

## **IC 29-1-7**

### **Chapter 7. Probate and Grant of Administration**

#### **IC 29-1-7-0.1**

##### **Application of certain amendments to chapter**

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 17 of this chapter by P.L.284-1987 do not apply to wills admitted to probate before April 21, 1987.

(2) The amendments made to sections 18 and 19 of this chapter by P.L.118-1997 do not apply to an individual whose death occurs before July 1, 1997.

(3) The amendments made to sections 7, 7.5, and 17 of this chapter by P.L.252-2001 apply to the estate of an individual who dies after June 30, 2001.

*As added by P.L.220-2011, SEC.470.*

#### **IC 29-1-7-1**

##### **Venue; transfer of proceedings**

Sec. 1. (a) The venue for the probate of a will and for the administration of an estate shall be:

(1) In the county in this state where the decedent had his domicile at the time of his death.

(2) When not domiciled in this state in any county in the state, where he left any property at the time of his decease; or into which county any property belonging to his estate may have come after his decease.

(b) If proceedings are commenced in more than one (1) county, they shall be stayed except in the county where first commenced until final determination of the venue by the court in the county where first commenced, and thereupon all proceedings in any county, other than the county where jurisdiction has been finally determined to exist, shall be dismissed. If the proper venue is finally determined to be in another county, the court, after making and retaining a true copy of the entire file, shall transmit the original to the proper county. The proceeding shall be deemed commenced by the filing of a petition; and the proceeding first legally commenced shall extend to all of the property of the estate in this state.

(c) If it appears to the court at any time before the decree of final distribution in any proceedings that the proceeding was commenced in the wrong county or that it would be for the best interests of the estate, the court, in its discretion, may order the proceeding with all papers, files and a certified copy of all orders therein transferred to another court having probate jurisdiction, which other court shall thereupon proceed to complete the administration proceedings as if originally commenced therein.

*(Formerly: Acts 1953, c.112, s.701.)*

#### **IC 29-1-7-2**

### **One proceeding in rem**

Sec. 2. The probate of a will and the administration of the estate shall be considered one (1) proceeding for the purposes of jurisdiction. The entire proceeding and the administration of a decedent's estate is a proceeding in rem. This section applies to proceedings under IC 29-1-13-4, IC 29-1-13-16, and IC 29-1-14-10. *(Formerly: Acts 1953, c.112, s.702.) As amended by P.L.154-1990, SEC.1.*

### **IC 29-1-7-3**

#### **Produce will in court; contempt; damages**

Sec. 3. (a) After the death of a person, the person having custody of the decedent's will:

- (1) may; or
- (2) shall, upon written demand by the personal representative or upon court order;

deliver the will to the court which has jurisdiction of the administration of the decedent's estate.

(b) A verified written application may be filed by or on behalf of any interested person or any personal representative named, in any court having jurisdiction of the administration of the decedent's estate for an order of that court against any person who is alleged to have the custody of the will of the said person so dying, to produce said will before said court at the time fixed by said court in order that said will may be probated. Upon the filing of said application, the court shall cause notice to issue of the filing thereof to the person alleged in said petition to have the custody of said will. If, upon the hearing of said application, the court shall find the allegations thereof to be true, the court shall enter an order directing the person so named in said application to deliver said will within the time fixed in said order, to such person as the court shall designate, so that the same may be offered for probate.

(c) If the person against whom said order is issued shall, after said order shall have been served upon him, fail without just cause to so produce said will at the time so fixed therefor, he shall be guilty of contempt of court and may by said court be committed to the jail of the county in which said court is located, there to remain until he produces said will, or until said order to produce shall have been vacated, and said person so found guilty of contempt shall also be liable to any person interested in the probate of said will for all damages he may sustain by the failure of said person to comply with said order.

*(Formerly: Acts 1953, c.112, s.703.) As amended by P.L.165-2002, SEC.5.*

### **IC 29-1-7-3.1**

#### **Will depository**

Sec. 3.1. (a) This section applies whether it is:

- (1) known; or
- (2) unknown;

whether a testator is living.

