

CHAPTER 70
[Substitute House Bill No. 95]
PROBATE

AN ACT Relating to probate; amending section 11.28.237, chapter 145, Laws of 1965 and RCW 11.28.237; amending section 11.76.040, chapter 145, Laws of 1965 and RCW 11.76.040; amending section 11.76.080, chapter 145, Laws of 1965 and RCW 11.76.080; amending section 11.88.040, chapter 145, Laws of 1965 and RCW 11.88.040; and repealing section 11.16.081, chapter 145, Laws of 1965 and RCW 11.16.081.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 11.88.040, chapter 145, Laws of 1965 and RCW 11.88.040 are each amended to read as follows:

Before appointing a guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given by registered or certified mail requesting a return receipt signed by the addressee only, or by personal service in the manner provided for services of summons, to the following:

(1) The incompetent or minor, if over fourteen years of age;

(2) A parent, if the incompetent is a minor, and the spouse of the incompetent if any;

(3) Any other person who has been appointed as guardian, or the person having the care and custody of the incompetent, if any. No notice need be given to those persons named in subsections (2) and (3) of this section if they have signed the petition for the appointment of the guardian or have waived notice of the hearing. If the petition is by a parent asking for his appointment as guardian of a minor child under the age of fourteen years, or if the petition be accompanied by the written consent of a minor of the age of fourteen years or upward, consenting to the appointment of the guardian asked for, or if the petition be by a nonresident guardian of any minor or incompetent, then the court may appoint the guardian without notice of the hearing. The court for good cause may reduce the number of days of notice, but in every case, at least three days' notice shall

be given. It shall not be necessary that the person for whom guardianship is sought shall be represented by a guardian ad litem in the proceedings.

Sec. 2. Section 11.28.237, chapter 145, Laws of 1965 and RCW 11.28.237 are each amended to read as follows:

Within twenty days after ((his)) appointment, the personal representative of the estate of a decedent shall cause written notice of his said appointment, and of the pendency of said probate proceedings, to be mailed to each heir (~~((7-distribute, and, in addition, in the case of a will, to each person named therein))~~) , legatee and devisee of the estate whose names and addresses are known to him, and proof of such mailing shall be made by affidavit and filed in the cause.

Sec. 3. Section 11. 76.040, chapter 145, Laws of 1965 and RCW 11.76.040 are each amended to read as follows:

When such final report and petition for distribution, or either, has been filed, the court, or the clerk of the court, shall fix a day for hearing it which must be at least twenty days subsequent to the day of the publication as hereinafter provided. Notice of the time and place fixed for the hearing shall be given by the personal representative by publishing a notice thereof in a legal newspaper published in the county for one publication at least twenty days preceding the time fixed for the hearing. It shall state in substance that a final report and petition for distribution have, or either thereof has, been filed with the clerk of the court and that the court is asked to settle such report, distribute the property to the heirs or persons entitled thereto, and discharge the personal representative, and it shall give the time and place fixed for the hearing of such final report and petition and shall be signed by the personal representative or the clerk of the court.

Whenever a final report and petition for distribution, or either, shall have been filed in the estate of a decedent and a day fixed for the hearing of the same, the personal representative of such es-

tate shall, not less than twenty days before the hearing, cause to be mailed a copy of the notice of the time and place fixed for hearing to each heir, legatee, devisee and distributee (~~(, and, in addition, in the case of a will, to each person named therein,)~~) whose name ~~((s))~~ and address ~~((es))~~ are known to him, and proof of such mailing shall be made by affidavit and filed at or before the hearing.

Sec. 4. Section 11.76.080, chapter 145, Laws of 1965 and RCW 11.76.080 are each amended to read as follows:

If there be any incompetent (~~(or person under disability)~~) as defined in RCW 11.88.010 interested in the estate who has no legally appointed guardian, the court:

(1) At any stage of the proceeding in its discretion and for such purpose or purposes as it shall indicate, may, and

(2) For hearings held pursuant to RCW 11.52.010, 11.52.020 and 11.76.050, shall --

appoint some disinterested person ~~((,))~~ as guardian ad litem ~~((,))~~ to represent such incompetent (~~(or person under disability,)~~) with reference to any petition, ~~((or))~~ proceeding or report in which the incompetent (~~(or person under disability)~~) may have an interest, who, on behalf of the incompetent (~~(or person under disability)~~), may contest the same as any other person interested might contest it, and who shall be allowed by the court reasonable compensation for his services:

PROVIDED, HOWEVER, That where a surviving spouse is the sole beneficiary under the terms of a will, the court may grant a motion by the personal representative to waive the appointment of a guardian ad litem for a person who is the minor child of such surviving spouse and the decedent and who is incompetent solely for the reason of his being under twenty-one years of age.

NEW SECTION. Sec. 5. Section 11.16.081, chapter 145, Laws of 1965 and RCW 11.16.081 are each hereby repealed.

Passed the House March 12, 1969
 Passed the Senate March 10, 1969
 Approved by the Governor March 24, 1969
 Filed in office of Secretary of State March 24, 1969