



April 5, 2019

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## ENGROSSED HOUSE BILL No. 1591

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DIGEST OF HB 1591 (Updated April 3, 2019 1:48 pm - DI 128)

**Citations Affected:** IC 29-1; IC 30-4; IC 30-5; IC 32-17; IC 32-21.

**Synopsis:** Electronic estate planning. Allows a person to contest two or more wills if there is prima facie evidence that: (1) the decedent suffered from an irreversible medical or psychiatric condition that predated the earliest will to be challenged; or (2) a party beneficially interested in one or more of the challenged wills had a direct and active nexus with the preparation or execution process for each will to be challenged. Provides that, in a contest of two or more wills in one proceeding, the court shall review attorney's fee claims at the conclusion of the will contest, and the award and allocation of attorney's fees paid from the estate shall be solely at the discretion of the court. Authorizes the Indiana supreme court and office of judicial administration to establish and administer a statewide electronic estate planning documents registry (registry). Allows certain individuals to deposit certain items into the registry. Requires the administrator of the registry to catalog submitted items in a certain manner. Requires the  
(Continued next page)

**Effective:** July 1, 2019.

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### Young J, Steuerwald, DeLaney, Torr

(SENATE SPONSORS — KOCH, YOUNG M)

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January 22, 2019, read first time and referred to Committee on Judiciary.  
February 18, 2019, amended, reported — Do Pass.  
February 20, 2019, read second time, amended, ordered engrossed.  
February 21, 2019, engrossed. Read third time, passed. Yeas 97, nays 0.

SENATE ACTION

March 7, 2019, read first time and referred to Committee on Judiciary.  
April 4, 2019, amended, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

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EH 1591—LS 7517/DI 123



## Digest Continued

registry administrator to make the registry index: (1) available to; and (2) searchable by; the public. Requires the registry administrator to keep the substantive content of electronic documents submitted to or deposited with the registry private, secure, and inaccessible to the public. Requires the registry administrator to issue a certified report concerning the existence of certain items submitted to or deposited with the registry in certain instances. Requires the registry administrator to issue a certified transcript of certain documents submitted to or deposited with the registry in certain instances. Allows the registry administrator to charge fees in certain instances. Specifies that the issuance of a court order on any matter related to an unsupervised estate does not revoke the personal representative's authority to continue the administration of the estate as an unsupervised estate. Provides that restrictions concerning the sale of real estate by an estate executor or administrator for the purpose of defraying the debts or obligations of a decedent are inapplicable in certain instances. Specifies how prima facie evidence of the devolution of real estate title to distributees may be established. Specifies recording requirements for affidavits concerning the devolution of real estate titles. Specifies notice requirements for claims made by the estate recovery unit of the office of Medicaid policy and planning. Defines the term "specified adult" as a person who: (1) is not less than 65 years of age; or (2) is a person who: (A) is at least 18 years of age; and (B) has a mental or physical impairment that prohibits the person from protecting the person's interests. Allows certain individuals to act on behalf of a specified adult in certain instances involving the financial exploitation of the specified adult. Voids certain transfers of real property if: (1) the transfer of the real property involves a transfer on death deed; and (2) the transfer of the real estate is not recorded: (A) before the death of the grantor; and (B) with the recorder of deeds in the county where the real property is situated. Defines certain terms. Makes conforming and technical amendments.

**EH 1591—LS 7517/DI 123**



April 5, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1591

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A BILL FOR AN ACT to amend the Indiana Code concerning probate.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 29-1-1-3, AS AMENDED BY P.L.163-2018,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 3. (a) The following definitions apply throughout  
4 this article, unless otherwise apparent from the context:  
5 (1) "Child" includes an adopted child **or a child who is in**  
6 **gestation before the death of a deceased parent but and born**  
7 **within forty-three (43) weeks after the death of that parent.**  
8 **The term** does not include a grandchild or other more remote  
9 descendants, nor, except as provided in IC 29-1-2-7, a child born  
10 out of wedlock.  
11 (2) "Claimant" means a person having a claim against the  
12 decedent's estate as described in IC 29-1-14-1(a).  
13 (3) "Claims" includes liabilities of a decedent which survive,  
14 whether arising in contract or in tort or otherwise, expenses of  
15 administration, and all taxes imposed by reason of the person's

