

UNIFORM PROBATE CODE

CHAPTER 290

SENATE BILL NO. 2057

(Senators Trenbeath, Nething)

(Representative Kretschmar)

ESTATE COLLECTION BY AFFIDAVIT

AN ACT to amend and reenact section 30.1-23-01 of the North Dakota Century Code, relating to collection of the estate of a decedent by affidavit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 30.1-23-01 of the North Dakota Century Code is amended and reenacted as follows:

30.1-23-01. (3-1201) Collection of personal property by affidavit.

1. Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:
 - a. The value of the entire estate subject to distribution or succession under chapters 30.1-01 through 30.1-23, wherever located, less liens and encumbrances, does not exceed ~~fifteen~~ fifty thousand dollars.
 - b. Thirty days have elapsed since the death of the decedent.
 - c. ~~No~~ An application or petition for the appointment of a personal representative is not pending or has not been granted in any jurisdiction.
 - d. The claiming successor is entitled to payment or delivery of the property.
2. A transfer agent of any security shall change the registered ownership on the books of a corporation or limited liability company from the decedent to the successor ~~or successors~~ upon the presentation of an affidavit as provided in subsection 1.

Approved March 8, 2005

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CHAPTER 291

SENATE BILL NO. 2030

(Legislative Council)
(Criminal Justice Committee)

GUARDIAN AND CONSERVATOR REPORT FILING

AN ACT to amend and reenact subsection 4 of section 30.1-27-09, subsection 8 of section 30.1-28-12, and sections 30.1-28-12.1 and 30.1-29-19 of the North Dakota Century Code, relating to the filing of annual reports by guardians and conservators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 30.1-27-09 of the North Dakota Century Code is amended and reenacted as follows:

4. A guardian ~~must report the condition of the ward and of the ward's estate which has been subject to the guardian's possession or control, as ordered by court on petition of any person interested in the minor's welfare or as required by court rule~~ shall file an annual report with the court informing the court of the status or condition of the ward and provide a copy of the report to the ward. The report must include changes that have occurred since the previous reporting period and an accounting of the ward's estate. The guardian shall report whether the ward has resided in an institution, whether the ward continues to require guardianship, and whether any powers of the guardian should be increased or limited. The filing of a report and its acceptance by the court or clerk of district court does not constitute an adjudication or a determination of the merits of the report nor does the filing of the report constitute the court's approval of the report. The court may approve a report and allow and settle an accounting only upon notice to the ward's guardian ad litem and other interested persons who have made an appearance or requested notice of proceedings. The office of state court administrator shall provide printed forms that may be used to fulfill reporting requirements. Any report must be similar in substance to the state court administrator's form. The forms must be available in the office of clerk of district court or obtainable through the supreme court's internet web site.

SECTION 2. AMENDMENT. Subsection 8 of section 30.1-28-12 of the North Dakota Century Code is amended and reenacted as follows:

8. A guardian shall ~~make written reports to file an annual report with the court at such times as the court shall require concerning the condition and affairs of the ward. The report must include:~~
 - a. ~~The name, address, and telephone number of the ward;~~
 - b. ~~The name, address, and telephone number of the guardian;~~
 - c. ~~A brief written description of the condition of the ward;~~

- d. The name and address of any person or institution having care or custody of the ward;
- e. If the guardian has authority to make residential decisions for the ward, a statement of the nature of the ward's care and of any changes or proposals for changes in the living situation of the ward;
- f. If the guardian has authority to make medical decisions, a summary of the medical treatment authorized by the guardian since the date of the last report;
- g. The guardian's plans for maintaining the well-being of the ward and facts indicating the need for continuation or cessation of the guardianship or for any increase or limitation of the powers of the guardian;
- h. A complete accounting of the financial transactions of the guardian undertaken on behalf of the ward or in connection with the guardianship; and
- i. Any other information the court may require informing the court of the status or condition of the ward. The report must include changes that have occurred since the previous reporting period and an accounting of the ward's estate. The guardian shall report whether the ward has resided in an institution, whether the ward continues to require guardianship, and whether any powers of the guardian should be increased or limited. The filing of a report and its acceptance by the court or clerk of district court does not constitute an adjudication or a determination of the merits of the report nor does the filing of the report constitute the court's approval of the report. The court may approve a report and allow and settle an accounting only upon notice to the ward's guardian ad litem and other interested persons who have made an appearance or requested notice of proceedings. The office of the state court administrator shall provide printed forms that may be used to fulfill reporting requirements. Any report must be similar in substance to the state court administrator's form. The forms must be available in the office of clerk of district court or obtainable through the supreme court's internet web site.

