

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.

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

A Bill

SENATE BILL 329

4
5 By: Senator R. Thompson
6 By: Representative Carter

For An Act To Be Entitled

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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.

Subtitle

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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.

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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.

36 (B) ~~However, claims~~ Claims for injury or death caused by



1 the negligence of the decedent shall also be filed within six (6) months from
2 the date of first publication of the notice, or they shall be forever barred
3 and precluded any benefit in the estate.

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

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

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

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

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

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

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

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

35 (c) The notice shall be in substantially the following form:
36 “In the Probate Circuit Court of County,

1 Arkansas
 2 In the Matter of the Estate of , Deceased. No.
 3
 4 Last known address
 5
 6 Date of death
 7

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

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

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

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

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

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

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

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

36 This notice first published, 20.....

1
2 (Administrator, Executor, Proponent, or Petitioner)
3
4 (Mail Address)_"

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

10 (2) In addition, the court may by general rule, or by special
11 order in a particular case, require that notice shall be given by ordinary
12 mail to all persons whose names and addresses appear in the petition.
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14 SECTION 2. Arkansas Code § 28-50-101(c), concerning the limitations
15 period after a decedent's death, is amended to read as follows:

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