
SENATE BILL No. 113

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-1; IC 29-3; IC 30-1-5-1.

Synopsis: Various probate and trust matters. Increases the surviving spouse allowance and makes other changes with regard to the surviving spouse allowance. Specifies that: (1) an order binding the guardian of an estate binds the protected person if there is no conflict of interest between them; and (2) an order binding a guardian of the person binds the ward if a guardian of the ward's estate has not been appointed. Removes ambiguous language. Increases the amount of property or debt owed to a minor that may be delivered to a person having the care and custody of the minor without a bond, the appointment of a guardian, or a court order. Expands the ability of a trustee to invest in life insurance contracts. Eliminates the actual notice and the hearing requirements in a supervised estate when all persons entitled to share in the final distribution of the estate waive notice and consent to the final account and distribution. Changes various notice requirements. Changes various probate deadlines and periods. (The introduced version of this bill was prepared by the probate code study commission.)

Effective: July 1, 2000.

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January 20, 2000, read first time and referred to Committee on Judiciary.

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Introduced

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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SENATE BILL No. 113



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 29-1-4-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2000]: Sec. 1. The surviving spouse of a
3 decedent who was domiciled in Indiana at his death is entitled from the
4 estate to an allowance of ~~fifteen~~ **twenty-five** thousand dollars
5 ~~(\$15,000)~~. **(\$25,000)**. The allowance may be claimed against the
6 personal property of the estate or a residence ~~of the surviving spouse;~~
7 **that is a part of the decedent's estate**, or a combination of both. If
8 there is no surviving spouse, the decedent's children who are under
9 eighteen (18) years of age at the time of the decedent's death are
10 entitled to the same allowance to be divided equally among them. If
11 ~~there is the personal property and a residence that is a part of the~~
12 **decedent's estate are** less than ~~fifteen~~ **twenty-five** thousand dollars
13 ~~(\$15,000)~~ **(\$25,000)** in ~~personal property in the estate and residence of~~
14 ~~the surviving spouse; value~~, the spouse or decedent's children who are
15 under eighteen (18) years of age at the time of the decedent's death, as
16 the case may be, are entitled to any real estate of the estate to the extent
17 necessary to make up the difference between the value of the personal



1 property plus the residence of ~~the surviving spouse~~ **that is a part of the**
 2 **decedent's estate** and ~~fifteen~~ **twenty-five** thousand dollars (~~\$15,000~~):
 3 **(\$25,000)**. The amount of that difference is a lien on the remaining real
 4 estate. An allowance under this section is not chargeable against the
 5 distributive shares of either the surviving spouse or the children.

6 SECTION 2. IC 29-1-7-7 IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) As soon as letters
 8 testamentary or of administration, general or special, supervised or
 9 unsupervised, have been issued, the clerk of the court shall publish
 10 notice of the estate administration.

11 (b) The notice required under subsection (a) shall be published in
 12 a newspaper of general circulation, printed in the English language and
 13 published in the county where the court is located, once each week for
 14 two (2) consecutive weeks. A copy of the notice, with proof of
 15 publication, shall be filed with the clerk of the court as a part of the
 16 administration of the estate within thirty (30) days after the publication.
 17 If no newspaper is published in the county, the notice shall be
 18 published in a newspaper published in an adjacent county.

19 (c) The notice required under subsection (a) shall be served by mail
 20 on each heir, devisee, legatee, and known creditor whose name and
 21 address is set forth in the petition for probate or letters. The personal
 22 representative shall furnish sufficient copies of the notice, prepared for
 23 mailing, and the clerk of the court shall mail the notice upon the
 24 issuance of letters.

25 (d) The personal representative or the personal representative's
 26 agent shall serve notice on each creditor of the decedent:

27 (1) whose name is not set forth in the petition for probate or
 28 letters under subsection (c);

29 (2) who is known or reasonably ascertainable within ~~three (3)~~
 30 **months one (1) month** after the first publication of notice under
 31 subsection (a); and

32 (3) whose claim has not been paid or settled by the personal
 33 representative.

34 The notice may be served by mail or any other means reasonably
 35 calculated to ensure actual receipt of the notice by a creditor.

