

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

PART 3

INFORMAL PROBATE AND APPOINTMENT PROCEEDINGS

700.3301 Informal probate or appointment proceedings; application; contents.

Sec. 3301. (1) An application for informal probate or informal appointment shall be made by an interested person and directed to the register. If an application is not filed within 28 days after the decedent's death, a person that has a right or cause of action that cannot be enforced without administration or appointment may file an application. An applicant shall swear that the application is accurate and complete to the best of the applicant's knowledge and belief as to all of the following information:

(a) In an application for informal probate of a will or for informal appointment of a personal representative, other than a special or successor representative, all of the following:

(i) A statement of the applicant's interest.

(ii) The decedent's name, date of death, and age; the decedent's county and state of domicile at the time of death; and the names and addresses of the spouse, children, devisees, and heirs with the ages of those who are minors so far as known or ascertainable with reasonable diligence by the applicant.

(iii) If the decedent was not domiciled in the state at the time of the decedent's death, a statement showing venue.

(iv) A statement identifying and indicating the address of a personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated.

(b) In an application for informal probate of a will, in addition to the statements and information required by subdivision (a), all of the following:

(i) That the original of the decedent's last will is in the court's possession or accompanies the application, or that an authenticated copy of a will probated in another jurisdiction accompanies the application.

(ii) That, to the best of the applicant's knowledge, the will was validly executed.

(iii) That, after the exercise of reasonable diligence, the applicant is unaware of an instrument revoking the will and that the applicant believes that the instrument that is the subject of the application is the decedent's last will.

(c) In an application for informal appointment of a personal representative to administer an estate under a will, all of the following:

(i) A description of the will by date of execution.

(ii) The time and place of probate or of the pending application for probate.

(iii) A statement adopting the statements in the application or petition for probate.

(iv) The name, address, and priority for appointment of the person whose appointment is sought.

(d) In an application for informal appointment of a personal representative in intestacy, in addition to the statements and information required by subdivision (a), all of the following:

(i) That, after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property located in this state under section 1301, or a statement why such an instrument of which the applicant is aware is not being probated.

(ii) The priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under section 3203.

(e) In an application for appointment of a personal representative to succeed a personal representative appointed under a different testacy status, all of the following:

(i) A reference to the order in the most recent testacy proceeding.

(ii) The name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the application is granted.

(iii) A description of the applicant's priority.

(f) In an application for appointment of a personal representative to succeed a personal representative who tenders a resignation as provided in section 3610 or whose appointment is terminated by death or removal, all of the following:

(i) A statement adopting the statements in the application or petition that led to the appointment of the person being succeeded, except as specifically changed or corrected.

(ii) The name and address of the person who seeks appointment as successor.

(iii) A description of the applicant's priority.

(2) By swearing to an application for informal probate or informal appointment, the applicant submits personally to the jurisdiction of the court in any proceeding for relief from fraud relating to the application or

for perjury that may be instituted against the applicant.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000.

Popular name: EPIC

700.3302 Informal probate; duty of register; effect of informal probate.

Sec. 3302. Upon receipt of an application requesting informal probate of a will and after making the findings required by section 3303, the register shall issue a written statement of informal probate. Informal probate is conclusive as to all persons until superseded by an order in a formal testacy proceeding. A defect in an application or procedure relating to the application that leads to informal probate of a will does not render the probate void.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.3303 Informal probate; proof and findings required.

Sec. 3303. (1) In an informal proceeding for original probate of a will, the register shall determine whether all of the following are true:

- (a) The application is complete.
- (b) The applicant has made oath or affirmation that the statements contained in the application are true to the best of the applicant's knowledge and belief.
- (c) The applicant appears from the application to be an interested person.
- (d) On the basis of the statements in the application, venue is proper.
- (e) An original, properly executed, and apparently unrevoked will is in the register's possession.
- (f) That the application is not within section 3304.

(2) The register shall deny the application if the application indicates that a personal representative has been appointed in another county of this state or, except as provided in subsection (4), if it appears that this or another will of the decedent has been the subject of a previous probate order.

(3) A will that appears to have the required signatures and that contains an attestation clause showing that requirements of execution under section 2502 or 2506 have been met shall be probated without further proof. In other cases, the register may assume execution if the will appears to have been properly executed, or the register may accept a sworn statement of a person having knowledge of the circumstances of execution, whether or not the person was a witness to the will.

(4) Informal probate of a will that was previously probated elsewhere may be granted at any time upon written application by an interested person, together with deposit of an authenticated copy of the will and of the statement probating it from the office or court where the will was first probated.