SECTION 3. AMENDMENT. Section 30.1-28-12.1 of the North Dakota Century Code is amended and reenacted as follows:

30.1-28-12.1. Reports Annual reports and accounts - Failure of guardian to file.

- 4. If a guardian fails to ~~render any file an annual report or account within the time provided by law or the order of the court as required by section 30.1-28-12, fails to file a report at other times as the court may direct, or fails to settle the provide an accounting of an estate according to the order of the court, the court may, upon its own motion, or upon petition of any interested party, may issue an order compelling the guardian to show cause why the guardian should not immediately make and file the report or account, or be found in contempt for failure to comply.~~

- 2- If a guardian fails, neglects, or refuses to file a report or accounting after having been cited by the court to do so, the court may, upon its own motion or upon the motion of any interested party, issue an order to show cause that the guardian be brought before the court and show why the guardian should not be held in contempt.

SECTION 4. AMENDMENT. Section 30.1-29-19 of the North Dakota Century Code is amended and reenacted as follows:

30.1-29-19. (5-419) Accounts Annual reports and accounts. Every At least once annually and at other times as the court may direct, a conservator must file a report and account to with the court for administration of the trust not less than annually unless the court directs otherwise, upon resignation or removal, and at other times as the court may direct. On termination of the protected person's minority or disability, a conservator may account to the court or to the former protected person or the protected person's personal representative shall file a final report and accounting and provide a copy of the report or accounting to the protected person. The filing of the report or accounting and the acceptance by the court or clerk of district court of the report or accounting does not constitute the court's approval of the report or accounting. The court may approve a report and settle and allow an accounting only upon notice to the protected person and other interested persons who have made an appearance or requested notice of proceedings. Subject to appeal or vacation within the time permitted, an order, made upon notice and hearing, allowing an intermediate account of a conservator, adjudicates as to liabilities concerning the matters considered in connection therewith. An order, made upon notice and hearing, allowing a final account adjudicates as to all previously unsettled liabilities of the conservator to the protected person or the protected person's successors relating to the conservatorship. In connection with any account, the court may require a conservator to submit to a physical check of the estate in the conservator's control, to be made in any manner the court may specify. The office of the state court administrator shall provide printed forms that may be used to fulfill reporting requirements. Any report must be similar in substance to the state court administrator's form. The forms must be available in the office of clerk of district court or obtainable through the supreme court's internet web site.

Approved March 7, 2005

Filed March 8, 2005

CHAPTER 292**SENATE BILL NO. 2029**

(Legislative Council)
(Criminal Justice Committee)

SUCCESSOR GUARDIAN APPOINTMENT

AN ACT to create and enact a new section to chapter 30.1-28 of the North Dakota Century Code, relating to the appointment of a successor guardian.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 30.1-28 of the North Dakota Century Code is created and enacted as follows:

Appointment of successor guardian.

1. If the appointment of a successor guardian is required, the current guardian or any interested person may file a motion with the court for the appointment of a successor guardian.
2. The motion and supporting documents must be served on the ward, the ward's guardian ad litem, and every other interested person who has made an appearance or requested notice of proceedings.
3. A notice of motion must accompany the motion and must include a statement that provides an opportunity for hearing if requested in regard to the appointment of a successor guardian.
4. If the current or former guardian serves or served as a public administrator or a corporate guardian with more than ten wards, the motion and notice of motion may be served by first-class mail. The public administrator or corporate guardian shall then provide written notice of the motion to the state office of the protection and advocacy project, along with the contact information for each ward and proposed guardian.
5. If a hearing is not requested by or on behalf of the ward listed in the notice, the court may sign an order appointing a successor guardian for that ward.

Approved March 7, 2005

Filed March 8, 2005

CHAPTER 293

SENATE BILL NO. 2167

(Senators Espegard, Trenbeath)
(Representatives Ekstrom, Klemin)

SECURITY ACCOUNT DEFINED

AN ACT to amend and reenact subsection 5 of section 30.1-31-21 of the North Dakota Century Code, relating to the definition of security account for purposes of the Uniform Probate Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 30.1-31-21 of the North Dakota Century Code is amended and reenacted as follows:

5. "Security account" means a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, cash equivalents, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death; an investment management or custody account with a trust company or a trust division of a bank, credit union, or any other financial institution with trust powers, including the securities in the account, a cash balance in the account, and cash, cash equivalents, interest, earnings, or dividends earned or declared on a security in the account, whether or not credited to the account before the owner's death; or a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

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