**EH 1591—LS 7517/DI 123**



- 1 death. However, for purposes of IC 29-1-2-1 and IC 29-1-3-1, the  
2 term does not include taxes imposed by reason of the person's  
3 death.
- 4 (4) "Court" means the court having probate jurisdiction.
- 5 (5) "Decedent" means one who dies testate or intestate.
- 6 (6) "Devise" or "legacy", when used as a noun, means a  
7 testamentary disposition of either real or personal property or  
8 both.
- 9 (7) "Devise", when used as a verb, means to dispose of either real  
10 or personal property or both by will.
- 11 (8) "Devisee" includes legatee, and "legatee" includes devisee.
- 12 (9) "Distributee" denotes those persons who are entitled to the  
13 real and personal property of a decedent under a will, under the  
14 statutes of intestate succession, or under IC 29-1-4-1.
- 15 (10) "Estate" denotes the real and personal property of the  
16 decedent or protected person, as from time to time changed in  
17 form by sale, reinvestment, or otherwise, and augmented by any  
18 accretions and additions thereto and substitutions therefor and  
19 diminished by any decreases and distributions therefrom.
- 20 (11) "Expenses of administration" includes expenses incurred by  
21 or on behalf of a decedent's estate in the collection of assets, the  
22 payment of debts, and the distribution of property to the persons  
23 entitled to the property, including funeral expenses, expenses of  
24 a tombstone, expenses incurred in the disposition of the  
25 decedent's body, executor's commissions, attorney's fees, and  
26 miscellaneous expenses.
- 27 (12) "Fiduciary" includes a:
- 28 (A) personal representative;
- 29 (B) guardian;
- 30 (C) conservator;
- 31 (D) trustee; and
- 32 (E) person designated in a protective order to act on behalf of  
33 a protected person.
- 34 (13) "Heirs" denotes those persons, including the surviving  
35 spouse, who are entitled under the statutes of intestate succession  
36 to the real and personal property of a decedent on the decedent's  
37 death intestate, unless otherwise defined or limited by the will.
- 38 (14) "Incapacitated" has the meaning set forth in IC 29-3-1-7.5.
- 39 (15) "Interested persons" means heirs, devisees, spouses,  
40 creditors, or any others having a property right in or claim against  
41 the estate of a decedent being administered. This meaning may  
42 vary at different stages and different parts of a proceeding and



- 1 must be determined according to the particular purpose and  
 2 matter involved.
- 3 (16) "Issue" of a person, when used to refer to persons who take  
 4 by intestate succession, includes all lawful lineal descendants  
 5 except those who are lineal descendants of living lineal  
 6 descendants of the intestate.
- 7 (17) "Lease" includes an oil and gas lease or other mineral lease.
- 8 (18) "Letters" includes letters testamentary, letters of  
 9 administration, and letters of guardianship.
- 10 (19) "Minor" or "minor child" or "minority" refers to any person  
 11 under the age of eighteen (18) years.
- 12 (20) "Mortgage" includes deed of trust, vendor's lien, and chattel  
 13 mortgage.
- 14 (21) "Net estate" refers to the real and personal property of a  
 15 decedent less the allowances provided under IC 29-1-4-1 and  
 16 enforceable claims against the estate.
- 17 (22) "No contest provision" refers to a provision of a will that, if  
 18 given effect, would reduce or eliminate the interest of a  
 19 beneficiary of the will who, directly or indirectly, initiates or  
 20 otherwise pursues:
- 21 (A) an action to contest the admissibility or validity of the will;  
 22 (B) an action to set aside a term of the will; or  
 23 (C) any other act to frustrate or defeat the testator's intent as  
 24 expressed in the terms of the will.
- 25 (23) "Person" means:
- 26 (A) an individual;  
 27 (B) a corporation;  
 28 (C) a trust;  
 29 (D) a limited liability company;  
 30 (E) a partnership;  
 31 (F) a business trust;  
 32 (G) an estate;  
 33 (H) an association;  
 34 (I) a joint venture;  
 35 (J) a government or political subdivision;  
 36 (K) an agency;  
 37 (L) an instrumentality; or  
 38 (M) any other legal or commercial entity.
- 39 (24) "Personal property" includes interests in goods, money,  
 40 choses in action, evidences of debt, and chattels real.
- 41 (25) "Personal representative" includes executor, administrator,  
 42 administrator with the will annexed, administrator de bonis non,



1 and special administrator.