36 (e) Notice under subsection (d) shall be served within ~~three (3)~~
 37 **months one (1) month** after the first publication of notice under
 38 subsection (a) or as soon as possible after the elapse of ~~three (3)~~
 39 **months: one (1) month**. If the personal representative or the personal
 40 representative's agent fails to give notice to a known or reasonably
 41 ascertainable creditor of the decedent under subsection (d) within ~~three~~
 42 **(3) months one (1) month** after the first publication of notice under

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1 subsection (a), the period during which the creditor may submit a claim
 2 against the estate includes ~~the period specified under IC 29-1-14-1 and~~
 3 an additional period ending two (2) months after the date notice is
 4 given to the creditor under subsection (d). However, a claim filed under
 5 IC 29-1-14-1(a) more than ~~one (1) year~~ **nine (9) months** after the death
 6 of the decedent is barred.

7 (f) A schedule of creditors that received notice under subsection (d)
 8 shall be delivered to the clerk of the court as soon as possible after
 9 notice is given.

10 (g) The giving of notice to a creditor or the listing of a creditor on
 11 the schedule delivered to the clerk of the court does not constitute an
 12 admission by the personal representative that the creditor has an
 13 allowable claim against the estate.

14 (h) If any person entitled to receive notice under this section is
 15 under a legal disability, the notice may be served upon or waived by the
 16 person's natural or legal guardian or by the person who has care and
 17 custody of the person.

18 (i) The notice shall read substantially as follows:

19 NOTICE OF ADMINISTRATION

20 In the _____ Court of _____ County, Indiana.

21 Notice is hereby given that _____ was, on the ____ day of
 22 _____, 19 __, appointed personal representative of the estate of
 23 _____, deceased, who died on the ____ day of _____, 19 __.

24 All persons who have claims against this estate, whether or not now
 25 due, must file the claim in the office of the clerk of this court within
 26 ~~five (5) months~~ **three (3) months** from the date of the first publication of this
 27 notice, or within ~~one (1) year~~ **nine (9) months** after the decedent's
 28 death, whichever is earlier, or the claims will be forever barred.

29 Dated at _____, Indiana, this ____ day of _____, 19 __.

30 _____
 31 CLERK OF THE _____ COURT
 32 FOR _____ COUNTY, INDIANA

33 SECTION 3. IC 29-1-7-7.5 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7.5. (a) A personal
 35 representative shall exercise reasonable diligence to discover the
 36 reasonably ascertainable creditors of the decedent within ~~three (3)~~
 37 **months one (1) month** of the first publication of notice under section
 38 7 of this chapter.

39 (b) A personal representative is considered to have exercised
 40 reasonable diligence under subsection (a) if the personal
 41 representative:

42 (1) conducts a review of the decedent's financial records that are



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1 reasonably available to the personal representative; and
 2 (2) makes reasonable inquiries of the persons who are likely to
 3 have knowledge of the decedent's debts and are known to the
 4 personal representative.

5 (c) A personal representative may file an affidavit with the clerk of
 6 the court stating that the personal representative has complied with the
 7 requirements of subsection (b). In addition, a personal representative
 8 may petition the court for an order declaring that:

9 (1) the personal representative has complied with the
 10 requirements of subsection (b); and

11 (2) any creditors not known to the personal representative after
 12 complying with the requirements of subsection (b) are not
 13 reasonably ascertainable.

14 (d) If a personal representative complies with the requirements of
 15 subsection (b), the personal representative is presumed to have
 16 exercised reasonable diligence to ascertain creditors of the decedent
 17 and creditors not discovered are presumed not reasonably
 18 ascertainable. The presumptions may be rebutted only by clear and
 19 convincing evidence.

20 SECTION 4. IC 29-1-7-17 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17. Any interested
 22 person may contest the validity of any will in the court having
 23 jurisdiction over the probate of the will within ~~five (5)~~ **three (3)**
 24 months after the date of the order admitting the will to probate by filing
 25 in the court the person's allegations in writing verified by affidavit,
 26 setting forth:

27 (1) the unsoundness of mind of the testator;

28 (2) the undue execution of the will;

29 (3) that the will was executed under duress or was obtained by
 30 fraud; or

31 (4) any other valid objection to the will's validity or the probate of
 32 the will.

