

CHAPTER 315.

DETERMINATION OF DESCENT OF LANDS.

315.02 Application to determine descent of lands.	315.04 Defense; continuance; guardian.
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315.01 [Renumbered 316.01 (2) by 1935 c. 176 s. 6]

315.02 Application to determine descent of lands. When any person shall die intestate, seized of an estate of inheritance in any lands in this state and leaving no personal property in this state which would be proper assets in the hands of an administrator for the payment of debts after six months from the death of such decedent, and in any case in which administration shall not have been granted in this state after three years from the death of such decedent, the widow or husband of such decedent or any heir or grantee of any heir of such decedent or any person entitled to any interest in such lands may apply to the county court of the county in which such decedent was last resident, or if such decedent was not an inhabitant of this state, to the county court of any county in which such lands or some part thereof are situated, to determine the descent of such lands. Such application shall be by a verified petition which shall show, as particularly as known or can be with due diligence ascertained, the time and place of death and last place of residence of such decedent, and the other facts which authorize the proceeding according to the provisions of section 316.01 (2); the names, residences and relationship to the decedent of all the heirs and their grantees entitled to any interest in said lands, stating who, if any, are minors or under legal disabilities, and the names and residences of their guardians, if any in this state, and a description of all such lands.

315.03 Heirship; hearing, notice. The court shall, by order, fix a time and place of hearing such petition, and notice thereof shall be given as provided by section 324.18. [1935 c. 176 s. 7; Supreme Court Order, effective Jan. 1, 1940]

315.04 Defense; continuance; guardian. At or before the time fixed for the hearing any person interested may appear and answer such petition and set up any proper defense to the same or any part thereof or intervene to assert and protect any interest he may have. If it shall appear that any person interested has not been duly notified or appeared the hearing may be continued to give the proper notice. Before any testimony is taken a guardian ad litem shall be appointed and appear for any minor interested for whom no general guardian appears.

Note: The court intimates very plainly (without deciding) that there is no warrant in the law for the prevalent practice of appointing a guardian ad litem for unknown minors or incompetents; and if appointed he has no standing in court. See note to 324.29, citing Will of Knoepfle, 243 W 572, 11 NW (2d) 127.

315.05 Determining rights of heirs. Any question as to advancement in real estate alleged to have been made by such decedent to any heir may be heard and determined by the county court as upon the assignment of the residue of a settled estate. After hearing the evidence, if it shall appear to the satisfaction of the court who are all the heirs of such decedent and what are the respective rights and interests of the parties in the title of such decedent in such lands, the court shall, by its judgment, find and determine the same and in such judgment shall name the persons entitled to interest therein and the part to which each shall be entitled.

315.06 Judgment to be recorded. A certified copy of such judgment shall be recorded in the office of the register of deeds of any county in which any such lands are situated, and such judgment or the record thereof shall be presumptive evidence of the facts found and determined therein in all courts and places and conclusive evidence against the persons to whom notice shall have been given as provided in section 324.18 or who have appeared in such proceedings and those claiming under them. [1937 c. 34; 1943 c. 514; 1943 c. 553 s. 39]