

Offered: 1/10/72
Referred: Judiciary

1 IN THE SENATE
BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL

2 SENATE BILL NO. 248
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act adopting the Uniform Probate Code; to codify
7 and amend the state laws relating to decedents' estates,
8 guardians, conservators, trusts, and nonprobate trans-
9 fers; and providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 13 is amended by adding new chapters to read:

12 TITLE 13. DECEDENTS ESTATES, GUARDIANSHIPS AND TRUSTS.

13 CHAPTER 6. GENERAL PROVISIONS, DEFINITIONS AND PROBATE

14 JURISDICTION OF COURT.

15 ARTICLE 1. SHORT TITLE, CONSTRUCTION, GENERAL PROVISIONS.

16 Sec. 13.06.005. SHORT TITLE. Chapters 06 - 36 of this title shall
17 be known and may be cited as the Uniform Probate Code.

18 Sec. 13.06.010. PURPOSES; RULE OF CONSTRUCTION. (a) This code
19 shall be liberally construed and applied to promote its underlying
20 purposes and policies.

21 (b) The underlying purposes and policies of this code are to

22 (1) simplify and clarify the law concerning the affairs
23 of decedents, missing persons, protected persons, minors and incapacitated persons;
24

25 (2) discover and make effective the intent of a decedent
26 in distribution of his property;

27 (3) promote a speedy and efficient system for liquidating
28 the estate of the decedent and making distribution to its successors;

29 (4) facilitate use and enforcement of certain trusts; and

SENATE BILL NO. 248

Engrossment waived by the Speaker of the House in accordance
with Rule 44(b) of the Uniform Rules, Alaska State Legislature.
Certified amendments attached.

CERTIFIED

A M E N D M E N T S

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

TO: SENATE BILL NO. 248

- (1) Page 3, between lines 12 and 13 insert:
 - (3) a person who is absent for a continuous period of five years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead; his death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.
- (2) Page 6, line 21, delete "18" insert "19"
- (3) Page 17, line 11, after "parents" insert:

"except that an adopted child and his issue have the rights of inheritance from the natural parents and their respective kin unless the decree of adoption specifically provides for termination of those rights of inheritance and"
- (4) Page 25, line 16, change "EXEMPT PROPERTY" to "HOMESTEAD AND PERSONAL PROPERTY"
- (5) Page 25, lines 19 and 21, delete "\$8,000" and insert "\$12,000" in both instances.
- (6) Page 25, line 27, after the period add:

A trailer home, mobile home or another dwelling of like nature, which is owned by a family or one of its members and is used as the family's actual abode, is exempt up to \$8,000, whether or not the dwelling is affixed to the land, and whether or not the land is held in fee simple or by a leasehold or some other interest in land.
- (7) Page 25, line 28, change "EXEMPT PROPERTY" to "PERSONAL PROPERTY ALLOWANCE"
- (8) Page 26, lines 6, 8, 10, 11 and 13, add "personal" after "exempt" in each instance
- (9) Page 26, line 20 and Page 27, lines 14, 17 and 23, change "exempt property" to "personal property allowance" in each instance
- (10) Page 28, line 6, delete "18" and insert "19"
- (11) Page 30, between lines 12 and 13, add a new section to read:

Sec. 13.11.173. PROOF OF WILLS. Wills other than self-proving wills under sec. 165 of this chapter may be proven by the affidavits of the two witnesses to the will or, if one witness is deceased or cannot be located, by the testimony of one subscribing witness and other proof satisfactory to the court.
- (12) Page 42, line 4, insert "superior" before "court"

(13) Page 118, line 5, delete "\$5,000" and insert "\$6,000"

(14) Page 120, between lines 7 and 8 insert:

(d) The superior court may authorize the disposal in a manner it prescribes of personal property which has not been disposed of under this section by the end of six months if no heirs or claimants have been located.

Sec. 13.16.700. SETTLEMENT DIRECTED BY COURT. When a judge receives information that a person has died in his judicial district leaving an estate of \$6,000 or less and no qualified person has appeared to take charge of the assets, the judge may immediately appoint some person, corporation, or attorney to settle the estate in the manner provided for in secs. 680 - 695 of this chapter.

(15) Page 120, between lines 23 and 24, add new section to read:

Sec. 13.21.010. PAYMENT OF DEBTS OF MORE THAN \$2,000 AND DELIVERY OF PROPERTY WORTH MORE THAN \$2,000 WITHOUT LOCAL ADMINISTRATION. (a) A domiciliary foreign personal representative of a nonresident decedent desiring to collect a claim or personal property worth \$2,000 or more in this state of the decedent, and remove that collected to the jurisdiction where the estate is being administered, shall publish once a week for four successive weeks, in a newspaper of general circulation published in the judicial district where debtor resides or the property is located, notice to all interested persons. The notice shall

(1) set out the names and addresses of the decedent and the person in this state indebted to or holding personal property of the decedent;

(2) state that the personal representative desires to collect a claim or personal property and remove that collected; and

(3) require all persons having claims against the decedent or on interest in the estate and wishing to object to the removal to give written notice of that fact to the person indebted to or holding personal property of the decedent within three months after the first publication of notice.