(b) As used in this section, "depositor" refers to a person who deposits a will with the circuit court clerk under this section.

(c) As used in this section, "will" refers to an original:

- (1) will;
- (2) codicil; or
- (3) will and codicil.

(d) A person may deposit a will with the circuit court clerk of the county in which the testator resided when the testator executed the will. The circuit court clerk may assume, without inquiring into the facts, that the depositor's representation is accurate as to the county where the testator resided when the testator executed the will. Except as provided in subsection (e), the circuit court clerk shall collect a fee of twenty-five dollars (\$25) for the deposit of the will. The circuit court clerk shall deposit the fee in the clerk's record perpetuation fund under IC 33-37-5-2.

(e) The circuit court:

(1) shall waive the fee under subsection (d) if:

(A) a court with probate jurisdiction of the county where the will is deposited certifies that the depositor deposits the will:

- (i) as a participant; or
- (ii) for a participant;

in a program of the supreme court, including the Judges and Lawyers Assistance Program established under Rule 31 of the supreme court Rules for Admission to the Bar and the Discipline of Attorneys; and

(B) the certification described in clause (A) accompanies the will when the will is deposited; and

(2) may waive the fee under subsection (d) if the depositor is no longer practicing law.

(f) Upon receipt of a will under this section, the circuit court clerk shall:

- (1) provide the depositor with a receipt for the will;
- (2) place the will in an envelope and seal the envelope securely in the presence of the depositor;
- (3) designate on the envelope the:
  - (A) date of deposit;
  - (B) name of the testator; and
  - (C) name and address of the depositor; and
- (4) index the will alphabetically by the name of the testator.

An envelope and will deposited under this section is not a public record under IC 5-14-3.

(g) During the testator's lifetime, the circuit court clerk shall:

- (1) keep the envelope containing the will sealed; and
- (2) deliver the envelope to:
  - (A) the testator; or
  - (B) a person authorized, in a writing signed by the testator, to receive the envelope.

(h) If the circuit court clerk has custody of the will after the death of the testator, the circuit court clerk may deliver the will to the court

that has jurisdiction of the administration of the decedent's estate as set forth in section 3 of this chapter.

(i) A circuit court clerk may destroy a will deposited under this section if:

- (1) the circuit court clerk has not received notice of the death of the testator; and
- (2) at least one hundred (100) years have passed since the date the will was deposited.

(j) A depositor that complies with this section is immune from civil liability for depositing the will.

*As added by P.L.238-2005, SEC.9.*

#### **IC 29-1-7-4**

##### **Petitions; hearing**

Sec. 4. (a) Any interested person or a personal representative named in the will may petition the court having jurisdiction of the administration of the decedent's estate:

- (1) to have the will of such decedent, whether the same is written or is unwritten, is in his possession or not, is lost, destroyed, or without the state, probated;
- (2) for the issuance of letters testamentary to the executor named in said will for the administration of said estate;
- (3) for the appointment of an administrator with the will annexed if no executor is designated in said will or if the person so designated is not qualified, dead, or refuses to serve; or
- (4) for the appointment of an administrator for the estate of any person dying intestate.

(b) A petition for probate may be combined with a petition for the issuance of letters testamentary, or as administrator with the will annexed, and a person interested in the probate of a will and in the administration of the estate may petition for both.

(c) No notice that a will is to be offered for probate or that it has been probated shall be required.

(d) No notice of the filing of, and hearing on, the petition described in this section shall be given to or served upon any person. If the petition described herein is filed in term time, it shall be heard forthwith by the court, and if filed in vacation, it shall be heard by the judge of said court if present, or in his absence by the clerk of the said court.

(e) If:

- (1) an interested person petitions for the appointment of an administrator for the estate of a person dying intestate; and
- (2) a petition to dissolve the marriage of the decedent and the decedent's spouse is pending in an Indiana court or the court of another state at the time of the decedent's death;

the court may not appoint the decedent's spouse to be the administrator of the decedent's estate.