2 (26) "Probate estate" denotes the property transferred at the death  
3 of a decedent under the decedent's will or under IC 29-1-2, in the  
4 case of a decedent dying intestate.

5 (27) "Property" includes both real and personal property.

6 (28) "Protected person" has the meaning set forth in IC 29-3-1-13.

7 (29) "Real property" includes estates and interests in land,  
8 corporeal or incorporeal, legal or equitable, other than chattels  
9 real.

10 **(30) "Unit" means the estate recovery unit of the office of**  
11 **Medicaid policy and planning established under IC 12-8-6.5-1.**

12 ~~(30)~~ **(31) "Will"** includes all wills, testaments, and codicils. The  
13 term also includes a testamentary instrument which merely  
14 appoints an executor or revokes or revives another will.

15 (b) The following rules of construction apply throughout this article  
16 unless otherwise apparent from the context:

17 (1) The singular number includes the plural and the plural number  
18 includes the singular.

19 (2) The masculine gender includes the feminine and neuter.

20 SECTION 2. IC 29-1-3-8 IS AMENDED TO READ AS FOLLOWS  
21 [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) When a testator fails to  
22 provide ~~in his a~~ will for any of ~~his~~ **the testator's** children born or  
23 adopted after the making of ~~his~~ **the testator's** last will, such child,  
24 whether born before or after the testator's death, shall receive a share  
25 in the estate of the testator equal in value to that which ~~he~~ **the child**  
26 would have received if the testator had died intestate, unless it appears  
27 from the will that such omission was intentional, or unless:

28 **(1)** when the will was executed the testator had one (1) or more  
29 children known to ~~him~~ **the testator** to be living; and

30 **(2) the testator** devised substantially all ~~his~~ **the testator's** estate  
31 to the spouse who survives ~~him~~ **the testator's death**.

32 (b) If, at the time of the making of ~~his~~ **the testator's** will, the  
33 testator believes any of ~~his~~ **the testator's** children to be dead, and fails  
34 to provide for such child in ~~his~~ **the testator's** will, the child shall  
35 receive a share in the estate of the testator equal in value to that which  
36 ~~he~~ **the child** would have received if the testator had died intestate,  
37 unless it appears from the will or from other evidence that the testator  
38 would not have devised anything to such child had ~~he~~ **the testator**  
39 known that the child was alive.

40 SECTION 3. IC 29-1-7-15.1, AS AMENDED BY P.L.163-2018,  
41 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2019]: Sec. 15.1. (a) When it has been determined that a



1 decedent died intestate and letters of administration have been issued  
 2 upon the decedent's estate, no will shall be probated unless it is  
 3 presented for probate:

- 4 (1) before the court decrees final distribution of the estate; or  
 5 (2) in an unsupervised estate, before a closing statement has been  
 6 filed.

7 (b) No real estate located in Indiana of which any person may die  
 8 seized shall be sold by the executor or administrator of the deceased  
 9 person's estate to pay any debt or obligation of the deceased person,  
 10 which is not a lien of record in the county in which the real estate is  
 11 located, or to pay any costs of administration of any decedent's estate,  
 12 unless:

- 13 (1) a petition for the probate of a will and for the issuance of  
 14 letters testamentary;  
 15 (2) a petition for the appointment of an administrator with the will  
 16 annexed; or  
 17 (3) a petition for the appointment of an administrator;

18 is filed in court under ~~IC 29-1-7-5~~ **section 5 of this chapter** not later  
 19 than five (5) months after the decedent's death and the clerk issues  
 20 letters testamentary or letters of administration not later than seven (7)  
 21 months after the decedent's death.

