

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Elwaine F. Pomeroy at
Chairperson

12:30 ~~am~~/p.m. on April 2, 1984 in room 529-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~ were: Senators Pomeroy, Winter, Gaar, Gaines, Hein,
Steineger and Werts.

Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Randy Hearrell, Kansas Judicial Council
Sam K. Bruner, Tenth Judicial District
Professor John Kuether, Kansas Judicial Council
John Brookens, Kansas Bar Association
Mark Bennett, American Insurance Association

House Bill 3012 - Informal administration of estates.

The chairman presented background information concerning the bill.

Randy Hearrell explained the Judicial Council Probate Advisory Committee studied the subject. The committee studied House Bill 3012 and House Bill 3013, and the bills were combined into one bill. A copy of his handout is attached (See Attachment No. 1).

Judge Sam Bruner stated he would address the first four pages up to line 150 of the bill. The type of cases the advisory committee believes would be impacted by this type of procedures are review of letters refusal. He stated this vehicle is intended to fill a void of a simplified and refusal of letters process. He explained the procedure that is in the language in the bill. The chairman inquired, any merit with regard to that portion of the bill that sets informal probate proceedings, to defer to January 1 to educate the judiciary and practitioners? Judge Bruner replied, might be advisable idea. A committee member inquired, why go with totally new procedure, rather than amend the simplified estates act? Judge Bruner replied, this is not replacing the simplified estates act, but is in addition thereto.

Professor John Kuether presented proposed amendments and explained them to the committee. A copy of the proposed amendments is attached (See Attachment No. 2).

John Brookens testified the bar association does support this bill. Committee discussion with him followed.

Mark Bennett testified he wanted to pass along to the committee a problem that might come up. In the absence of consent of all of the heirs, there could be a substantial possibility of inability to get a bond. There should be some limit of thirty or forty thousand dollars to real estate beneficiaries in advance. Judge Bruner was recognized and stated the bond would be no problem.

The meeting adjourned.

4-2-84

529-5

GUESTS

SENATE JUDICIARY COMMITTEE

NAME

ADDRESS

ORGANIZATION

Sam K. Brader Olathe Kansas Tenth Judicial Dist.

Wm. Embury Topeka Kansas Bar Assn

R. Deaneall Topeka Judicial Comm

Ann Hebbiger Overland Park L. W. V. K.

Mayone J. VanBuren Topeka OJA

Jim Glorvick " KC DAA

Mark Bennett Topeka ASA

John F. Kuntz Topeka Just. Council

Miss Weber Granger Pa. Steingel

Joe Fagan Topeka KASB

4-2-84
1:30

Attach. #,

M E M O R A N D U M

June 22, 1983

To: Probate Law Advisory Committee
From: Randy M. Hearrell
Re: Time for Filing Claims

The following is the time for filing creditors claims:

- Alabama 6 months after appointment of P. R.
- Alaska 4 months after publication, or within 3 years after death if no notice published.
- Arizona 4 months after publication, or within 3 years after death if no notice published.
- Arkansas 2 months after appointment of P.R.
- California 4 months after appointment of P.R., (one year for out-of-state claimants who did not receive notice).
- Colorado 4 months after publication, or within 1 year after death if notice not published.
- Delaware 6 months after appointment of P.R. Claims arising after death due 6 months after they arise.
- District of Columbia 6 months after publication of appointment of P.R.
- Florida 3 months after publication. Claims not rejected within 4 months are automatically accepted.
- Georgia 3 months after last newspaper publication date.
- Hawaii 4 months after publication.
- Idaho 4 months after publication.
- Illinois 6 months after appointment of P.R.
- Indiana 5 months after first publication.
- Iowa 6 months after second publication.
- Kansas 6 months after publication.

Heb. 1

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Kentucky 1 year after appointment of P.R. or 3 years after death if no P.R. appointed.

Louisiana Presented to P.R. before or at the final hearing to settle estate.

Maine 4 months after publication.

Maryland 6 months after appointment.

Massachusetts 4 months after appointment of P.R. All claims considered valid unless P.R. disclaims by notice within 4 months and 60 days after appointment of P.R.

Michigan 18 months after claims hearing date if estate is open. Claims barred if estate is closed.

Minnesota 4 months after publication or within 3 years if no notice published.

Mississippi 90 days after notice.

Missouri 6 months after publication.

Montana 4 months after publication.

Nebraska 2 months after publication.

Nevada 90 days after publication (60 days if under \$60,000).

New Hampshire Must be presented "promptly".

New Jersey Within 6 months of court order of notice to creditors.

New Mexico 2 months of publication or within 3 years if no notice published. All claims not rejected by P.R. within 60 days of filing deadline are automatically accepted.

New York 7 months after appointment of P.R., but accepted until estate closed.

No. Carolina Due within time estate is open (min. of 6 mo.)

No. Dakota 3 months from publication.

Ohio 3 months after appointment of P.R. Without newspaper publication, claims are valid 21 years (4 years for real estate claims).

Oklahoma 2 months after first publication or posting of notice.

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Oregon Generally filed within 4 months after first newspaper publication. Must be filed within 1 year after final account is filed. P.R. must reject claims within 60 days of claims period or claims are accepted.

Pennsylvania Must be presented "promptly".

Puerto Rico 6 months after publication.

Rhode Island 6 months of publication P. R. must disallow claims within 30 days after claims filing period.

S. Carolina 5 months after publication.

S. Dakota 2 months after publication.

Tennessee 6 months after publication.

Texas 6 months after appointment of P. R.

Utah 3 months of notice or within 3 years after death if no notice published.

Vermont 4 months after publication.

Virgin Island 6 months after publication

Virginia Due by date of hearing on claims, set by the Commissioner of Accounts. Usually P.R. requests date for hearing on claims.

Washington 4 months after publication.

W. Virginia 4 - 6 months after publication.

Wisconsin Due before hearing on claims, which is set by court order (usually 3 months).

Wyoming 3 months after newspaper publication.

Attach. #2

p. 2 line 54

Add

_____ and the expenses of informal administration."

p. 2 line 82

Add

A proceeding pursuant to the Kansas informal administration act is not a petition for the probate of the decedent's will or for the administration of the decedent's estate for the purpose of determining the time in which demands may be filed against the decedent's estate pursuant to K.S.A. 59-2239.

p. 14

Following line 547:
lines 518-525

Add

(3) The filing of a petition under the Kansas Informal Administration act shall not be considered a petition for probate of the decedent's will or for administration of the decedent's estate for the purposes of this section, and shall not extend the term by which any claim must be filed.

Atch. 2