)	No statute or case
Cal.	No. <i>Safai v. Safai</i> , 78 Cal. Rptr.3d 759, 164 Cal. App.4th 233 (App. 6th Dist. 2008)	Yes. Cal. Prob. Code § 21312 (applicable to instruments that became irrevocable on or after January 1, 2001); Cal. Prob. Code § 21304 (applicable to instruments that became irrevocable before January 1, 2001); <i>Betts v. City Nat. Bank</i> , 67 Cal. Rptr. 3d 152, 156 Cal. App. 4th 222 (App. 4 <sup>th</sup> Dist. 2007); <i>Colburn v. Northern</i>

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State	Applies to Suit to Construe	Strict Construction
Cal. (contd)		<i>Trust Co.</i> , 59 Cal.Rptr. 3d 828, 151 Cal.Ap p. 4th 439 (App. 2 <sup>nd</sup> Dist. 2007), as modified, review denied
Colo.	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be “strictly construed”
Conn.	No statute or case	No statute or case
Del.	No. 12 Del. Stat. § 3329	No statute or case.
D.C.	No statute or case	No statute or case
Fla.	N/A (clauses unenforceable)	N / A ( c l a u s e s unenforceable)
Ga.	No. <i>Hicks v. Rushin</i> , 228 Ga. 320, 185 S.E.2d 390 (1971)	Yes. <i>Sinclair v. Sinclair</i> , 284 Ga. 500, 670 S.E.2d 59 (2008); <i>Linkous v. National Bank of Georgia</i> , 247 Ga. 274, 274 S.E.2d 469 (1981)
Hawaii	No. <i>In the Matter of Estate of Ikuta</i> , 64 Haw. 236, 639 P.2d 400 (1981)	No statute or case
Idaho	No statute or case	No statute or case

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State	Applies to Suit to Construe	Strict Construction
Ill.	No. <i>Knight v. Bardwell</i> , 45 Ill.App.2d 332, 195 N.E. 2d 428 (Ill. App. 1 <sup>st</sup> Dist. 1964); <i>Nairn v. Stemmler</i> , 17 Ill.App. 3d 1060, 309 N.E.2d 237 (Ill. App. 4 <sup>th</sup> Dist. 1974); <i>Ruby v. Ruby</i> , ___ N.E.2d ___, 2012 WL 555913 (Ill.App. 1 Dist. 2012)	Yes. <i>In re Estate of Wojtalewicz</i> , 93 Ill. App. 3d 1061, 1063, 49 Ill. Dec. 564, 418 N.E.2d 418, 420 (Ill. App. 1 <sup>st</sup> Dist. 1981); <i>Estate of Mank</i> , 298 Ill.App. 3d 821, 699 N.E.2d 1103, 232 Ill.Dec. 918 (Ill. App. 1 <sup>st</sup> Dist. 1998) (“though they may be valid, such clauses are disfavored and are strictly construed to avoid forfeiture”); <i>Ruby v. Ruby</i> , ___ N.E.2d ___, 2012 WL 555913 (Ill.App. 1 Dist. 2012)
Ind.	N/A (clauses not enforceable)	N/A (clauses not enforceable)
Iowa	No statute or case	No statute or case
Kan.	No. <i>Meyer v. Benelli</i> , 197 Kan. 98, 415 P.2d 415 (1966)	No statute or case
Ky.	No. <i>George v. George</i> , 283 Ky. 381, 141 S.W. 2d 558 (1940); <i>Ladd v. Ladd</i> , 323 S.W.3d 772 (Ky. App., 2010); <i>Commonwealth Bank &amp; Tr. Co. v. Young</i> , ___ S.W.3d ___, 2012 WL 592196 (Ky.App. 2012)	Yes. <i>Commonwealth Bank &amp; Tr. Co. v. Young</i> , ___ S.W.3d ___, 2012 WL 592196 (Ky.App. 2012)
La.	No case or state	No statute or case
Maine	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be “strictly construed”
Md.	No statute or case	No statute or case