33 The executor and all other persons beneficially interested in the will
 34 shall be made defendants to the action.

35 SECTION 5. IC 29-1-7.5-4 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) Unless prohibited
 37 by order of the court and except for estates being administered in
 38 supervised administration proceedings, a personal representative may
 39 close an estate by filing with the court no earlier than ~~five (5)~~ **three (3)**
 40 months after the date of ~~original appointment of a general personal~~
 41 ~~representative for the estate; the first published notice to creditors~~
 42 **under IC 29-1-7-7(b)**, a verified statement stating that the personal



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1 representative, or a prior personal representative, has done the
2 following:

3 (1) Published notice to creditors as provided in IC 29-1-7-7(b),
4 and that the first publication occurred more than ~~five (5)~~ **three (3)**
5 months prior to the date of the statement.

6 (2) Provided notice to creditors as required under IC 29-1-7-7(c)
7 and IC 29-1-7-7(d).

8 (3) Fully administered the estate of the decedent by making
9 payment, settlement, or other disposition of all claims which were
10 presented, expenses of administration and estate, inheritance, and
11 other death taxes, except as specified in the statement. If any
12 claims remain undischarged, the statement shall:

13 (A) state whether the personal representative has distributed
14 the estate, subject to possible liability, with the agreement of
15 the distributees; or

16 (B) detail other arrangements which have been made to
17 accommodate outstanding liabilities.

18 (4) Executed and recorded a personal representative's deed for
19 any real estate owned by the decedent.

20 (5) Distributed all the assets of the estate to the persons entitled
21 to receive the assets.

22 (6) Sent a copy of the statement to all distributees of the estate
23 and to all creditors or other claimants of whom the personal
24 representative has actual knowledge whose claims are neither
25 paid nor barred and has furnished a full account in writing of the
26 personal representative's administration to the distributees whose
27 interests are affected.

28 (7) Provided the court with the names and addresses of all
29 distributees, creditors, and claimants to whom the personal
30 representative has sent a copy of the statement under subdivision
31 (6).

32 (b) If no proceedings involving the personal representative are
33 pending in the court three (3) months after the closing statement is
34 filed, the appointment of the personal representative terminates and the
35 estate is closed by operation of law.

36 SECTION 6. IC 29-1-14-1 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) Except as
38 provided in IC 29-1-7-7, all claims against a decedent's estate, other
39 than expenses of administration and claims of the United States, the
40 state, or a subdivision of the state, whether due or to become due,
41 absolute or contingent, liquidated or unliquidated, founded on contract
42 or otherwise, shall be forever barred against the estate, the personal



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1 representative, the heirs, devisees, and legatees of the decedent, unless
 2 filed with the court in which such estate is being administered within:

3 (1) ~~five (5)~~ **three (3)** months after the date of the first published
 4 notice to creditors; or

5 (2) three (3) months after the court has revoked probate of a will,
 6 in accordance with IC 29-1-7-21, if the claimant was named as a
 7 beneficiary in that revoked will;

8 whichever is later.

9 (b) No claim shall be allowed which was barred by any statute of
 10 limitations at the time of decedent's death.

11 (c) No claim shall be barred by the statute of limitations which was
 12 not barred at the time of the decedent's death, if the claim shall be filed
 13 within:

14 (1) ~~five (5)~~ **three (3)** months after the date of the first published
 15 notice to creditors; or

16 (2) three (3) months after the court has revoked probate of a will,
 17 in accordance with IC 29-1-7-21, if the claimant was named as a
 18 beneficiary in that revoked will;

19 whichever is later.

20 (d) All claims barrable under subsection (a) shall be barred if not
 21 filed within ~~one (1) year~~ **nine (9) months** after the death of the
 22 decedent.

23 (e) Nothing in this section shall affect or prevent any action or
 24 proceeding to enforce any mortgage, pledge, or other lien upon
 25 property of the estate.

26 (f) Nothing in this section shall affect or prevent the enforcement of
 27 a claim for injury to person or damage to property arising out of
 28 negligence against the estate of a deceased tortfeasor within the period
 29 of the statute of limitations provided for the tort action. A tort claim
 30 against the estate of the tortfeasor may be opened or reopened and suit
 31 filed against the special representative of the estate within the period
 32 of the statute of limitations of the tort. Any recovery against the tort
 33 feisor's estate shall not affect any interest in the assets of the estate
 34 unless the suit was filed within the time allowed for filing claims
 35 against the estate. The rules of pleading and procedure in such cases
 36 shall be the same as apply in ordinary civil actions.

