

Senate File 2098 - Enrolled

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AN ACT

RELATING TO PROBATE, BY AMENDING THE PROBATE POWERS OF THE CLERK AND CONFORMING THE PROBATE PROCEDURES TO ELECTRONIC DATA MANAGEMENT SYSTEMS STANDARDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 633.22, Code 2018, is amended to read as follows:

633.22 Probate powers of clerk.

The clerk shall have and may exercise within the county all the powers and jurisdiction of the court and of the judge thereof, in the following matters:

~~1. The appointment of personal representatives who are residents of the state, guardians and conservators for minors, the fixing and determining of the amount of the bond, or waiving the same when permitted by law or by will, and the approval of any and all bonds given by fiduciaries in the discharge of their duties.~~

~~2.~~ 1. The examination and approval of all intermediate and interlocutory accounts and reports of fiduciaries under this chapter and converting and closing small estates under chapter 635.

~~3. The admission of wills of decedents to probate, when not contested, and the making of necessary orders in relation thereto, including orders for the issuance of commissions to take depositions. Proof may be made before the clerk in the same manner as is made in open court.~~

~~4. The making of all necessary orders in relation to the personal effects of a deceased person, where no objection is filed, and perform all other acts within the clerk's jurisdiction, as provided in this probate code.~~

~~5. The approval, when notice has been waived by all persons interested, of petitions and reports, or joint petitions and reports, in respect to the sale, mortgage, pledge, lease or exchange of property pursuant to [sections 633.386 to 633.400](#).~~

~~6. 2. The entering of routine scheduling orders in probate matters as established by the chief judge in each judicial district.~~

Sec. 2. Section 633.27, Code 2018, is amended to read as follows:

633.27 Probate docket.

The clerk shall keep ~~a book~~ an electronic record to be known as the "Probate Docket", which shall show:

1. The name of every deceased person whose estate is administered or whose will is admitted to probate, and the date of the person's death.

2. The name of each person as to whom application for conservatorship or guardianship is made.

3. The names of all the heirs in intestate estates and the surviving spouse of such deceased intestate, and ~~their ages~~ whether each person is an adult or a minor and ~~places each~~ person's place of residence, so far as they can be ascertained.

4. The title of each trust described in [section 633.10](#) that has not been released by the court from continuous court supervision.

5. A note of every sale of real estate made under the order of the court, ~~with a reference to the volume and page of the record where a complete record thereof may be found.~~

Sec. 3. Section 633.42, Code 2018, is amended to read as follows:

633.42 Requests for notice.

1. At any time after the issuance of letters of appointment, any interested person in the proceeding may file with the clerk a written request for notice of the time and place of all hearings in such proceeding for which notice is required by law, by rule of court, or by an order in such proceeding. The request for notice shall state the name, ~~electronic mail address, and post office address~~ of the requester, and the name of the requester's attorney, if any, and the reason the requester is an interested person in the proceeding. The request for notice shall provide the requester's post office address, and if available, the requester's electronic mail address and telephone number. The request for notice shall also provide the requester's attorney's post office address, electronic mail address, and telephone number. The clerk shall docket the request. Thereafter, unless otherwise ordered by the court, the fiduciary shall serve by ordinary or electronic mail a notice of each hearing upon such requester and the requester's attorney, if any.

2. A person does not gain standing by filing a request for notice under [this section](#).

Sec. 4. Section 633.82, Code 2018, is amended to read as follows:

633.82 Designation of attorney.

The designation of the attorney employed by the fiduciary to assist in the administration of the estate shall be filed in the estate proceedings. The designation shall state the attorney's name, post office address, electronic mail address, and telephone number. The designation shall clearly state the name of the attorney who is in charge of the case and the attorney's name shall not be listed by firm name only.

Sec. 5. Section 633.306, Code 2018, is amended to read as follows:

633.306 Record in foreign county.

Whenever it shall appear that the testator died seized of real estate located in a county of this state other than that in which probate is granted, a complete transcript, properly authenticated, of the record entry of the order of court admitting the will to probate, and, if a copy of such will is not contained therein, a certified copy of such will shall be

attached thereto, and the same shall be filed by the clerk in the office of the clerk of the district court in such other county, who shall cause the same to be entered in the probate docket, and said transcript shall be recorded in full in the ~~book~~ electronic record kept for the recording of wills in such county. When so recorded, such record may be read in evidence in all courts without further proof.

Sec. 6. Section 633.418, Code 2018, is amended to read as follows:

633.418 Form and verification of claims — general requirements.

No claim shall be allowed against an estate on application of the claimant unless it shall be in writing, filed ~~in duplicate~~ with the clerk, stating the claimant's name, and address, and if available, telephone number and electronic mail address, describing the nature and the amount thereof, if ascertainable, and accompanied by the affidavit of the claimant, or someone for the claimant, that the amount is justly due, or if not yet due, when it will or may become due, that no payments have been made thereon which are not credited, and that there are no offsets to the same, to the knowledge of the affiant, except as therein stated. If the claim is contingent, the nature of the contingency shall also be stated. ~~The duplicate of said claim shall be mailed by the clerk to the personal representative or the personal representative's attorney of record.~~

Sec. 7. REPEAL. Section 633.72, Code 2018, is repealed.

Sec. 8. APPLICABILITY. The following apply July 1, 2018, to actions of the clerk of the probate court completed on or after that date:

1. The section of this Act amending section 633.22.
2. The section of this Act amending section 633.27.
3. The section of this Act amending section 633.306.

Sec. 9. APPLICABILITY. The following applies July 1, 2018, to notices served on or after that date:

The section of this Act repealing section 633.72.

Sec. 10. APPLICABILITY. The following apply July 1, 2018, to probate filings made on or after that date:

1. The section of this Act amending section 633.42.
2. The section of this Act amending section 633.82.

3. The section of this Act amending section 633.418.

JACK WHITVER

President of the Senate

LINDA UPMEYER

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2098, Eighty-seventh General Assembly.

W. CHARLES SMITHSON

Secretary of the Senate

Approved _____, 2018

KIM REYNOLDS

Governor