(f) Subsection (e) does not apply to a petition for appointment of an administrator for the estate of a person dying intestate if the application of subsection (e) is waived in an agreement signed by

each person, except a person who is incapacitated or a minor, who is eligible for a distribution from the decedent's net estate under IC 29-1-2-1. A waiver may be submitted to the court at any time before the appointment of an administrator.

*(Formerly: Acts 1953, c.112, s.704.) As amended by P.L.182-1999, SEC.1.*

#### **IC 29-1-7-4.5**

##### **Notice of delivery to consenting parties or to parties waiving notice of proceedings in the estate**

Sec. 4.5. (a) Except as provided in subsection (b) and section 4 of this chapter, each petition or other document that a personal representative files in the court with:

- (1) a written consent to the petition or other document; or
- (2) a written waiver of notice of proceedings in the estate;

must contain a statement that the personal representative has delivered a copy of the petition or other document to each person whose written consent or waiver of notice of proceedings is presented to the court in support of the petition or other document.

(b) A petition or other document described in subsection (a) is not required to contain the statement of delivery otherwise required by subsection (a) if the written consent or written waiver filed with the petition or other document contains a statement by the person whose signature appears on the consent or waiver:

- (1) identifying the petition or other document; and
- (2) affirming that the person has:
  - (A) received a copy of the petition or other document; and
  - (B) had a reasonable time to read and understand the nature of the petition or other document before signing the consent or waiver.

(c) A person may appoint in writing an agent (who is not an interested person) to do the following under this section:

- (1) Consent to petitions and other documents.
- (2) Receive or waive notice of proceedings.

*As added by P.L.6-2010, SEC.7. Amended by P.L.51-2014, SEC.1.*

#### **IC 29-1-7-5**

##### **Petition for probate; letters testamentary; administrator with will annexed; appointment of administrator**

Sec. 5. A petition for the probate of a will and for the issuance of letters testamentary or for the appointment of an administrator with the will annexed, or for the appointment of an administrator, shall state:

- (1) the name, domicile, and date of the death of the decedent, and whether the decedent is an adult or a minor;
- (2) the name, and place of residence of each heir, and whether the heir is an adult or a minor, in the event the decedent left no will; and the name, and place of residence of each legatee and devisee, and whether each legatee and devisee is an adult or a minor, in the event the decedent left a will, so far as such are

known or can with reasonable diligence be ascertained by the personal representative;

- (3) whether the person named in subdivision (1) died testate or intestate;
- (4) if the decedent was not domiciled in the state at the time of death, a description of the property to be administered which is within the county in which the petition is filed;
- (5) if the will sought to be probated is unwritten, lost, or was improperly destroyed or suppressed, a detailed statement of the provisions of said will so far as known;
- (6) the name and place of residence or business address of the person, if any, designated as executor of the will;
- (7) if the petition be for the appointment of an administrator with the will annexed, or of an administrator, the name and place of residence or business address of the person to be so appointed, together with a statement of the person's relationship to the decedent, and such other facts, if any, which entitle such person to be so appointed;
- (8) the name and business address of the attorney who is to represent the personal representative; and
- (9) if the person named in subdivision (1) died intestate, whether a petition to dissolve the marriage of the decedent and the decedent's spouse is pending in an Indiana court or the court of another state at the time of the decedent's death.

*(Formerly: Acts 1953, c.112, s.705; Acts 1955, c.258, s.3.) As amended by Acts 1976, P.L.125, SEC.1; P.L.182-1999, SEC.2; P.L.238-2005, SEC.10.*

#### **IC 29-1-7-6**

##### **Notice of hearing; request; provision of relevant materials by personal representative**

Sec. 6. (a) At any time after the issuance of letters, any person interested in the estate may serve upon the personal representative, or upon his attorney, and file with the clerk of the court where the proceedings are pending with a written admission or proof of such service, a written request, stating that he desires written notice by ordinary mail of the time and place of all hearings on the settlement of accounts, on final distribution, and on any other matters for which any notice is required by law, by rule of court, or by an order in the particular case. The applicant for such notice must include in his written request his post office address or that of his attorney. Unless the court otherwise directs, upon filing such request such person shall be entitled to notice of all hearings for which any notice is required as aforesaid, or of such of those hearings as he designates in his request.