37 SECTION 7. IC 29-1-14-2 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. No action shall be
 39 brought by complaint and summons against the personal representative
 40 of an estate for the recovery of any claim against the decedent or the
 41 decedent's estate, except in the enforcement of claims for injury to
 42 person or damage to property arising out of negligence as provided in



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1 section 1 of this chapter, but the holder thereof, whether such claim be
 2 due or not, shall file a succinct definite statement thereof in the office
 3 of the clerk of the court in which the letters were issued. The clerk shall
 4 send by United States mail or by personal service an exact copy of such
 5 statement to the personal representative of the estate. Any claims of the
 6 personal representative against the decedent shall be made out and
 7 filed in the office of the clerk of the court in which the letters were
 8 issued. If any claim against the decedent is founded upon any written
 9 instrument, alleged to have been executed by the decedent, the original
 10 or a complete copy thereof, shall be filed with the statement, unless it
 11 is lost or destroyed, in which case its loss or destruction must be stated
 12 in the claim. The statement shall set forth all credits and deductions to
 13 which the estate is entitled and shall be accompanied by the affidavit
 14 of the claimant or the claimant's agent or attorney, that the claim, after
 15 deducting all credits, set-offs, and deductions to which the estate is
 16 entitled, is justly due and wholly unpaid, or if not yet due, when it will
 17 or may become due, and no claim shall be received unless
 18 accompanied by such affidavit. If the claim is secured by a lien on any
 19 real or personal property, such lien shall be particularly set forth in
 20 such statement, and a reference given to where the lien, if of record,
 21 will be found. If the claim is contingent, the nature of the contingency
 22 shall also be stated. No statement of claim need be filed as provided in
 23 this section as to those claims which are paid by the personal
 24 representative within ~~five (5)~~ **three (3)** months after the date of the first
 25 published notice to creditors or the period allowed under IC 29-1-7-7.
 26 However, in instances where a cause of action was properly filed and
 27 commenced against a decedent prior to the decedent's death, the same
 28 shall be continued against the personal representative or successors in
 29 interest of the deceased, who shall be substituted as the party or parties
 30 defendant in such action, and in such instance it shall not be necessary
 31 for the claimant to file a claim as herein provided. In any action thus
 32 continued the recovery, if any, shall be limited as otherwise provided
 33 by law.

34 SECTION 8. IC 29-1-14-8 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. If a contingent claim
 36 shall have been filed and allowed against an estate, and all the assets
 37 of the estate including the fund, if any, set apart for the payment
 38 thereof, shall have been distributed, and the claim shall thereafter
 39 become absolute, the creditor shall have the right to recover thereon in
 40 the court having probate jurisdiction against those distributees whose
 41 distributive shares have been increased by reason of the fact that the
 42 amount of said claim as finally determined was not paid out prior to



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1 final distribution, provided an action therefor shall be commenced
 2 within ~~five (5)~~ **three (3)** months after the claim becomes absolute. Such
 3 distributees shall be jointly and severally liable, but no distributee shall
 4 be liable for an amount exceeding the amount of the estate or fund so
 5 distributed to him. If more than one (1) distributee is liable to the
 6 creditor, ~~he the distributee~~ shall make all distributees who can be
 7 reached by process parties to the action. By its judgment the court shall
 8 determine the amount of the liability of each of the defendants as
 9 between themselves, but if any be insolvent or unable to pay his
 10 proportion, or beyond the reach of process, the others, to the extent of
 11 their respective liabilities, shall nevertheless be liable to the creditor for
 12 the whole ~~among~~ **amount** of ~~his the~~ debt. If any person liable for the
 13 debt fails to pay ~~his the~~ just proportion to the creditor, ~~he the person~~
 14 shall be liable to indemnify all who, by reason of such failure on ~~his the~~
 15 **persons's** part, have paid more than their just proportion of the debt,
 16 the indemnity to be recovered in the same action or in separate actions.