22 (c) The limitation described in subsection (b) on the sale of real  
 23 estate does not apply if:

- 24 (1) a petition is filed in court under ~~IC 29-1-7-5~~ **section 5 of this**  
 25 **chapter** not later than five (5) months after the decedent's death  
 26 and if the petitioner has satisfied the requirements of:

- 27 (A) this article;  
 28 (B) the Indiana Rules of Trial Procedure; and  
 29 (C) the local rules of the court; and

30 (2) the failure of the clerk to issue letters testamentary or letters  
 31 of administration not later than seven (7) months after the  
 32 decedent's death is not the result of the petitioner's failure to  
 33 comply with the requirements of:

- 34 (A) this article;  
 35 (B) the Indiana Rules of Trial Procedure; or  
 36 (C) the local rules of the court.

37 (d) **The court shall order the limitation described in subsection**  
 38 **(b) inapplicable to a claimant's claim concerning the sale of real**  
 39 **estate if the court finds that the following conditions apply:**

- 40 (1) **A petition was filed in court under section 5 of this chapter**  
 41 **not later than five (5) months after the decedent's death.**  
 42 (2) **More than thirty (30) days have elapsed since the petition**



- 1           **was filed.**
- 2           **(3) The clerk has not issued letters testamentary or letters of**
- 3           **administration.**
- 4           **(4) The claimant filed a claim in the estate not later than seven**
- 5           **(7) months after the decedent's death.**
- 6           **(5) The petitioner has not satisfied the provisions of subsection**
- 7           **(c).**
- 8           **(6) The claimant has not directly or indirectly caused or**
- 9           **contributed to a delay in issuing letters testamentary or letters**
- 10           **of administration through coordination or collaboration with**
- 11           **the petitioner that filed the petition under section 5 of this**
- 12           **chapter.**
- 13           **(7) Not later than seven (7) months after the decedent's death,**
- 14           **the claimant files a motion requesting a show cause hearing**
- 15           **concerning any delay related to the issuance of the letters**
- 16           **testamentary or letters of administration.**
- 17           ~~(d)~~ **(e)** The title of any real estate or interest therein purchased in
- 18           good faith and for a valuable consideration from the heirs of any person
- 19           who died seized of the real estate shall not be affected or impaired by
- 20           any devise made by the person of the real estate so purchased, unless:
- 21               (1) the will containing the devise has been probated and recorded
- 22               in the office of the clerk of the court having jurisdiction within
- 23               five (5) months after the death of the testator; or
- 24               (2) an action to contest the will's validity is commenced within the
- 25               time provided by law and, as a result, the will is ultimately
- 26               probated.
- 27           ~~(e)~~ **(f)** Except as provided in subsection ~~(f)~~; **(g)**, the will of the
- 28           decedent shall not be admitted to probate unless the will is presented
- 29           for probate before the latest of the following dates:
- 30               (1) Three (3) years after the individual's death.
- 31               (2) Sixty (60) days after the entry of an order denying the probate
- 32               of a will of the decedent previously offered for probate and
- 33               objected to under section 16 of this chapter.
- 34               (3) Sixty (60) days after entry of an order revoking probate of a
- 35               will of the decedent previously admitted to probate and contested
- 36               under section 17 of this chapter.
- 37           However, in the case of an individual presumed dead under
- 38           IC 29-2-5-1, the three (3) year period commences with the date the
- 39           individual's death has been established by appropriate legal action.
- 40           ~~(f)~~ **(g)** This subsection applies with respect to the will of an
- 41           individual who dies after June 30, 2011. If:
- 42               (1) no estate proceedings have been commenced for a decedent;