(b) Upon petition by an interested person, the court having jurisdiction over the estate may, in its discretion, under such terms and conditions as the court considers appropriate, order the personal representative to provide that interested person with relevant materials specified in the court's order.

*(Formerly: Acts 1953, c.112, s.706.) As amended by Acts 1979, P.L.268, SEC.2.*

### **IC 29-1-7-7**

#### **Notice of administration**

Sec. 7. (a) As soon as letters testamentary or of administration, general or special, supervised or unsupervised, have been issued, the clerk of the court shall publish notice of the estate administration.

(b) The notice required under subsection (a) shall be published in a newspaper of general circulation, printed in the English language and published in the county where the court is located, once each week for two (2) consecutive weeks. A copy of the notice, with proof of publication, shall be filed with the clerk of the court as a part of the administration of the estate within thirty (30) days after the publication. If no newspaper is published in the county, the notice shall be published in a newspaper published in an adjacent county.

(c) The notice required under subsection (a) shall be served by first class postage prepaid mail on each heir, devisee, legatee, and known creditor whose name and address is set forth in the petition for probate or letters, except as otherwise ordered by the court. The personal representative shall furnish sufficient copies of the notice, prepared for mailing, and the clerk of the court shall mail the notice upon the issuance of letters.

(d) The personal representative or the personal representative's agent shall serve notice on each creditor of the decedent:

- (1) whose name is not set forth in the petition for probate or letters under subsection (c);
- (2) who is known or reasonably ascertainable within one (1) month after the first publication of notice under subsection (a); and
- (3) whose claim has not been paid or settled by the personal representative.

The notice may be served by mail or any other means reasonably calculated to ensure actual receipt of the notice by a creditor.

(e) Notice under subsection (d) shall be served within one (1) month after the first publication of notice under subsection (a) or as soon as possible after the elapse of one (1) month. If the personal representative or the personal representative's agent fails to give notice to a known or reasonably ascertainable creditor of the decedent under subsection (d) within one (1) month after the first publication of notice under subsection (a), the period during which the creditor may submit a claim against the estate includes an additional period ending two (2) months after the date notice is given to the creditor under subsection (d). However, a claim filed under IC 29-1-14-1(a) more than nine (9) months after the death of the decedent is barred.

(f) A schedule of creditors that received notice under subsection (d) shall be delivered to the clerk of the court as soon as possible after notice is given.

(g) The giving of notice to a creditor or the listing of a creditor on the schedule delivered to the clerk of the court does not constitute an

admission by the personal representative that the creditor has an allowable claim against the estate.

(h) If any person entitled to receive notice under this section is under a legal disability, the notice may be served upon or waived by the person's natural or legal guardian or by the person who has care and custody of the person.

(i) The notice shall read substantially as follows:

NOTICE OF ADMINISTRATION

In the \_\_\_\_\_ Court of \_\_\_\_\_ County, Indiana.

Notice is hereby given that \_\_\_\_\_ was, on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, appointed personal representative of the estate of \_\_\_\_\_, deceased, who died on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

All persons who have claims against this estate, whether or not now due, must file the claim in the office of the clerk of this court within three (3) months from the date of the first publication of this notice, or within nine (9) months after the decedent's death, whichever is earlier, or the claims will be forever barred.

