

JUDICIAL PROCEDURE, PROBATE

CHAPTER 217

Senate Bill No. 233
(Day by request)

SUMMARY GUARDIANSHIPS IN ESTATES OF SMALL VALUE

AN ACT

Providing for summary guardianships in estates of small value; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1.) In all cases arising hereafter where the county court shall have jurisdiction to appoint guardians of the estate of minors or other persons, and where the value of the property involved does not exceed the sum of five hundred dollars, and does not involve real estate, the county court having jurisdiction shall have power, at its discretion, to dispense with the requirements of law generally governing the appointment and qualification of guardians, and to make a summary appointment of a guardian to have charge of such property.

SECTION 2.) Whenever the court shall find that the property involved does not exceed the value of five hundred dollars and that no part thereof is real estate, and that the circumstances are such that the usual requirements for the establishment of a guardianship would be unduly cumbersome and expensive, the court may, upon its own motion or upon the application of some interested party, make a summary order appointing some suitable person to take charge of such property and in lieu of the otherwise applicable provisions of law for the guidance and control of such guardian, the court may include in such order such provisions for the application and use of the funds of the guardianship as the court deems wise and necessary, making provisions or such things as the bond of such guardian, his reports to the court, his investment, disposal and use of the funds entrusted to him and any other provisions which the court might make in instructing or controlling a trustee. The court shall have continuing jurisdiction to make such modifications of its original order as circumstances may require.

SECTION 3.) Except as herein provided, the provisions of law for the appointment of special guardians shall govern in the sum-

mary appointment herein provided for. But the provisions of law affecting general guardianships shall apply to the guardian appointed hereunder except as they are modified by the express orders of the court in its summary order above provided for.

SECTION 4. EMERGENCY.) This act is declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 8, 1949.

CHAPTER 218

Senate Bill No. 90
(Judiciary Committee)

HEARINGS CONCERNING HOMESTEAD AND OTHER EXEMPT PROPERTY

AN ACT

To amend and reenact section 30-1607 of the North Dakota Revised Code of 1943, relating to hearings concerning homestead and other exempt property in probate proceedings.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) Section 30-1607 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1607. RETURN OF INVENTORY AND APPRAISEMENT; OBJECTIONS; HEARING.) Upon the return of the inventory and appraisement in an estate, the court must fix a day for hearing objections thereto concerning the homestead and other exempt property, and the executor or administrator must cause notice thereof to be given to all parties interested. At the hearing, the court may confirm the proceedings as to the inventory and appraisement and set apart the homestead and other exempt property, or may modify such proceedings or set them aside and order a new appraisement, as justice requires.

Approved March 7, 1949.

CHAPTER 219

Senate Bill No. 93
(Judiciary Committee)

ISSUANCE AND SERVICE OF CITATION IN PROBATE
PROCEEDINGS

AN ACT

To amend and reenact sections 30-0219 and 30-1704 of the North Dakota Revised Code of 1943, relating to issuance and service of citation in probate proceedings.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) Section 30-0219 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-0219. ATTORNEY OF RECORD, MAY MAKE SERVICE UPON.) If any person upon whom service is required to be made has an attorney of record in the case, service may be made on such attorney. Such service shall be deemed service on the person represented by the attorney.

SECTION 2. AMENDMENT.) Section 30-1704 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1704. CITATION AND SERVICE THEREOF.) If the inventory returned discloses the facts mentioned in subsection 1 of section 30-1701, or if a petition for a summary administration is filed as provided in section 30-1703, the court shall issue a citation fixing the time for a hearing upon such inventory or petition, as the case may be. Such citation shall be served in the manner provided by chapter 30-02 of this title.

Approved March 12, 1949.

CHAPTER 220

Senate Bill No. 209
(Day by request)

DISTRIBUTION OF ESTATES WHEN INTERESTED PARTY
DECEASED AND ITS ESTATE WITHOUT PROBATE

AN ACT

Relating to probate proceedings and providing for the distribution of estates when an interested party has died and no probate proceedings have been had upon the estate of such interested party.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. PARTIES.) When, in the course of administration of an estate, it appears that any deceased person whose estate has not been entered in probate for a period of six months after the death of such deceased person is interested in the estate in process of administration, the legal heirs of such deceased person who by the laws of succession have succeeded to the interest or interests of the decedent whose estate has not been admitted to probate shall be entered as parties respondent and distribution may be made directly to the parties entitled. The legal heirs of such deceased person shall be designated by name insofar as they are known to the court and shall be generally designated as "all persons interested in the estate of"
(naming the deceased heir).

SECTION 2. PROCEEDINGS DISCONTINUED, WHEN.) If notice be brought to the court that an executor or administrator of the estate of the deceased heir has been appointed, such personal representative shall be substituted as a party respondent, in lieu of the heirs of such deceased heir, and distribution made to such personal representative or in accordance with the final decree of distribution in the estate of such deceased heir.

SECTION 3. PROCEEDINGS CONCLUSIVE.) The decree of final distribution and all other orders made pursuant to this act shall be binding and conclusive upon all persons interested in the estate of a deceased heir, including heirs, devisees, legatees and creditors, saving the right of appeal or rehearing as provided by law.

Approved March 8, 1949.

CHAPTER 221

House Bill No. 224
(Link and Rolfsrud)

RECORDING DECREE OF DISTRIBUTION WHEN REAL ESTATE
TITLE AFFECTED

AN ACT

To amend and reenact section 30-2111 of the North Dakota Revised Code of 1943, relating to recording certified copy of decree of distribution when it affects the title to real estate.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) Section 30-2111 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-2111. RECORD OF DECREE REQUIRED; DUTY OF COURT.) Within thirty days after the date on which a decree of distribution of an estate is rendered, the court shall record a certified copy thereof if it affects the title to real estate, in the office of the register of deeds in every county where the land distributed is situated, and the cost thereof shall be part of the expenses of administration.

Approved March 11, 1949.