(b) Upon the expiration of three months after the first publication of the notice provided for in (a) of this section, if the person indebted to or holding personal property of the decedent either has not received written notice from an interested person objecting to the removal, or has received the consent of the person, he may pay the debt or deliver the property to the domiciliary foreign personal representative, upon being presented with

(1) an affidavit of the personal representative stating that no ancillary proceedings will be brought, that no local administration or application or petition for it is pending in this state, and that there are no unpaid creditors of the decedent or the estate in this state who have not consented to the removal;

(2) an authenticated copy of his appointment;

(3) consent to the transfer of the commissioner of revenue, or a person authorized by him to issue that consent;

(4) an affidavit showing publication of the notice required under (a) of this section and be discharged from further liability and responsibility for the debt or property, without the necessity of inquiring into the truth of any of the facts stated in the affidavit.

(c) If the claim or property referred to in this section consists of an account or accounts in a savings and loan association or bank doing business in this state, publication of the notice specified in (a) of this section shall be once a week for three successive weeks and the notice shall require all persons having claims against the decedent or an interest in the estate and wishing to object to removal from this state of funds constituting the account or accounts, to give written notice of that fact to the savings and loan association or bank within 30 days after the first publication of the notice.

- (16) Page 120, lines 24 and 25: delete "DEBT AND DELIVERY OF PROPERTY TO DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE" and insert "DEBTS LESS THAN \$2,000 AND DELIVERY OF PROPERTY WORTH LESS THAN \$2,000"
- (17) Page 120, line 28, after "decedent" insert "in an amount less than \$2,000" and delete the comma after "property"
- (18) Page 120, line 29, delete all matter on line 29
- (19) Page 121, line 1, delete "action" and insert "worth less than \$2,000"
- (20) Page 121, lines 2 and 3, delete ", or the instrument evidencing the debt, obligation, stock or chose in action,"
- (21) Page 121, lines 13 and 14, delete the words "on the basis of the proof of authority and affidavit" and insert "under the provisions of secs. 10 and 15 of this chapter"
- (22) Page 125, line 13, delete "18" and insert "19"
- (23) Page 126, line 5, delete "six months" and insert "one year"
- (24) Page 127, line 13, after "proceeding" insert "or has failed to properly exercise his duties as a guardian"
- (25) Page 130, line 3, delete "as required by court rule" and insert "at least once a year unless ordered sooner by the court"
- (26) Page 151, lines 5 and 7, change "18" to "19" in each instance
- (27) Page 184, between lines 24 and 25, insert new sec. 5:

* Sec. 5. AS 09.55 is amended by adding new section to read:

ARTICLE 7. ACTIONS BY OR AGAINST DECEASED PERSONS.

Sec. 09.55.570. ALL CAUSES OF ACTION SURVIVE. All causes of action by one person against another, whether arising on contract or otherwise, except those involving defamation of character, survive to the personal representatives of the former and against the personal representative of the latter, but this shall not be construed so as to abate an action for a wrong where any party has died after the verdict or to defeat or prejudice the right of action given by AS 09.15.010. The executors or administrators may maintain an action thereon against the party against whom the cause of action accrued, or, after his death, against his personal representatives.

Sec. 09.55.580. ACTION FOR WRONGFUL DEATH. (a) When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. The action shall be commenced within two years after the death, and the damages therein shall be such damages as the court or jury may consider fair and just, and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife or children, him or her surviving, or other dependents. When the decedent leaves no husband, wife or children surviving him or her or other dependents, the amount recovered shall be administered as other personal property of the deceased person but shall be limited to pecuniary loss. When the plaintiff prevails, the trial court shall determine the allowable costs and expenses of the action and may, in its discretion, require notice and hearing thereon. The amount recovered shall be distributed only after payment of all costs and expenses of suit and debts and expenses of administration.

(b) The damages recoverable under this section shall be limited to those which are the natural and proximate consequence of the negligent or wrongful act or omission of another.

(c) In fixing the amount of damages to be awarded under this section, the court or jury shall consider all the facts and circumstances and from them fix the award at such sum as will fairly compensate for the injury resulting from the death. In determining the amount of the award, the court or jury shall consider but is not limited to the following:

(1) deprivation of the expectation of pecuniary benefits to the beneficiary or beneficiaries, without regard to age thereof, that would have resulted from the continued life of the deceased and without regard to probable accumulations of what the deceased may have saved during his lifetime;

(2) loss of contributions for support;

(3) loss of assistance or services irrespective of age or relationship of decedent to the beneficiary or beneficiaries;

(4) loss of consortium;

(5) loss of prospective training and education;

(6) medical and funeral expenses.

(d) The death of a beneficiary or beneficiaries before judgment does not affect the amount of damages recoverable hereunder.

(e) The right of action hereby granted is not abated by the death of a person named or to be named the defendant.

(28) Page 184, line 25, change "Sec. 5." to "Sec. 6."

(29) Page 184, line 28, change "Sec. 6." to "Sec. 7."