Dated at \_\_\_\_\_, Indiana, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

\_\_\_\_\_  
CLERK OF THE \_\_\_\_\_ COURT  
FOR \_\_\_\_\_ COUNTY, INDIANA

*(Formerly: Acts 1953, c.112, s.707; Acts 1955, c.258, s.4; Acts 1975, P.L.288, SEC.6.) As amended by P.L.154-1990, SEC.2; P.L.197-1996, SEC.1; P.L.252-2001, SEC.12; P.L.95-2007, SEC.4; P.L.143-2009, SEC.10.*

**IC 29-1-7-7.5**

**Personal representative; reasonable diligence to discover creditors of decedent; affidavit; presumption of reasonable diligence**

Sec. 7.5. (a) A personal representative shall exercise reasonable diligence to discover the reasonably ascertainable creditors of the decedent within one (1) month of the first publication of notice under section 7 of this chapter.

(b) A personal representative is considered to have exercised reasonable diligence under subsection (a) if the personal representative:

- (1) conducts a review of the decedent's financial records that are reasonably available to the personal representative; and
- (2) makes reasonable inquiries of the persons who are likely to have knowledge of the decedent's debts and are known to the personal representative.

(c) A personal representative may file an affidavit with the clerk of the court stating that the personal representative has complied with the requirements of subsection (b). In addition, a personal representative may petition the court for an order declaring that:

- (1) the personal representative has complied with the requirements of subsection (b); and
- (2) any creditors not known to the personal representative after complying with the requirements of subsection (b) are not



reasonably ascertainable.

(d) If a personal representative complies with the requirements of subsection (b), the personal representative is presumed to have exercised reasonable diligence to ascertain creditors of the decedent and creditors not discovered are presumed not reasonably ascertainable. The presumptions may be rebutted only by clear and convincing evidence.

*As added by P.L.154-1990, SEC.3. Amended by P.L.252-2001, SEC.13.*

#### **IC 29-1-7-8**

##### **Death in doubt; search for alleged decedent**

Sec. 8. Whenever there is any doubt that the person whose estate is to be administered is dead, the court, upon application of any interested person, may direct the personal representative to make search for the alleged decedent in any manner which the court may deem advisable, including any or all of the following methods:

(a) By inserting in one (1) or more suitable periodicals a notice requesting information from any person having knowledge of the whereabouts of the alleged decedent;

(b) By notifying officers of justice and public welfare agencies in appropriate locations of the disappearance of the alleged decedent;

(c) By engaging the services of an investigation agency.

*(Formerly: Acts 1953, c.112, s.708.)*

#### **IC 29-1-7-9**

##### **Admission to probate; proof of will**

Sec. 9. Before a written will shall be admitted to probate, the will shall be proved by one (1) or more of the subscribing witnesses, or if all of them are dead, out of the state, or have become incapacitated for any reason since attesting the will, then the will shall be admitted to probate upon proof of the handwriting of the testator or of one (1) of the subscribing witnesses.

*(Formerly: Acts 1953, c.112, s.709.) As amended by P.L.33-1989, SEC.36.*

#### **IC 29-1-7-10**

##### **Absence of competent witnesses; handwriting; proof**

Sec. 10. If none of the subscribing witnesses to a will can be found, or if all are dead, absent from the state, or incapacitated, one (1) or more of these situations shall be proved to the satisfaction of the court before evidence of the handwriting of the testator or of the subscribing witnesses provided for in section 9 of this chapter shall be admitted in evidence.

*(Formerly: Acts 1953, c.112, s.710.) As amended by Acts 1982, P.L.171, SEC.19; P.L.33-1989, SEC.37.*

#### **IC 29-1-7-11**

##### **Repealed**

*(Repealed by Acts 1975, P.L.288, SEC.51.)*

### **IC 29-1-7-12**

#### **Nuncupative wills; proof**

Sec. 12. Proof of nuncupative wills is subject to the requirements of IC 29-1-5-4.

*(Formerly: Acts 1953, c.112, s.712.) As amended by Acts 1982, P.L.171, SEC.20.*

### **IC 29-1-7-13**

#### **Admission to probate; petitions; self-proved wills; signature requirement presumptions**

Sec. 13. (a) When a will is offered for probate, if the court finds that the testator is dead and that the will was executed in all respects according to law, it shall be admitted to probate as the last will of the deceased, unless objections are filed as provided in section 16 of this chapter.