(5) A will from a place that does not provide for probate of a will after death and that is not eligible for probate under subsection (1) may be probated in this state upon receipt by the register of a properly authenticated copy of the will and a properly authenticated certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.3304 Informal probate; unavailable in certain cases.

Sec. 3304. The register shall deny an application for informal probate if the probate relates to 1 or more of a known series of testamentary instruments, not including a will and 1 or more codicils to that will, the latest of which instruments does not expressly revoke the earlier.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.3305 Informal probate; register not satisfied.

Sec. 3305. If the register is not satisfied that a will is entitled to be probated in informal proceedings because of failure to meet the requirements of section 3303 or 3304 or for another reason, the register may deny the application. A register's denial of informal probate is not an adjudication and does not preclude formal probate proceedings. If the application is denied, the register shall clearly state the reason for denial.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.3306 Informal probate; notice requirements.

Sec. 3306. (1) Within 28 days after an informal probate is granted, the applicant shall give written

information of the probate to the heirs, devisees, a person who demands it under section 3205, and other interested persons. The applicant also shall give information of the probate to the attorney general, public administration division, if the devisees under the will would not be entitled to share in the estate but for the terms of the will and the decedent died without leaving any known heirs.

(2) The information required by subsection (1) must include the applicant's name and address, the name and location of the court granting the informal probate, and the date of the probate. The information must be delivered or sent by ordinary mail to each person entitled to notice whose address is reasonably available to the applicant. There is no duty to give information as required by this section if a personal representative is appointed who is required to give the written information required by section 3705. An applicant's failure to give information as required by this section is a breach of the applicant's duty to a person entitled to notice, but does not affect the validity of the probate.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.3307 Informal appointment proceedings; delay in order; duty of register; effect of appointment.

Sec. 3307. (1) Upon receipt of an application for informal appointment of a personal representative, other than a special personal representative as provided in section 3614, and after making the determinations required by section 3308, the register shall appoint the person whose appointment is sought subject to qualification and acceptance. If the decedent was a nonresident, the register shall delay the order of appointment until 28 days after the death unless the personal representative appointed at the decedent's domicile is the applicant or unless the decedent's will directs that the estate be subject to the laws of this state.

(2) The personal representative's status and the powers and duties pertaining to the office are fully established by informal appointment. An appointment, and the office of personal representative created by the appointment, is subject to termination as provided in sections 3608 to 3612, but is not subject to retroactive vacation.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.3308 Informal appointment proceedings; proof and required findings.

Sec. 3308. (1) In informal appointment proceedings, the register shall determine whether all of the following are true:

- (a) The application for the personal representative's informal appointment is complete.
- (b) The applicant has made oath or affirmation that the statements contained in the application are true to the best of the applicant's knowledge and belief.
- (c) The applicant appears from the application to be an interested person.
- (d) On the basis of the statements in the application, venue is proper.
- (e) A will to which the requested appointment relates has been formally or informally probated. This subdivision does not apply to the appointment of a special personal representative.
- (f) From the statements in the application, the person whose appointment is sought has priority to the appointment or the requirements of section 3310 have been satisfied.

(2) Unless section 3612 controls, the register shall deny the application if it indicates any of the following:

- (a) That a personal representative who has not filed a written statement of resignation as provided in section 3610 has been appointed in this or another county of this state.
- (b) That, unless the applicant is the domiciliary personal representative or his or her nominee, the decedent was not domiciled in this state and that a personal representative whose appointment has not been terminated has been appointed by a court in the state of domicile.
- (c) That the other requirements of this section are not met.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.3309 Informal appointment proceedings; register not satisfied.

Sec. 3309. If the register is not satisfied that a requested informal appointment of a personal representative should be made because of failure to meet the requirements of section 3307 or 3308, or for another reason, the register may deny the application. A register's denial of informal appointment is not an adjudication and does not preclude appointment in formal proceedings. If the application is denied, the register shall clearly state the reason for denial.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.3310 Informal appointment proceedings; notice requirements.

Sec. 3310. The applicant shall give notice as described by section 1401 of the applicant's intention to seek an appointment informally to each person having a prior or equal right to an appointment not waived in writing and filed with the court.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC

700.3311 Informal appointment unavailable in certain cases.

Sec. 3311. If an application for informal appointment indicates the existence of a possible unrevoked testamentary instrument that may relate to property subject to the laws of this state and that is not filed for probate in this court, the register shall deny the application.

History: 1998, Act 386, Eff. Apr. 1, 2000.

Popular name: EPIC