

# HOUSE BILL No. 1144

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 29-1-7.

**Synopsis:** Personal representative in intestate estate. Provides that unless the spouse and a parent of the decedent agree to waive the limitation, a court may not appoint the decedent's spouse or a parent of the decedent 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.

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January 6, 1999, read first time and referred to Committee on Judiciary.

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Introduced

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.

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## 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  
17 annexed, and a person interested in the probate of a will and in the



1 administration of the estate may petition for both.

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

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

10 (e) **If:**

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

16 **the court may not appoint the decedent's spouse or a parent of the**  
17 **decedent to be the administrator of the decedent's estate.**

18 (f) **Subsection (e) does not apply to a petition for appointment**  
19 **of an administrator for the estate of a person dying intestate if the**  
20 **application of subsection (e) is waived in an agreement signed by**  
21 **the decedent's spouse and a parent of the decedent. A waiver may**  
22 **be submitted to the court at any time before the appointment of an**  
23 **administrator.**

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

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



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

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