

# JUDICIAL PROCEDURE, PROBATE

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## CHAPTER 223

H. B. No. 102

Introduced by Representative Johnson of Cass

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### APPRAISERS, APPOINTMENT, OATH; COMPENSATION

An Act To amend and re-enact Section 30-1507 of the North Dakota Revised Code of 1943, providing for the appointment of appraisers, prescribing the oath and fixing their compensation.

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

§ 1. AMENDMENT.] Section 30-1507 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

§ 30-1507. APPRAISERS TO BE APPOINTED. OATH. COMPENSATION.] To make the appraisement the judge must appoint three competent and disinterested persons any two of whom may act. The appointment may be made by order at any time. A notice of the appointment must be issued upon which before entering upon their duties the appraisers must each subscribe an oath administered by a competent officer to the effect that he will truly and impartially according to the best of his ability appraise the property of the decedent and discharge all other duties required by him as such appraiser. If any portion of the property is in another county the same appraisers may serve or others may be appointed in that county. The notice and oath of the appraisers must be returned with the inventory together with a verified statement of their services and expenses. They shall be allowed a reasonable compensation for their services and the amount of their necessary expenses as may be fixed or approved by the court, to be paid by the executor or administrator as expenses of the administration.

Approved February 17, 1945.

## CHAPTER 224

S. B. No. 71

Introduced by Committee on Military and Indian Affairs

## COMPENSATION OF GUARDIANS FOR VETERANS

An Act To amend and re-enact Section 30-2313 of Chapter 30-23 of the North Dakota Revised Code of 1943, fixing the compensation of Guardians of incompetent veterans and of minor children of disabled or deceased veterans, and prescribing the procedure for allowance of the same; declaring an emergency.

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

§ 1. AMENDMENT.] That Section 30-2313 of Chapter 30-23 of the North Dakota Revised Code of 1943 be, and the same hereby is, amended and re-enacted to read as follows:

30-2313. COMPENSATION OF GUARDIANS. PROCEEDINGS FOR ALLOWANCE.] Unless the County Court determines that special services were performed by the guardian, the compensation payable to guardians under the provisions of this chapter shall not exceed five percent (5%) of the income of the ward during any one year. In computing the same, the corpus of an estate received from a preceding guardian shall not be included as income. Provided, however, that when the ward's estate includes personal property, securities or other investments, the County Court may allow the guardian compensation for the safekeeping and management of such property and investments, but such compensation shall not exceed two-fifths of one percent per annum of their value. If the County Court allows the guardian the maximum amount for the safekeeping and management of personal property and investments, the court shall not allow the guardian any compensation on the income collected on the same during the accounting period. In the event that the estate of the ward includes real estate, either city property or farm land, the County Court may allow the guardian such compensation for the supervision and management of such real estate as is commensurate with the services rendered at the prevailing rate paid for such services in the locality where such property is situated. If the compensation of a guardian, as provided for in this section, amounts to less than twenty-five dollars (\$25.00) for any year, the County Court may, in its discretion, allow the guardian compensation in the amount of twenty-five dollars (\$25.00) for such year. The guardian shall petition for allowance of such compensation either by special petition or as a part of any petition for the allowance and approval of an account. Notice of such petition and of the time and place of hearing thereon shall be given to the proper office of the Administration in the manner provided in Section 30-2311. The guardian may be allowed from the estate of his ward

reasonable premiums paid by him to any corporate surety upon his bond. No bond shall be required of any guardian which qualifies as a trust company in North Dakota, under Chapter 6-05 of the North Dakota Revised Code of 1943.

§ 2. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1945.

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## CHAPTER 225

H. B. No. 118

Introduced by Committee on Judiciary

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### PERSONS ENTITLED TO LETTERS OF ADMINISTRATION

An Act To amend and re-enact Section 30-0802 of the North Dakota Revised Code of 1943, relating to persons entitled to Letters of Administration.

