

2013 -- H 5234

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LC00825
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO PROBATE PRACTICE AND PROCEDURE - CUSTODY AND PROBATE
OF WILLS

Introduced By: Representative Samuel A. Azzinaro

Date Introduced: January 31, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 33-7-5 of the General Laws in Chapter 33-7 entitled "Custody and
2 Probate of Wills" is hereby amended to read as follows:

3 **33-7-5. Duty of person in possession of will to deliver into court.** -- (a) Every person;
4 ~~other than a probate clerk,~~ who has custody of a will including the executor named in the will,
5 shall, within thirty (30) days after notice of the death of the testator, deliver the will into the
6 probate court which has jurisdiction of the probate thereof accompanied by a petition to probate
7 will along with the statutory fee, ~~or to the executors named in the will, who shall themselves~~
8 ~~deliver it into court within thirty (30) days after they receive the will; and if any executor or other~~
9 ~~person neglects, without reasonable cause, to deliver a will, after being duly cited for that purpose~~
10 ~~by the court, he or she may be adjudged to be in contempt and may be committed therefor to the~~
11 ~~adult correctional institutions and shall remain there until he or she delivers the will to the court;~~
12 ~~and he or she shall be further liable, to any party aggrieved, for the damage sustained by reason of~~
13 ~~the neglect.~~

14 (b) ~~Provided further, that a fiduciary nominated in a will may deliver such will to the~~
15 ~~probate court with an affidavit containing~~ If it has been determined that there are no assets of the
16 estate requiring probate, the will shall be accompanied by a petition to file will with no assets
17 signed by the fiduciary nominated in said will. Said petition shall contain the following
18 information, representations, and documentation:

1 (1) The date of death of the decedent accompanied by a certified copy of the decedent's
2 death certificate;

3 (2) A ~~representative~~ representation that the funeral bill of the decedent has been paid,
4 accompanied by a receipt therefor;

5 ~~(3) The names and addresses of the heirs at law of the decedent at the decedent's date of~~
6 ~~death; and~~

7 ~~(3)(4)~~ A representation that ~~the affiant has received no notice of the issuance of letters~~
8 ~~testamentary or letters of administration regarding the estate of the decedent, and that~~ there are no
9 assets of the decedent subject to probate.

10 (4) Upon receipt of such will and ~~affidavit~~ petition, the probate clerk, upon being paid a
11 fee of thirty dollars (\$30.00), shall receive and keep the will and accompanying ~~affidavit-~~ petition
12 and shall give a receipt of the deposit thereof.

13 (c) If any executor or other person neglects, without reasonable cause, to deliver a will,
14 after being duly cited for that purpose by the court, he or she may be adjudged to be in contempt
15 and may be committed therefor to the adult correctional institutions and shall remain there until
16 he or she delivers the will to the court; and he or she shall be further liable, to any party
17 aggrieved, for the damage sustained by reason of the neglect.

18 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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- 1 This act would require that any person delivering a will, with or without assets, to any
- 2 probate court must also file the appropriate probate petition and pay the statutory fees.
- 3 This act would take effect upon passage.

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