



March 26, 1999

ENGROSSED HOUSE BILL No. 1144

DIGEST OF HB 1144 (Updated March 24, 1999 10:03 pm - DI 51)

Citations Affected: IC 29-1-7.

Synopsis: Personal representative in intestate estate. Provides that unless each competent adult heir of the decedent agree to waive the limitation, a court may not appoint the decedent's spouse to be the administrator of the decedent's estate if: (1) an interested person petitions for the appointment of an administrator for the estate of a person dying intestate; and (2) a petition to dissolve the marriage of the decedent and the decedent's spouse is pending in an Indiana court or the court of another state.

Effective: July 1, 1999.

Gregg, Frenz, Foley
(SENATE SPONSOR — BRAY)

January 6, 1999, read first time and referred to Committee on Judiciary.
January 13, 1999, reported — Do Pass.
January 19, 1999, read second time, ordered engrossed. Engrossed.
January 20, 1999, read third time, passed. Yeas 86, nays 13.

SENATE ACTION

February 22, 1999, read first time and referred to Committee on Judiciary.
March 25, 1999, amended, reported favorably — Do Pass.

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EH 1144—LS 6954/DI 92+



March 26, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1144

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 29-1-7-4 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Any interested person or a
3 personal representative named in the will may petition the court having
4 jurisdiction of the administration of the decedent's estate:
5 (a) (1) to have the will of such decedent, whether the same is
6 written or is unwritten, is in his possession or not, is lost,
7 destroyed, or without the state, probated;
8 (b) (2) for the issuance of letters testamentary to the executor
9 named in said will for the administration of said estate;
10 (c) (3) for the appointment of an administrator with the will
11 annexed if no executor is designated in said will or if the person
12 so designated is not qualified, dead, or refuses to serve; **or**
13 (d) (4) for the appointment of an administrator for the estate of
14 any person dying intestate.
15 (b) A petition for probate may be combined with a petition for the
16 issuance of letters testamentary, or as administrator with the will

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1 annexed, and a person interested in the probate of a will and in the
2 administration of the estate may petition for both.

3 (c) No notice that a will is to be offered for probate or that it has
4 been probated shall be required.

5 (d) No notice of the filing of, and hearing on, the petition described
6 in this section shall be given to or served upon any person. If the
7 petition described herein is filed in term time, it shall be heard
8 forthwith by the court, and if filed in vacation, it shall be heard by the
9 judge of said court if present, or in his absence by the clerk of the said
10 court.

11 (e) If:

- 12 (1) an interested person petitions for the appointment of an
13 administrator for the estate of a person dying intestate; and
14 (2) a petition to dissolve the marriage of the decedent and the
15 decedent's spouse is pending in an Indiana court or the court
16 of another state;

17 the court may not appoint the decedent's spouse to be the
18 administrator of the decedent's estate.

19 (f) Subsection (e) does not apply to a petition for appointment
20 of an administrator for the estate of a person dying intestate if the
21 application of subsection (e) is waived in an agreement signed by
22 each person, except a person who is incapacitated or a minor, who
23 is eligible for a distribution from the decedent's net estate under
24 IC 29-1-2-1. A waiver may be submitted to the court at any time
25 before the appointment of an administrator.

26 SECTION 2. IC 29-1-7-5 IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 1999]: Sec. 5. A petition for the probate of a
28 will and for the issuance of letters testamentary or for the appointment
29 of an administrator with the will annexed, or for the appointment of an
30 administrator, shall state:

- 31 (1) the name, age, domicile, and date of the death of the decedent;
32 (2) the name, age, and place of residence of each heir, in the event
33 the decedent left no will; and the name, age, and place of
34 residence of each legatee and devisee, in the event the decedent
35 left a will, so far as such are known or can with reasonable
36 diligence be ascertained by the personal representative;
37 (3) whether the person named in **subdivision** (1) died testate or
38 intestate;
39 (4) if the decedent was not domiciled in the state at the time of his
40 death, a description of the property to be administered which is
41 within the county in which the petition is filed;
42 (5) if the will sought to be probated is unwritten, lost, or was

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1 improperly destroyed or suppressed, a detailed statement of the
2 provisions of said will so far as known;
3 (6) the name and place of residence or business address of the
4 person, if any, designated as executor of the will;
5 (7) if the petition be for the appointment of an administrator with
6 the will annexed, or of an administrator, the name and place of
7 residence or business address of the person to be so appointed,
8 together with a statement of his relationship to the decedent, and
9 such other facts, if any, which entitle such person to be so
10 appointed;
11 (8) the name and business address of the attorney who is to
12 represent the personal representative; **and**
13 **(9) if the person named in subdivision (1) died intestate,**
14 **whether a petition to dissolve the marriage of the decedent**
15 **and the decedent's spouse is pending in an Indiana court or**
16 **the court of another state.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1144, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

VILLALPANDO, Chair

Committee Vote: yeas 10, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that Representative Foley be added as coauthor of House Bill 1144.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill No. 1144, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 16, delete "or a parent of the".

Page 2, line 17, delete "decedent".

Page 2, line 21, delete "the decedent's spouse and a parent of the decedent." and insert "**each person, except a person who is incapacitated or a minor, who is eligible for a distribution from the decedent's net estate under IC 29-1-2-1.**".

and when so amended that said bill do pass.

(Reference is to HB 1144 as printed January 14, 1999.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 0.

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