

Stricken language would be deleted from and underlined language would be added to the law as it existed  
prior to this session of the General Assembly.  
Act 217 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

# A Bill

SENATE BILL 329

5 By: Senator R. Thompson  
6 By: Representative Carter  
7  
8

## For An Act To Be Entitled

9  
10 AN ACT TO AMEND ARKANSAS CODE § 28-40-111  
11 CONCERNING NOTICE OF APPOINTMENT OF A PERSONAL  
12 REPRESENTATIVE AND CLAIMS AGAINST ESTATES; TO  
13 AMEND ARKANSAS CODE § 28-50-101 REGARDING THE  
14 LIMITATIONS PERIOD AFTER A DECEDENT'S DEATH; AND  
15 FOR OTHER PURPOSES.  
16

## Subtitle

17  
18 AN ACT CONCERNING THE NOTICE OF  
19 APPOINTMENT OF A PERSONAL REPRESENTATIVE  
20 AND CLAIMS AGAINST ESTATES AND  
21 CONCERNING THE LIMITATIONS PERIOD AFTER  
22 A DECEDENT'S DEATH.  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code § 28-40-111 is amended to read as follows:

28 28-40-111. Notice of appointment of personal representative.

29 (a)(1)(A) Promptly after the letters have been granted on the estate  
30 of a deceased person, the personal representative shall cause a notice of his  
31 or her appointment to be published stating the date of his or her appointment  
32 and requiring all persons having claims against the estate to exhibit them,  
33 properly verified to him or her, within ~~three (3) months~~ six (6) months from  
34 the date of the first publication of the notice, or they shall be forever  
35 barred and precluded from any benefit in the estate.



1 (B) ~~However, claims~~ Claims for injury or death caused by  
 2 the negligence of the decedent shall also be filed within six (6) months from  
 3 the date of first publication of the notice, or they shall be forever barred  
 4 and precluded any benefit in the estate.

5 (2) The notice shall state the mailing address of the personal  
 6 representative.

7 (3) If a will of the decedent has been probated, the notice  
 8 shall also state the date of admission of the will to probate and that a  
 9 contest of the order of probate can be effected only by filing a petition  
 10 within the time provided by law.

11 (4)(A) Within one (1) month after the first publication of the  
 12 notice, a copy of the notice shall also be served upon each heir and devisee  
 13 whose name and address are known and upon all unpaid creditors whose names,  
 14 status as creditors, and addresses are known to or reasonably ascertainable  
 15 by the personal representative, including the Department of Human Services if  
 16 it is known or could reasonably be ascertained that the department has  
 17 rendered services to the decedent, in accordance with ~~§ 28-1-112(b)(1), (2),~~  
 18 ~~or (3)~~ § 28-1-112 (b)(1), 28-1-112 (b)(2), or 28-1-112 (b)(3).

19 (B)(i) Notice to the department shall be served upon the  
 20 Office of Chief Counsel, Decedent's Estates, P.O. Box 1437, Little Rock, AR  
 21 72203.

22 (ii) A copy of the petition for probate of a will or  
 23 administration of an estate and the decedent's social security number shall  
 24 be attached to the notice served upon the department.

25 (C)(i) If, thereafter, the names and addresses of any such  
 26 creditors are ascertained, a copy of the notice shall be promptly served upon  
 27 them.

28 (ii) The burden of proof on any issue as to whether  
 29 a creditor was known to or reasonably ascertainable by the personal  
 30 representative shall be upon the creditor claiming entitlement to such actual  
 31 notice.

32 (b) When a will is to be probated without an administration of the  
 33 estate, the notice shall be published by the proponents of the will and shall  
 34 state the mailing address of each of the one (1) or more proponents and the  
 35 name and address of the attorney for the proponents.

36 (c) The notice shall be in substantially the following form:

1           “In the Probate Circuit Court of ..... County,  
2 Arkansas

3 In the Matter of the Estate of ....., Deceased. No.  
4 .....

5 Last known address  
6 .....

7 Date of death  
8 .....

9           (1) (To be used where no will.)

10 The undersigned was appointed administrator of the estate of the  
11 above decedent on the ..... day of ....., 20.....

12           (2) (To be used when a will is probated and a personal  
13 representative appointed.)

14           An instrument dated ..... was on the .....day of .....,  
15 20....., admitted to probate as the last will of the above named decedent  
16 and the undersigned has been appointed executor (or administrator)  
17 thereunder. Contest of the probate of the will can be effected only by  
18 filing a petition within the time provided by law.

19           (3) (To be used when a will is probated but no personal  
20 representative appointed.)

21           An instrument dated .....was on the .....day of .....,  
22 20....., admitted to probate as the last will of the above named decedent.  
23 Contest of the probate of the will can be effected only by filing within the  
24 time provided by law a petition for an order revoking or modifying the  
25 order admitting the will to probate, and delivering a copy of such petition  
26 to the undersigned proponent(s) or the undersigned attorney for the  
27 proponent(s) at his (their) address hereunder shown.

28           (4) (To be used in cases where a personal representative is  
29 appointed.)

30           All persons having claims against the estate must exhibit them, duly  
31 verified, to the undersigned within ~~three (3) months~~ six (6) months from the  
32 date of the first publication of this notice, or they shall be forever barred  
33 and precluded from any benefit in the estate. ~~However, claims for injury or~~  
34 ~~death caused by the negligence of the decedent shall be filed within six~~  
35 ~~(6) months from the date of first publication of the notice, or they shall~~  
36 ~~be forever barred and precluded from any benefit in the estate.~~

1 This notice first published ....., 20.....

2 .....

3 (Administrator, Executor, Proponent, or Petitioner)

4 .....

5 (Mail Address)\_"

6 (d)(1) Publication of the notice shall be as provided in § 28-1-  
7 112(b)(4) unless the value of the estate to be administered upon does not  
8 exceed one thousand dollars (\$1,000), exclusive of homestead, in which event  
9 publication may be given by posting notice in the courthouse at a conspicuous  
10 place near a principal entrance for a period of three (3) weeks.

11 (2) In addition, the court may by general rule, or by special  
12 order in a particular case, require that notice shall be given by ordinary  
13 mail to all persons whose names and addresses appear in the petition.

14  
15 SECTION 2. Arkansas Code § 28-50-101(c), concerning the limitations  
16 period after a decedent's death, is amended to read as follows:

17 (c) When Statute of Nonclaim Not Affected by Statute of Limitations.  
18 No claim shall be barred by the statute of limitations which was not barred  
19 thereby at the time of the decedent's death, if the claim shall be presented  
20 to the personal representative or filed with the court within ~~three (3)~~ six  
21 (6) months after the date of the first publication of notice to creditors.

22  
23 **APPROVED: 2/20/2009**

24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36