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<b>State</b>	<b>Applies to Suit to Construe</b>	<b>Strict Construction</b>
Mass.	No. <i>Mazzola v. Myers</i> , 363 Mass. 625, 296 N.E.2d 481 (1973)	Yes. <i>Savage v. Oliszczyk</i> , 77 Mass. App. 145, 928 N.E.2d 995 (2010)
Mich.	No statute or case, but see <i>Penoyer Trust v. Melberg</i> , 2006 WL 2380881 (Mich. App. 2006) (suit to remove a trustee was not a challenge, and so no-contest clause did not apply, suggesting suit to construe might also not be subject to no-contest clause)	No statute or case, but see <i>Penoyer Trust v. Melberg</i> , 2006 WL 2380881 (Mich. App. 2006) (suit to remove a trustee was not a challenge, and so no-contest clause did not apply, suggesting narrow reading of what constitutes a challenge); see also <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be “strictly construed”
Minn.	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be “strictly construed”
Miss.	No statute or case, but see <i>Estate of Thomas v. Thomas</i> , 28 So.3d 627 (Miss. App. 2009) (suit to remove and surcharge trustee falls outside scope of no-contest clause, suggesting suit to construe might not be subject to no-contest clause)	No statute or case
Mo.	No. <i>Krause v. Tullo</i> , 835 S.W.2d 488 (Mo. App. S.D. 1992)	No statute or case

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State	Applies to Suit to Construe	Strict Construction
Mont.	No statute or case, but see <i>Hanson v. Estate of Bjerke</i> , 322 Mont. 280, 95 P.3d 704 (2004) (aff'g on other issues district court order that declaratory judgment action did not violate no contest clause). Also see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be "strictly construed"
Neb.	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be "strictly construed"
Nev.	No. Nev. Rev. Stat. §§ 137.005(4), 163.00195(4)	No statute or case
N.H.	After Sept. 10, 2011, does not apply to: (a) any action for a construction or interpretation of the will or trust; or (b) any action by the attorney general for a construction or interpretation of a charitable disposition. N.H. Rev. Stat. §§ 551:22(III) and 564-B:10-1014 (III).  Before Sept. 11, 2011, no statute or case.	After Sept. 10, 2011, construed in a manner that enforces the testator's intentions expressed in the instrument to the greatest extent possible. N.H. Rev. Stat. §§ 551:22(IV) and 564-B:10-1014(IV). Before Sept. 11, 2011, no statute or case
N.J.	No. <i>Marx v. Rice</i> , 1 N.J. 574, 587, 65 A.2d 48, 9 A.L.R.2d 584 (1949)	Yes. <i>Marx v. Rice</i> , 1 N.J. 574, 587, 65 A.2d 48, 9 A.L.R. 2d 584 (1949); <i>In re Lummis' Estate</i> , 126 F.Supp. 379 (D.N.J. 1954)