(b) On a petition for the qualification of an executor or for the appointment of an administrator the court shall grant letters accordingly or, on proper grounds, may deny the petition.

(c) If the will is self-proved, compliance with signature requirements for execution and other requirements of execution are presumed subject to rebuttal without the testimony of any witness upon filing the will and the acknowledgment and verifications annexed or attached to the will, unless there is proof of fraud or forgery affecting the acknowledgment or verification.

*(Formerly: Acts 1953, c.112, s.713; Acts 1975, P.L.288, SEC.7.)*

### **IC 29-1-7-14**

#### **Certificate of probate; evidence**

Sec. 14. When proved as herein provided, every written will, if in the custody of the court, shall have endorsed thereon or annexed thereto a certificate by the court of such order of probate, which certificate shall give the number and page of the will record where it is recorded. If for any reason a written will is not in the custody of the court, or if the will is oral, the court shall find the contents thereof, and the order admitting the will to probate shall state the contents and a certificate shall be annexed as above provided. Every will certified as herein provided, or the record thereof, or a duly certified transcript of the record, may be read in evidence in all the courts within this state without further proof.

*(Formerly: Acts 1953, c.112, s.714.)*

### **IC 29-1-7-15**

#### **Repealed**

*(Repealed by Acts 1973, P.L.289, SEC.4.)*

### **IC 29-1-7-15.1**

#### **Determination of intestacy; presentation of will for probate; time limits; sale of property**

Sec. 15.1. (a) When it has been determined that a decedent died

intestate and letters of administration have been issued upon the decedent's estate, no will shall be probated unless it is presented for probate:

- (1) before the court decrees final distribution of the estate; or
- (2) in an unsupervised estate, before a closing statement has been filed.

(b) No real estate situate in Indiana of which any person may die seized shall be sold by the executor or administrator of the deceased person's estate to pay any debt or obligation of the deceased person, which is not a lien of record in the county in which the real estate is situate, or to pay any costs of administration of any decedent's estate, unless letters testamentary or of administration upon the decedent's estate are taken out within five (5) months after the decedent's death.

(c) The title of any real estate or interest therein purchased in good faith and for a valuable consideration from the heirs of any person who died seized of the real estate shall not be affected or impaired by any devise made by the person of the real estate so purchased, unless:

- (1) the will containing the devise has been probated and recorded in the office of the clerk of the court having jurisdiction within five (5) months after the death of the testator; or
- (2) an action to contest the will's validity is commenced within the time provided by law and, as a result, the will is ultimately probated.

(d) Except as provided in subsection (e), the will of the decedent shall not be admitted to probate unless the will is presented for probate before the latest of the following dates:

- (1) Three (3) years after the individual's death.
- (2) Sixty (60) days after the entry of an order denying the probate of a will of the decedent previously offered for probate and objected to under section 16 of this chapter.
- (3) Sixty (60) days after entry of an order revoking probate of a will of the decedent previously admitted to probate and contested under section 17 of this chapter.

However, in the case of an individual presumed dead under IC 29-2-5-1, the three (3) year period commences with the date the individual's death has been established by appropriate legal action.

(e) This subsection applies with respect to the will of an individual who dies after June 30, 2011. If:

- (1) no estate proceedings have been commenced for a decedent; and
- (2) an asset of the decedent remains titled or registered in the name of the decedent;

the will of the decedent may be presented to the court for probate and admitted to probate at any time after the expiration of the deadline determined under subsection (d) for the sole purpose of transferring the asset described in subdivision (2). A will presented for probate under this subsection is subject to all rules governing the admission of wills to probate.

