

A BILL

FOR AN ACT TO PROVIDE AND PRESERVE RECORD EVIDENCE OF THE HEIRS OF INTESTATE DECEDENTS.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That when letters of administration shall have been granted upon the estate of any person who died intestate, and who at the time of his death was a resident of the county where granted, it shall be the duty of the clerk of the court issuing said letters of administration, to fix the term of court and day thereof, not earlier than the second day of the next succeeding term of the probate or circuit court of said county, when proof will be heard by the court as to who are the heirs at law of said decedent.

SEC. 2. Notice of the hearing thereof shall be signed by the clerk of said court and shall be served by publication, in the same manner as is now provided by law for the publication of original notices, and shall be substantially in the following form, to-wit:

To whom it may concern:

“Notice is hereby given, that on the day of, 18...,
“was duly appointed administrator of the estate of, who died intestate
“on or about the day of, 18..., being at the time of his death a resi-
“dent of county, Iowa, and that the day of, 18...,
“being the day of the term of the circuit court to be commenced
“and held at, in said county, on the day of, 18...,
“is the time fixed for hearing proof as to who are the heirs at law of said decedent.
“All persons interested therein will take notice and govern themselves accordingly.

“A..... B.....
“Clerk of the Circuit Court.”

Proof of the publication of such notice shall be made by affidavit of the editor or publisher of said newspaper in which the same was published, which affidavit shall be filed with the original papers and become a part of the record in said cause.

SEC. 3. It shall be the duty of the person appointed as such administrator, at least ten days prior to the first day of the term of court so fixed in the notice as provided by section two of this act, to file with the clerk of the said court his petition, setting forth the name and date of death, as near as may be, of the decedent; his appointment as administrator and the date thereof; the names, ages and places of residence, so far as the same has come

6 to his knowledge, of all the heirs of said decedent, and their relationship thereto. It shall
7 also be the duty of said administrator to cause to be subpoenaed the necessary witnesses to
8 make proof of the facts stated in said petition.

SEC. 4. When it appears by the petition of the administrator, as provided by section
2 three of this act, or when it otherwise appears that any of the persons interested as heirs
3 of said decedent are minors, the court shall appoint a guardian *ad litem* for said minors,
4 whose duty it shall be to appear for and represent the interests of said minors in said ac-
5 tion, and whose compensation therefor shall be fixed by the court and allowed and taxed as
6 part of the costs of said proceedings.

SEC. 5. On the day fixed for the hearing thereof, or as soon thereafter as the same may
2 be reached, the court shall proceed to hear the evidence produced, and determine who are
3 the heirs of said decedent, together with their names, ages, and places of residence, as far
4 as the same is shown.

SEC. 6. The court shall have power upon its own motion, or upon the application of the
2 administrator or any person interested therein as an heir, to adjourn the hearing thereof
3 from time to time during the term, or to another term of said court, and cause to be sub-
4 pœnaed additional witnesses, or cause the depositions of any witnesses to be taken, whose
5 evidence appears to be material, and who, by reason of non-residence or other cause, are
6 unable to attend or be produced in court, and shall do so whenever in the opinion of said
7 court it becomes necessary, to ascertain the facts and determine the same correctly.

SEC. 7. In all cases wherein it becomes necessary to take the depositions of any wit-
2 nesses, either upon the order of court or upon motion of any party to the record, the same
3 shall be done in the same manner, and the same notice shall be required, as is now provided
4 by law for the taking of depositions in other civil actions.

SEC. 8. The record entry in all such cases shall show the relationship of all parties or
2 persons who are found to be heirs of said decedent, in the order in which they inherit;
3 their names, ages and places of residence, as far as found by the court; and when more
4 than one degree removed from the decedent, the name or names of the parties through
5 whom they inherit, and, as near as practicable, the date of the death and residence at the
6 time of death of such intermediate parties.

SEC. 9. Whenever it appears that title to real estate is involved therein, the court may in
2 its discretion cause the evidence to be preserved and made a part of the record of said pro-
3 ceeding; and shall do so when requested by any person interested therein and claiming
4 title to said real estate, which interest and claim of title shall be shown by the record of
5 said cause, or by affidavit filed with the original papers therein.

SEC. 10. The court shall have power to review and correct the record entry as aforesaid,
2 at any time within ten years from the date thereof, upon the petition of any person inter-
3 ested or claiming to be interested therein, which petition shall be duly verified, and shall

4 set forth in distinct and separate paragraphs the errors claimed and corrections to be made,
5 the interest which the petitioner claims to have therein and his relationship to the dece-
6 dent; *provided*, that no such review or correction shall be made until notice thereof and
7 the filing of such petition has been served upon all the parties to said record, their heirs or
8 legal representatives, in the manner provided for the service of original notices in other
9 civil actions; *and provided further*, that in all cases where such petition for review or correc-
10 tion is filed after the final settlement of said estate and discharge of the administrator, the
11 petitioner shall be required to give security for costs in such sum and upon such conditions
12 as the court may direct.

SEC. 11. The record entry aforesaid, for the period of ten years after the same has been
2 entered, shall be competent and prima facie evidence of the facts therein set forth in all
3 civil actions, or special proceedings in any of the courts of this State, and prima facie evi-
4 dence that the persons therein found to be heirs of said decedent, are his sole and only
5 heirs, and shall be conclusive evidence thereof after the expiration of ten years.

SEC. 12. The costs of all such proceedings shall be paid by the administrator out of any
2 funds coming into his hands as such administrator, and shall be credited and allowed to
3 him in his accounts and settlements the same as other expenses of administration.

SEC. 13. This act being deemed of immediate importance shall take effect from and after
2 its publication in the "Iowa State Register" and the "Des Moines Leader," newspapers pub-
3 lished at Des Moines, Iowa.