1           and  
 2           (2) an asset of the decedent remains titled or registered in the  
 3           name of the decedent;  
 4       the will of the decedent may be presented to the court for probate and  
 5       admitted to probate at any time after the expiration of the deadline  
 6       determined under subsection ~~(e)~~ (f) for the sole purpose of transferring  
 7       the asset described in subdivision (2). A will presented for probate  
 8       under this subsection is subject to all rules governing the admission of  
 9       wills to probate.  
 10       SECTION 4. IC 29-1-7-17.5 IS ADDED TO THE INDIANA CODE  
 11       AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 12       1, 2019]: **Sec. 17.5. (a) The court, in its discretion and upon  
 13       application of any party instituting an action pursuant to section  
 14       16 or 17 of this chapter, may permit the contest of two (2) or more  
 15       wills if there is prima facie evidence that:**  
 16               (1) the decedent suffered from an irreversible medical or  
 17               psychiatric condition that predated the earliest will to be  
 18               challenged; or  
 19               (2) a party beneficially interested in one (1) or more  
 20               challenged wills had a direct and active nexus with the  
 21               preparation or execution process for each will to be  
 22               challenged on the basis of undue influence.  
 23       **The prima facie preliminary evidentiary showing under  
 24       subdivision (1) shall be made by an affidavit of the decedent's  
 25       treating physician or through the records of a health care provider  
 26       obtained during discovery and tendered to the court pursuant to  
 27       Rule 803(6) of the Indiana Rules of Evidence.**  
 28       **(b) If the court exercises its discretion to permit the challenge to  
 29       two (2) or more wills in one (1) proceeding, a challenger is eligible  
 30       to request attorney's fees pursuant to IC 29-1-10-14 if the  
 31       challenger stands to directly benefit from a successful suit. The  
 32       court shall review the attorney's fee claims at the conclusion of the  
 33       will contest. The award and allocation of attorney's fees paid from  
 34       the estate shall be solely at the discretion of the court.**  
 35       SECTION 5. IC 29-1-7-23 IS AMENDED TO READ AS  
 36       FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 23. (a) When a person  
 37       dies, his the person's real and personal property passes to persons to  
 38       whom it is devised by his the person's last will, or, in the absence of  
 39       such disposition, to the persons who succeed to his the person's estate  
 40       as his the person's heirs; but it shall be subject to the possession of the  
 41       personal representative and to the election of the surviving spouse and  
 42       shall be chargeable with the expenses of administering the estate, the**



1 payment of other claims and the allowance is under IC 29-1-4-1, except  
2 as otherwise provided in IC 29-1.

3 **(b) Prima facie evidence of the devolution of real estate title to**  
4 **distributees under this section may be established by an affidavit**  
5 **containing the following information:**

6 **(1) The decedent's name.**

7 **(2) The decedent's date of death.**

8 **(3) A description of the most recent instrument recorded in**  
9 **the office of the recorder of the county where the real estate**  
10 **is located.**

11 **(4) A description of the most recent instrument responsible**  
12 **for conveying title to the real estate.**

13 **(5) A description of the conveyed real estate as it appears in**  
14 **the instrument described in subdivision (4).**

15 **(6) Identifying information unique to the instrument or**  
16 **instruments described in subdivisions (3) and (4), as**  
17 **applicable, that may be used by the recorder to identify the**  
18 **instrument or instruments, as applicable, in the recorder's**  
19 **records.**

20 **(7) An explanation of how title devolved to each distributee**  
21 **under this section, including a recitation of devolution by:**

22 **(A) intestate transfer under IC 29-1-2-1; or**

23 **(B) a decedent's last will and testament that has been**  
24 **admitted to probate under section 9 of this chapter.**

25 **(8) A statement that establishes that:**

26 **(A) at least seven (7) months have elapsed since the**  
27 **decedent's death;**

28 **(B) no letters testamentary or letters of administration**  
29 **have been issued to a court appointed personal**  
30 **representative for the decedent within the time limits**  
31 **specified under section 15.1(c) of this chapter; and**

32 **(C) a probate court has not issued findings and an**  
33 **accompanying order preventing the limitations in section**  
34 **15.1(b) of this chapter from applying to the decedent's real**  
35 **property.**

36 **(9) The name of each distributee known to the affiant.**

37 **(10) An explanation of how each portion of the fractional**  
38 **interest that may have devolved among multiple distributees**  
39 **known to the affiant was calculated.**

40 **(c) Upon presentation of an affidavit described in subsection (b),**  
41 **the auditor of the county where the real estate described in**  
42 **subsection (b) is located must endorse the affidavit and record the**



1 estate title transfer in the auditor's real estate ownership records  
 2 as an instrument that is exempt from the requirements to file a  
 3 sales disclosure.

4 (d) Upon presentation of an affidavit described in subsection (b),  
 5 the recorder of the county where the real estate described in  
 6 subsection (b) is located must:

7 (1) record the affidavit; and

8 (2) index the affidavit as the most recent instrument  
 9 responsible for the transfer of the real estate described in  
 10 subsection (b).