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State	Applies to Suit to Construe	Strict Construction
N.M.	No. <i>See Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	Yes. <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005)
N.Y.	No. <i>Matter of Smyth</i> , 271 N.Y. 623, 3 N.E.2d 453 (1936); <i>Matter of Zorskas</i> , 18 Misc. 3d 600, 850 N.Y.S.2d 827 (Surrogate's Court, Nassau County 2007)	Yes. <i>Matter of Stralem</i> , 181 Misc. 2d 715, 695 N.Y.S. 2d 274 (Surrogate's Court, Nassau County 1999)
N.C.	No statute or case	No statute or case
N.D.	No. <i>Langer v. Pender</i> , 764 N.W. 2d 159 (2009)	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be "strictly construed"
Ohio	No. <i>Moskowitz v. Federman</i> , 72 Ohio App. 149, 51 N.E. 2d 48 (Ct. App. Summit County, 1943); <i>Roelofs v. Apple</i> , 49 Ohio App. 2d 155, 359 N.E. 2d 710 (Ct. App. Lorain County, 1975)	No statute or case
Ok.	No statute or case, but see <i>In re Estate of Westfahl</i> , 1983 OK 119, 674 P.2d 21 (1983) (contest is "any legal proceeding designed to result in the thwarting of the testator's wishes as expressed in the will" and requires consideration of all relevant facts and circumstances)	Yes. <i>Barr v. Dawson</i> , 158 P.3d 1073 (Ok. App. Div. 4, 2007)
Ore.	No statute or case	No statute or case
Pa.	No. <i>In re Ervin's Estate</i> , 367 Pa. 58, 79 A.2d 264 (1951)	Yes. <i>In re Friend's Estate</i> , 209 Pa. 442, 58 A. 853 (1904); <i>Mitchell's Estate</i> , 48 York 13, 20 Pa. D. & C. 101 (Orphan's Court, Philadelphia County, 1933)

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State	Applies to Suit to Construe	Strict Construction
R.I.	No statute or case	Yes. <i>Elder v. Elder</i> , 84 R.I. 13, 120 A.2d 815 (1956)
S.C.	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be “strictly construed”
S.D.	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be “strictly construed”
Tenn.	No statute or case	Yes. <i>Tate v. Camp</i> , 147 Tenn. 137, 149, 245 S.W. 839, 842 (1922)
Tex.	No. <i>Upham v. Upham</i> , 200 S.W. 2d 880 (Tex. App.-Eastland, 1947); <i>Di Portanova v. Monroe</i> , 229 S.W. 3d 324 (Tex. App.-Houston, 2006) (“actions that do not seek to alter the terms of the will do not violate <i>in terrorem</i> clauses”)	Yes. <i>In re Estate of Schiwetz</i> , 102 S.W.3d 355, 365 (Tex. App.-Corpus Christi 2003), <i>pet. denied</i> ; <i>Estates of Montez</i> , 2007 WL 4320747 (Tex. App.-San Antonio 2007); <i>Di Portanova v. Monroe</i> , 229 S.W.3d 324 (Tex. App.-Houston, 2006); <i>Conte v. Conte</i> , 56 S.W. 3d 830 (Tex. App.-Houston, 2001), <i>no pet.</i> ; <i>Estate of Newbill</i> , 781 S.W. 2d 727 (Tex. App.-Amarillo, 1989)

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<b>State</b>	<b>Applies to Suit to Construe</b>	<b>Strict Construction</b>
Utah	No. <i>Doelle v. Bradley</i> , 784 P.2d 1176, 3 A.L.R. 5th 1083 (1989) (a creditor’s claim is not a will contest, because “generally, a will contest occurs when a party claims that the will is invalid”); see also <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and limited to suits that challenge the validity of the will	No statute or case, but see <i>Redman-Tafoya v. Armijo</i> , 126 P.3d 1200, 138 N.M. 836 (N.M. App. 2005), interpreting same provision of UPC and holding that such clauses are to be “strictly construed”
Vt.	No statute or case	No statute or case
Va.	No. <i>Virginia Foundation of Independent Colleges v. Goodrich</i> , 246 Va. 435, 436 S.E.2d 418 (1993) (Generally, “one who seeks the guidance of a court in interpreting a provision in a will is not considered to have ‘contested’ the will in a manner which would actuate a forfeiture clause”)	Yes. <i>Keener v. Keener</i> , 278 Va. 435, 682 S.E.2d 545 (2009); <i>Womble v. Gunter</i> , 198 Va. 522, 529, 95 S.E.2d 213, 219 (1956)
Wash.	No statute or case	No statute or case
W.Va.	No statute or case	Yes. <i>Dutterer v. Logan</i> , 103 W.Va. 216, 137 S.E. 1 (1927)
Wisc.	No statute or case	No statute or case
Wyo.	No statute or case	No statute or case

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