17 SECTION 9. IC 29-1-14-10 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) On or before
 19 ~~five (5)~~ **three (3)** months and fifteen (15) days after the date of the first
 20 published notice to creditors, the personal representative shall allow or
 21 disallow each claim filed within ~~five (5)~~ **three (3)** months after the date
 22 of the first published notice to creditors by making appropriate
 23 notations on the margin of the claim and allowance docket showing the
 24 action taken as to the claim. If a personal representative determines that
 25 the personal representative should not allow a claim in full, the claim
 26 shall be noted "disallowed". The clerk of the court shall give written
 27 notice to a creditor if a claim has been disallowed in full or in part. All
 28 claims that are disallowed, or are neither allowed nor disallowed within
 29 ~~five (5)~~ **three (3)** months and fifteen (15) days, shall be set for trial in
 30 the probate court upon the petition of either party to the claim. The
 31 personal representative shall make an appropriate notation of any
 32 compromise or adjustment on the margin of the claim and allowance
 33 docket. If the personal representative, after allowing a claim and before
 34 paying it, determines that the claim should not have been allowed, the
 35 personal representative shall change the notation on the claim and
 36 allowance docket from "allowed" to "disallowed" and give written
 37 notice to the creditor. If a claim has been paid in full or in part, the
 38 creditor shall:

- 39 (1) release the claim to the extent that the claim has been paid;
 40 and
 41 (2) give written notice to the clerk of the court of the release.
 42 (b) Claims for expenses of administration may be allowed upon



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1 application of the claimant or of the personal representative, or may be
 2 allowed at any accounting, regardless of whether or not they have been
 3 paid by the personal representative.

4 SECTION 10. IC 29-1-14-16 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. Unless an earlier
 6 date is authorized by the judge of the court having jurisdiction of the
 7 decedent's estate no proceedings shall be instituted before the end of
 8 ~~five (5)~~ **three (3)** months from the death of the decedent to enforce the
 9 lien of any judgment rendered against the decedent in his lifetime upon
 10 real estate or to enforce any decree specifically directing the sale of
 11 such real estate to discharge any lien or liability created or suffered by
 12 the decedent, nor shall any suit be brought before that time against the
 13 heirs or devisees of the deceased to foreclose any mortgage or other
 14 lien thereon; and in case of suit to foreclose any mortgage or other lien
 15 thereon, the personal representative shall be made a party defendant
 16 thereto; and if the personal representative shall be diligently
 17 prosecuting his proceedings to sell the real estate of the deceased for
 18 the purpose of making assets to discharge such liens, further
 19 proceedings for the sale thereof by the holders of liens thereon shall be
 20 stayed, upon the application of the personal representative. This section
 21 does not apply to cases where, before the end of the ~~five (5)~~ **three (3)**
 22 months, the real estate shall have been sold by the personal
 23 representative subject to liens thereon, nor to mortgages and judgments
 24 in favor of the state.

25 SECTION 11. IC 29-1-14-18 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 18. The personal
 27 representative may, if it appears for the best interests of the estate,
 28 compromise any claim against the estate, whether due or not due,
 29 absolute or contingent, liquidated or unliquidated, but if such claim is
 30 not filed such compromise must be consummated within ~~five (5)~~ **three**
 31 **(3)** months after the date of the first published notice to creditors. In the
 32 absence of prior authorization or subsequent approval by the court, no
 33 compromise shall bind the estate.

34 SECTION 12. IC 29-1-14-19 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 19. (a) The personal
 36 representative at any time shall pay the claims as the court shall order
 37 if the claims are filed within ~~five (5)~~ **three (3)** months after the date of
 38 the first published notice to creditors or the period allowed under
 39 IC 29-1-7-7, if applicable, and the court may require bond or security
 40 to be given by the creditor to refund such part of such payment as may
 41 be necessary to make payment in accordance with this title.

42 (b) Prior to the expiration of ~~five (5)~~ **three (3)** months after the date



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1 of the first published notice to creditors or the period allowed under
 2 IC 29-1-7-7, the personal representative, if the estate clearly is solvent,
 3 may pay any claims that the personal representative believes are just
 4 and correct, whether or not the claims have been filed. The personal
 5 representative may require bond or security to be given by the creditor
 6 to refund any part of the payment as the court may subsequently order.
 7 The personal representative, following all such payments, shall include
 8 them in the personal representative's next account and they shall be
 9 considered proper payments under this title if they are approved by the
 10 court as a part of the account.

11 (c) Upon the expiration of ~~five (5)~~ **three (3)** months after the date
 12 of the first published notice to creditors or the period allowed under
 13 IC 29-1-7-7 and the final adjudication of all claims filed against the
 14 estate, the personal representative shall proceed to pay the claims that
 15 have been allowed against the estate in accordance with this title that
 16 the personal representative has not paid.

17 (d) If it appears at any time that the estate is or may be insolvent,
 18 that there are insufficient funds on hand, or that there is other good or
 19 sufficient cause, the personal representative may report that fact to the
 20 court and apply for any necessary order.