11 (e) Any person may rely upon an affidavit:

12 (1) made in good faith; and

13 (2) under this section;

14 as evidence of an effective transfer of title of record (as defined in  
 15 IC 32-30-3-1).

16 SECTION 6. IC 29-1-7-25, AS AMENDED BY P.L.163-2018,  
 17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2019]: Sec. 25. (a) Any will that has been proved or allowed  
 19 in any other state or in any foreign country, according to the laws of  
 20 that state or country, may be received and recorded in this state:

21 (1) before the deadlines imposed by section ~~15.1(e)~~ **15.1(f)** of this  
 22 chapter, unless the will is probated for a purpose described in  
 23 section ~~15.1(f)~~ **15.1(g)** of this chapter; and

24 (2) in the manner and for the purpose stated in sections 26 and 27  
 25 of this chapter.

26 (b) A foreign will received and recorded for a purpose described in  
 27 section ~~15.1(f)~~ **15.1(g)** of this chapter may not be admitted to probate  
 28 for any other purpose and is subject to all rules governing the  
 29 admission of wills to probate.

30 SECTION 7. IC 29-1-7.5-3, AS AMENDED BY P.L.95-2007,  
 31 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2019]: Sec. 3. (a) Subject to section 2(d) of this chapter, a  
 33 personal representative who administers an estate under this chapter  
 34 may do the following without order of the court:

35 (1) Retain assets owned by the decedent pending distribution or  
 36 liquidation including those in which the representative is  
 37 personally interested or which are otherwise improper for trust  
 38 investment.

39 (2) Receive assets from fiduciaries or other sources.

40 (3) Perform, compromise, or refuse performance of the decedent's  
 41 contracts that continue as obligations of the estate, as the personal  
 42 representative may determine under the circumstances. In



1 performing enforceable contracts by the decedent to convey or  
 2 lease land, the personal representative, among other possible  
 3 courses of action, may:

4 (A) execute and deliver a deed of conveyance for cash  
 5 payment of all sums remaining due or the purchaser's note for  
 6 the sum remaining due secured by a mortgage or deed of trust  
 7 on the land; or

8 (B) deliver a deed in escrow with directions that the proceeds,  
 9 when paid in accordance with the escrow agreement, be paid  
 10 to the successors of the decedent, as designated in the escrow  
 11 agreement.

12 (4) Satisfy written charitable pledges of the decedent irrespective  
 13 of whether the pledges constituted binding obligations of the  
 14 decedent or were properly presented as claims, if in the judgment  
 15 of the personal representative the decedent would have wanted  
 16 the pledges completed under the circumstances.

17 (5) If funds are not needed to meet debts and expenses currently  
 18 payable and are not immediately distributable, deposit or invest  
 19 liquid assets of the estate, including moneys received from the  
 20 sale of other assets, in federally insured interest-bearing accounts,  
 21 readily marketable secured loan arrangements, or other prudent  
 22 investments which would be reasonable for use by trustees  
 23 generally.

24 (6) Acquire or dispose of an asset, including land in this or  
 25 another state, for cash or on credit, at public or private sale; and  
 26 manage, develop, improve, exchange, partition, change the  
 27 character of, or abandon an estate asset.

28 (7) Make ordinary or extraordinary repairs or alterations in  
 29 buildings or other structures, demolish any improvements, raze  
 30 existing or erect new party walls or buildings.

31 (8) Subdivide, develop, or dedicate land to public use; make or  
 32 obtain the vacation of plats and adjust boundaries; or adjust  
 33 differences in valuation on exchange or partition by giving or  
 34 receiving considerations; or dedicate easements to public use  
 35 without consideration.

36 (9) Enter for any purpose into a lease as lessor or lessee, with or  
 37 without option to purchase or renew, for a term within or  
 38 extending beyond the period of administration.

39 (10) Enter into a lease or arrangement for exploration and  
 40 removal of minerals or other natural resources or enter into a  
 41 pooling or unitization agreement.