*(Formerly: Acts 1973, P.L.289, SEC.1; Acts 1975, P.L.288, SEC.8.)*

*As amended by P.L.263-1989, SEC.1; P.L.238-2005, SEC.11; P.L.95-2007, SEC.5; P.L.36-2011, SEC.4.*

#### **IC 29-1-7-16**

##### **Objections to probate**

Sec. 16. Prior to the admission of a will to probate, written objections to its probate alleging that such objections are not made for vexation or delay may be filed in the court having jurisdiction over the probate of the will by any interested person. No notice of the filing of such objection need be given. The clerk shall note such filing of an objection in the estate docket and copy such objections in the will record. If such will is thereafter offered for probate, it shall be impounded by the clerk, copied in the will record, and its probate continued for thirty (30) days. If an action to resist the probate of such will is not commenced within thirty (30) days, such will may be admitted to probate without notice.

*(Formerly: Acts 1953, c.112, s.716.) As amended by Acts 1982, P.L.171, SEC.21; P.L.154-1990, SEC.4.*

#### **IC 29-1-7-17**

##### **Contest of wills; requisites; grounds**

Sec. 17. Any interested person may contest the validity of any will in the court having jurisdiction over the probate of the will within three (3) months after the date of the order admitting the will to probate by filing in the court the person's allegations in writing verified by affidavit, setting forth:

- (1) the unsoundness of mind of the testator;
- (2) the undue execution of the will;
- (3) that the will was executed under duress or was obtained by fraud; or
- (4) any other valid objection to the will's validity or the probate of the will.

The executor and all other persons beneficially interested in the will shall be made defendants to the action.

*(Formerly: Acts 1953, c.112, s.717; Acts 1975, P.L.288, SEC.9.) As amended by P.L.172-1986, SEC.1; P.L.284-1987, SEC.1; P.L.94-1989, SEC.2; P.L.154-1990, SEC.5; P.L.252-2001, SEC.14.*

#### **IC 29-1-7-18**

##### **Contest of wills; notice and service requirements**

Sec. 18. (a) When an action is brought to contest the validity of any will as provided in this article, notice is served upon the defendants in the same manner as required by the Indiana Rules of Trial Procedure.

(b) A contesting party shall also serve a copy of the complaint on the counsel of record, if any, for the personal representative. The court may not enter a default judgment for the contesting party unless proof of service on the counsel for the personal representative is made to the court.

*(Formerly: Acts 1953, c.112, s.718.) As amended by Acts 1982,*

*P.L.171, SEC.22; P.L.118-1997, SEC.13; P.L.51-2014, SEC.2.*

#### **IC 29-1-7-19**

##### **Contest of wills; bond of plaintiff**

Sec. 19. At the time of filing a verified complaint under section 17 of this chapter, the plaintiff in the action, or some other person on the plaintiff's behalf, shall file a bond with sufficient sureties in an amount approved by the court, conditioned for the due prosecution of the proceedings and for the payment of all costs if in the proceedings judgment is rendered against the plaintiff.

*(Formerly: Acts 1953, c.112, s.719.) As amended by Acts 1982, P.L.171, SEC.23; P.L.118-1997, SEC.14.*

#### **IC 29-1-7-20**

##### **Contest of wills; burden of proof**

Sec. 20. In a suit:

- (1) objecting to the probate of a will under section 16 of this chapter; or
- (2) testing the validity of a will after probate under section 17 of this chapter, the burden of proof is upon the contestor.

*(Formerly: Acts 1953, c.112, s.720.) As amended by Acts 1982, P.L.171, SEC.24; P.L.94-1989, SEC.3.*

#### **IC 29-1-7-21**

##### **Contest of wills; burden of proof**

Sec. 21. If such determination be against the validity of such will or the competency of the proof, the court shall refuse or revoke the probate thereof; but if it be in favor of the validity and due execution of such will, probate thereof shall be admitted or ratified.

*(Formerly: Acts 1953, c.112, s.721.)*

#### **IC 29-1-7-22**

##### **Revocation of probate**

Sec. 22. Whenever the probate of any will shall be revoked as herein provided, the clerk of the proper court shall record such revocation in the record of wills and probate thereof and attest the same.

