

CHAPTER 52

SENATE BILL No. 40

AN ACT concerning the probate code; relating to notice to surviving spouse; amending K.S.A. 59-2233 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 59-2233 is hereby amended to read as follows: 59-2233. (a) Upon the appointment and qualification of any administrator or executor, the filing of a petition for an order refusing to grant letters of administration or the filing of an affidavit pursuant to K.S.A. 59-618a, and amendments thereto, the ~~court~~ *administrator, executor, petitioner or affiant* shall forthwith ~~cause mail~~ a copy of the will, if any, together with a notice statement ~~to be mailed~~ to the surviving spouse stating: "Under K.S.A. 59-6a201 through 59-6a217, and amendments thereto, you may have a right to take a share of property owned by the decedent at death, in whole or in part, and of transfers of property made by the decedent prior to death." Such notice shall be mailed within 10 days of the qualification of the administrator or executor, the filing of a petition for an order refusing to grant letters of administration or the filing of an affidavit pursuant to K.S.A. 59-618a, and amendments thereto. Proof shall be by affidavit filed with the court.

(b) *The mailing requirement of subsection (a) may be waived if:*

(1) *The surviving spouse is the petitioner or affiant; and*

(2) *a statement that the surviving spouse is aware that under K.S.A. 59-6a201 through 59-6a217, and amendments thereto, the surviving spouse may have a right to take a share of property owned by the decedent at death, in whole or in part, and of transfers of property made by the decedent prior to death is:*

(A) *Included in the petition for letters of administration, the petition for probate of a will, the petition for an order refusing to grant letters of administration or the affidavit pursuant to K.S.A. 59-618a, and amendments thereto; or*

(B) *included in an affidavit filed in the matter within 10 days after issuance of letters of administration, issuance of letters of testamentary, issuance of an order refusing to grant letters of administration or the filing of an affidavit pursuant to K.S.A. 59-618a, and amendments thereto.*

Sec. 2. K.S.A. 59-2233 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 29, 2006.

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