21 SECTION 13. IC 29-1-14-21 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 21. When any person
 23 claims any interest in any property in the possession of the personal
 24 representative adverse to the estate, ~~he~~ **the person** may file, prior to the
 25 expiration of ~~five (5)~~ **three (3)** months after the date of the first
 26 published notice to creditors, a petition with the court having
 27 jurisdiction of the estate setting out the facts concerning such interest,
 28 and thereupon the court shall cause such notice to be given to such
 29 parties as it deems proper, and the case shall be set for trial and tried
 30 as in ordinary civil actions.

31 SECTION 14. IC 29-1-16-6 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. Upon the filing of
 33 any account in a decedent's estate, hearing and notice thereof shall be
 34 had as follows:

35 (a) If the account is for final settlement the court or clerk shall set
 36 a date by which all objections to such final account and petition for
 37 distribution must be filed in writing and the clerk shall give notice to
 38 all persons entitled to share in the final distribution of said estate that
 39 a final report has been filed and will be acted upon by the court on the
 40 date set unless written objections are presented to the court on or
 41 before that date. ~~Notice shall further be given by one (1) publication in~~
 42 ~~some newspaper of general circulation, published in the county in~~



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1 which the administration is pending. The deadline for filing such
 2 objections shall be at least fourteen (14) days prior to the date set for
 3 hearing and the notice shall state that any objections to such final
 4 account and petition for distribution must be filed in writing before
 5 such date. The personal representative shall at the time said account is
 6 filed furnish to the clerk the names and addresses of all persons entitled
 7 to share in the distribution of the residue of said estate, whose names
 8 and addresses are known to the personal representative or may by
 9 reasonable diligence be ascertained as set forth in the personal
 10 representative's petition for distribution, together with sufficient copies
 11 of said notice prepared for mailing. The clerk shall send a copy of said
 12 notice by ordinary mail to each of said parties at least fourteen (14)
 13 days prior to such date. Said parties or their attorney of record may
 14 waive the service by mail of this notice and where there is an attorney
 15 of record, service upon said attorney shall be sufficient as to the parties
 16 represented by said attorney. ~~Filing for such waivers shall not change~~
 17 ~~the requirement for notice by publication. Neither a notice nor a~~
 18 **hearing is required if all persons entitled to share in the final**
 19 **distribution of the estate waive the service of notice by mail and**
 20 **consent to the final account and petition for distribution without a**
 21 **hearing.**

22 (b) **If a person entitled to share in the distribution of the residue**
 23 **of the estate is unknown or cannot be located, the personal**
 24 **representative may give notice by one (1) publication in a**
 25 **newspaper of general circulation, published in the county in which**
 26 **the administration is pending. The deadline for filing an objection**
 27 **is at least fourteen (14) days before the hearing date. The notice**
 28 **shall state that objections to the final account and petition for**
 29 **distribution must be filed in writing before the hearing date.**

30 (c) If the account is intermediate, but the personal representative has
 31 therein petitioned the court that said account be made final as to the
 32 matters and things reported in said account, the same procedure as to
 33 hearing and notice shall be followed as in the case of a final account.

34 ~~(c)~~ (d) If the account is intermediate and the personal representative
 35 makes no request that said account may be made final as to the matters
 36 and things reported in said account, the court may order such notice as
 37 the court deems necessary or approve the same ex parte and without
 38 notice. Every such intermediate account approved without notice shall
 39 be subject to review by the court at any time and shall not become final
 40 until the personal representative's account in final settlement is
 41 approved by the court.

42 SECTION 15. IC 29-3-2-4 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) All findings,
 2 orders, or other proceedings under this article shall be in the discretion
 3 of the court unless otherwise provided in this article.

4 (b) If there is **not** a conflict of interest between a guardian of an
 5 estate and the **protected** person ~~whose estate is controlled by the~~
 6 ~~guardian~~, or among persons represented, orders binding a guardian of
 7 an estate bind the **protected** person. ~~whose estate the guardian~~
 8 ~~controls.~~

9 (c) Orders binding a guardian **of the person** bind the ward if a
 10 guardian of the ward's estate has not been appointed.