*(Formerly: Acts 1953, c.112, s.722.)*

#### **IC 29-1-7-23**

##### **Real and personal property; devolution; charges against**

Sec. 23. When a person dies, his real and personal property, passes to persons to whom it is devised by his last will, or, in the absence of such disposition, to the persons who succeed to his estate as his heirs; but it shall be subject to the possession of the personal representative and to the election of the surviving spouse and shall be chargeable with the expenses of administering the estate, the payment of other claims and the allowance is under IC 29-1-4-1, except as otherwise provided in IC 29-1.

*(Formerly: Acts 1953, c.112, s.723.) As amended by Acts 1976,*

*P.L.125, SEC.2; Acts 1979, P.L.268, SEC.3.*

#### **IC 29-1-7-24**

##### **Probate of will; necessity to prove title to property**

Sec. 24. Except as provided in IC 1971, 29-1-8-1, 2, and 3, and IC 1971, 29-1-13-2, no will is effective for the purpose of proving title to, or the right to the possession of, any real or personal property disposed of by the will, until it has been admitted to probate.

*(Formerly: Acts 1953, c.112, s.724; Acts 1975, P.L.288, SEC.10.)*

#### **IC 29-1-7-25**

##### **Foreign wills; receipt and recording authorized**

Sec. 25. (a) Any will that has been proved or allowed in any other state or in any foreign country, according to the laws of that state or country, may be received and recorded in this state:

(1) before the deadlines imposed by section 15.1(d) of this chapter, unless the will is probated for a purpose described in section 15.1(e) of this chapter; and

(2) in the manner and for the purpose stated in sections 26 and 27 of this chapter.

(b) A foreign will received and recorded for a purpose described in section 15.1(e) of this chapter may not be admitted to probate for any other purpose and is subject to all rules governing the admission of wills to probate.

*(Formerly: Acts 1953, c.112, s.725.) As amended by Acts 1982, P.L.171, SEC.25; P.L.274-1983, SEC.1; P.L.149-2012, SEC.7.*

#### **IC 29-1-7-26**

##### **Foreign wills; certification**

Sec. 26. Such will shall be duly certified under the seal of the court or officer taking such proof; or a copy of such will and the probate thereof shall be duly certified under the seal of his court or office by the clerk, prothonotary or surrogate who has the custody or probate thereof, and such certificate shall be attested and certified to be authentic and by the proper officer, by the presiding or sole judge of the court, by whose clerk or prothonotary such certificate shall have been made; or if such will was admitted to probate before any officer being his own clerk, his certificate of such will or record shall be attested and certified to be authentic, and by the proper officer, by the presiding or sole judge, chancellor or vice-chancellor of the court having supervision of the acts of such officer.

*(Formerly: Acts 1953, c.112, s.726.)*

#### **IC 29-1-7-27**

##### **Foreign wills; filing and recording**

Sec. 27. Such will or copy, and the probate thereof, may be produced by any person interested therein to the court of the county having jurisdiction in which there is any estate on which the will may operate; and if said court shall be satisfied that the instrument ought to be allowed as the last will of the deceased, such court shall order

the same to be filed and recorded by the clerk; and, thereupon, such will shall have the same effect as if it had been originally admitted to probate and recorded in this state.

*(Formerly: Acts 1953, c.112, s.727.)*

**IC 29-1-7-28**

**Executed in Indiana; allowed in foreign state or country**

Sec. 28. No will executed in this state and proved or allowed in any other state or country, shall be admitted to probate within this state unless executed according to the laws of this state.

*(Formerly: Acts 1953, c.112, s.728.)*

**IC 29-1-7-29**

**Foreign wills; contest**

Sec. 29. In all cases of foreign wills and testaments heretofore admitted or hereafter to be admitted to probate, or which have been or may be offered for record and filing in any county of this state, any person interested in the estate of the testator may contest such will or testament within the time, in the manner, and for any or all the causes prescribed by the laws of Indiana in cases of the contest of domestic wills.

*(Formerly: Acts 1953, c.112, s.729.)*