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

§ 1. AMENDMENT.] Section 30-0802 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted as follows:

30-0802. LETTERS OF ADMINISTRATION: PERSONS ENTITLED To.] Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, and they are entitled to letters in the following order:

1. The surviving husband or wife;
2. The children;
3. The father or mother;
4. The brothers;
5. The sisters;
6. The grandchildren;
7. The next of kin entitled to share in the distribution of the estate;
8. If the deceased left heirs in any foreign country, to the consul or other representative of such country, if he resides in this state and has filed a copy of his appointment with the secretary of state, or to the nominee or nominees of such consul or representative;
9. The creditors;
10. Any person legally competent;
11. The public administrator of the county wherein there is property of the decedent which remains unadministered.

Approved March 13, 1945.

## CHAPTER 226

H. B. No. 116

Introduced by Committee on Judiciary

## PROPERTY OF DECEASED PERSONS OF FOREIGN COUNTRIES

An Act Relating to property of deceased persons and providing for the payment or delivery thereof to certain representatives of certain foreign countries.

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

§ 1. PROPERTY OF DECEASED PERSONS TO BE TRANSFERRED TO REPRESENTATIVES OF FOREIGN COUNTRIES IN CERTAIN CASES.] Whenever a person who is declared by a decree of a county court to be entitled to property in an estate is a citizen of and resident in a foreign country with the government of which the United States maintains diplomatic relations, the representative of the estate may deliver or pay the property to an accredited diplomatic or consular representative of the government of such foreign country for delivery or payment to the person declared entitled thereto. If such money has been deposited with the county treasurer, the county court upon application shall grant its order authorizing and directing the county auditor to issue his warrant to the county treasurer to pay the money or deliver the property to the accredited diplomatic or consular representative. The representative of the estate or the county treasurer shall be discharged from his trust and all further liability thereunder when the receipt of the diplomatic or consular representative for such property has been filed with the county court, if such diplomatic or consular representative has been licensed by proper federal authority to receive the property of the nationals of such country, where such license is required.

§ 2. APPLICATION OF ACT.] This act shall not apply where the citizen of and resident in the foreign country has appeared in person or by duly authorized representative other than the diplomatic or consular representative.

Approved February 27, 1945.

## CHAPTER 227

S. B. No. 129

Introduced by Senators Day and Kehoe

## SERVICE OF CITATION BY PUBLICATION

An Act To amend and re-enact Section 30-0210 of the North Dakota Revised Code of 1943 providing the method for service of citation by publication in county court, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 30-0210 of the North Dakota Revised Code of 1943 be amended and re-enacted to read as follows:

30-0210. SERVICE OF CITATION BY PUBLICATION; MAILING COPY OF NOTICE.] A citation in county court may be served by publication upon a respondent residing outside the county whether residing within or without the state, but service by publication upon any such party shall not be necessary if he has been served personally in the manner prescribed by Section 30-0209. Such service by publication shall be made by publishing the citation once each week, for two successive weeks, in some newspaper printed in the county, if there is one, and if none is printed in the county, then a newspaper printed in an adjoining county in the state. Service shall be deemed complete with the last publication. Ten days shall elapse thereafter before the day of hearing. In case of service by publication, the petitioner or his attorney, at least ten days prior to the date of hearing, shall cause to be mailed to each respondent whose address is known, a copy of the citation published. An affidavit of mailing shall be sufficient proof of such mailing. No defect in any notice, nor in the publication or service thereof, shall invalidate any proceedings.

§ 2. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 9, 1945.

## CHAPTER 228

H. B. No. 117

Introduced by Committee on Judiciary

## SERVICE UPON FOREIGN HEIRS

An Act To amend and re-enact Section 30-0213 of the North Dakota Revised Code of 1943, relating to service upon foreign heirs.

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

§ 1. AMENDMENT.] Section 30-0213 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted as follows:

30-0213. SERVICE UPON FOREIGN HEIRS.] If it shall appear that a deceased resident of any of the States of the United States of America, left heirs, devisees, or legatees in any foreign country, the petitioner in any proceeding in county court, his attorney or agent, at least fourteen days prior to the date fixed for any hearing in the proceedings, shall give notice, by mail, of such hearing to the consul or other representative of such foreign country, if he resides in this state and has filed a copy of his appointment with the secretary of state, or to the nominee or nominees of such consul or representative. If there is no consul or other representative of such country in this state, then such notice shall be given to the chief diplomatic representative of such country at Washington, D. C., or to the secretary of state at Bismarck, North Dakota, who shall forward the same to such representative.

Approved March 13, 1945.