11 SECTION 16. IC 29-3-3-1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) Any person
 13 indebted to a minor or having possession of property belonging to a
 14 minor in an amount not exceeding ~~five ten~~ thousand dollars ~~(\$5,000)~~
 15 **(\$10,000)** may pay the debt or deliver the property without the
 16 appointment of a guardian, giving of bond, or other order of court
 17 directly to any person having the care and custody of the minor with
 18 whom the minor resides.

19 (b) Persons receiving property for a minor under this section are
 20 obligated to apply the property to the support, use, and benefit of the
 21 minor.

22 (c) This section does not apply if the person paying or delivering the
 23 property knows that a guardian has been appointed for the minor or that
 24 proceedings for appointment of a guardian for the minor are pending.

25 (d) A person who pays or delivers property in accordance with this
 26 section in good faith is not responsible for the proper application of that
 27 property.

28 SECTION 17. IC 29-3-8-6 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. If:

30 (1) a guardian sells or transfers during a protected person's
 31 lifetime property belonging to the protected person that is
 32 specifically devised to another in a will executed by the protected
 33 person; ~~before the protected person became an incapacitated~~
 34 ~~person;~~

35 (2) the protected person subsequently dies; and

36 (3) the devised property is consequently not contained in the
 37 protected person's estate following the death of the protected
 38 person;

39 the devisee may, at the devisee's option, elect to receive the value of the
 40 devised property, as valued at the time of death of the protected person,
 41 as a general devise or the proceeds of the sale or transfer as a specific
 42 devise.



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1 SECTION 18. IC 30-1-5-1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. Every executor,
 3 administrator, guardian, trustee, receiver or other fiduciary shall have
 4 the power, in such capacity, to invest in the following:

5 (1) Obligations issued pursuant to the provisions of the Federal
 6 Home Loan Bank Act (12 U.S.C. 1421 et seq.), as in effect on
 7 December 31, 1990, and in obligations issued by the FSLIC
 8 Resolution Fund.

9 (2) Life, endowment, or annuity contracts of legal reserve life
 10 insurance companies duly licensed by the insurance
 11 commissioner for the state of Indiana to transact business within
 12 the state. The purchase of contracts authorized by this subdivision
 13 shall be limited, however, to executors or the successors to their
 14 powers when specifically authorized by will, to guardians on
 15 authorization of the court having probate jurisdiction over the
 16 guardianship, and to trustees. Such contracts may be issued on the
 17 life or lives of a protected person or persons, a beneficiary or
 18 beneficiaries of a trust fund, or according to the terms of a will, or
 19 upon the life or lives of persons in whom the protected person or
 20 beneficiary has an insurable interest. Life or endowment or
 21 annuity contracts may be purchased by trustees in the absence of
 22 an express prohibition against such purchase contained in the
 23 instrument creating the trust. ~~However, a~~ **The trustee may not**
 24 **expend in trust income and principal to pay** annual premiums
 25 **for contracts authorized by this subsection an amount in excess of**
 26 **twenty-five percent (25%) of the trust income for the calendar**
 27 **year immediately preceding the date of purchase, unless a greater**
 28 **amount is authorized subject to limitations that are:**

29 (A) **imposed** by the court having probate jurisdiction over the
 30 trust; or

31 ~~is~~ (B) expressly authorized in the trust instrument.

32 In the absence of express provision in the trust instrument to the
 33 contrary, the trustee, as trustee, shall possess all the incidents of
 34 ownership in contracts so issued and the trustee as trustee, or the
 35 beneficiary or beneficiaries of the trust shall be the beneficiary or
 36 beneficiaries of such contracts.

37 (3) Obligations of the federal government, or any federal agency
 38 or instrumentality, whenever a governing instrument or order
 39 directs, requires, authorizes, or permits investment in such
 40 obligations, either directly or in the form of securities of, or other
 41 interests in, any open end management type investment company
 42 or investment trust registered under the provisions of the



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1 Investment Company Act of 1940 (15 U.S.C. 80a et seq.), as in
2 effect on December 31, 1990. However, the portfolio of the
3 investment company or investment trust must be limited to
4 obligations of the federal government or any federal agency or
5 instrumentality, and to repurchase agreements fully collateralized
6 by such obligations to which obligations the investment company
7 or investment trust takes delivery either directly or through an
8 authorized custodian.
9 SECTION 19. [EFFECTIVE JULY 1, 2000] **This act applies to the**
10 **estate of a decedent when the person dies after June 30, 2000.**

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