

No. 424, A.]

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CHAPTER 162

AN ACT to repeal and recreate 310.06 of the statutes, relating to proof of wills and heirs.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

310.06 of the statutes is repealed and recreated to read:

310.06 PROOF OF WILL AND PROOF OF HEIRS WHERE UNCONTESTED. (1) The court may grant probate of an uncontested will on the execution in open court by one of the subscribing witnesses of a statement that such will was executed in all particulars as required by the statutes and that the testator was of sound mind at the time of the execution thereof. The statement shall be signed and sworn to before the judge. The judge may require further testimony of such witness.

(2) Upon request of the petitioner or his attorney the judge of the county court in which the estate is pending may by order direct that proof of heirs or proof of will, if uncontested, may be taken in open court by the county judge of any county in this state for use in the court having jurisdiction of such probate proceeding provided no guardian ad litem objects to such procedure. The petitioner shall pay \$5 to the county judge taking such proof, if taken outside the county in which the estate is pending, and shall be entitled to reimbursement therefor from the estate. No will shall be removed for the taking of a deposition or other proof until the time fixed for proving the will.

(3) After a will is proved in a court other than the court having jurisdiction of the probate of an estate, the original or copy of the will and the proof of will shall be sent to the court having such jurisdiction. If no contest develops at the time fixed for proving the will in the court having jurisdiction to probate the estate, the original will and proof of will shall be filed as though made in such court.

(4) If a will filed for probate is removed from the court having jurisdiction to probate the estate, it shall during its absence be replaced by a photographic copy or a certified copy thereof which shall become the property of the executor when the will is returned.

(5) If no competent subscribing witness resides in this state at the time fixed for proving the will or if none of them, after reasonable diligence used, can be found in this state, the court may admit the testimony of other witnesses to prove the sanity of the testator, the execution, proof of testator's handwriting and that of the subscribing witness.

Approved May 26, 1955.