42 (11) Abandon property when, in the opinion of the personal



- 1 representatives, it is valueless, or is so encumbered, or is in  
2 condition that it is of no benefit to the estate.
- 3 (12) Vote stocks or other securities in person or by general or  
4 limited proxy.
- 5 (13) Pay calls, assessments, and other sums chargeable or  
6 accruing against or on account of securities, unless barred by the  
7 provisions relating to claims.
- 8 (14) Hold a security in the name of a nominee or in other form  
9 without disclosure of the interest of the estate but the personal  
10 representative is liable for any act of the nominee in connection  
11 with the security so held.
- 12 (15) Hold, manage, safeguard, and control the estate's real and  
13 personal property, insure the assets of the estate against damage,  
14 loss, and liability, and insure the personal representative  
15 personally against liability as to third persons.
- 16 (16) Borrow money with or without security to be repaid from the  
17 estate assets or otherwise and advance money for the protection  
18 of the estate.
- 19 (17) Effect a fair and reasonable compromise with any debtor or  
20 obligor, or extend, renew, or in any manner modify the terms of  
21 any obligation owing to the estate. If the personal representative  
22 holds a mortgage, pledge, or other lien upon property of another  
23 person, the personal representative may, in lieu of foreclosure,  
24 accept a conveyance or transfer of encumbered assets from the  
25 owner thereof in satisfaction of the indebtedness secured by lien.
- 26 (18) Pay taxes, assessments, compensation of the personal  
27 representative, and other expenses incident to the administration  
28 of the estate.
- 29 (19) Hold an interest in a proprietorship, partnership, limited  
30 liability company, business trust, corporation, or another domestic  
31 or foreign form of business or enterprise.
- 32 (20) Continue a business.
- 33 (21) Take any action that may be taken by shareholders, partners,  
34 members, or property owners, including contributing additional  
35 capital to or merging, consolidating, reorganizing, recapitalizing,  
36 dissolving, or otherwise changing the form of the business  
37 organization.
- 38 (22) Allocate items of income or expense to either estate income  
39 or principal, as permitted or provided by IC 30-2-14.
- 40 (23) Employ persons, including attorneys, auditors, investment  
41 advisors, or agents, even if they are associated with the personal  
42 representative, to advise or assist the personal representative in



1 the performance of the personal representative's administrative  
 2 duties; act without independent investigation upon their  
 3 recommendations; and instead of acting personally, employ one  
 4 (1) or more agents to perform any act of administration, whether  
 5 or not discretionary.

6 (24) Do any of the following concerning a claim or demand made  
 7 in favor of or against the estate for the protection of the estate and  
 8 of the personal representative in the performance of the personal  
 9 representative's duties:

10 (A) Release, assign, settle, compromise, or contest the claim  
 11 or demand.

12 (B) Participate in mediation or submit to arbitration to resolve  
 13 any dispute concerning the claim or demand.

14 (C) Extend the time for payment of the claim or demand.

15 (D) Abandon the claim or demand.

16 (25) Sell, mortgage, or lease any real or personal property of the  
 17 estate or any interest therein for cash, credit, or for part cash and  
 18 part credit, and with or without security for unpaid balances.

19 (26) Select a settlement option under any qualified or  
 20 nonqualified benefit or retirement plan, annuity, or life insurance  
 21 payable to the estate, and take appropriate action to collect the  
 22 proceeds.

23 (27) Inspect and investigate property held, directly or indirectly,  
 24 by the personal representative for the purpose of:

25 (A) determining the application of environmental law with  
 26 respect to the property; and

27 (B) doing the following:

28 (i) Take action to prevent, abate, or remedy an actual or a  
 29 potential violation of an environmental law affecting the  
 30 property, whether taken before or after the assertion of a  
 31 claim or the initiation of governmental enforcement by  
 32 federal, state, or local authorities.

33 (ii) Compromise claims against the estate that may be  
 34 asserted for an alleged violation of environmental law.

35 (iii) Pay the expense of inspection, review, abatement, or  
 36 remedial action to comply with the environmental law.

37 (28) Distribute assets of the estate upon such terms as the  
 38 personal representative may impose. To the extent practicable,  
 39 taking into account the decedent's probable intention, the power  
 40 to distribute assets includes the power to:

41 (A) pay an amount to a distributee who is under a legal  
 42 disability or whom the personal representative reasonably



- 1 believes to be incapacitated by:
- 2 (i) paying the amount directly to the distributee or applying
- 3 the amount for the distributee's use and benefit;
- 4 (ii) paying the amount to the guardian appointed for the
- 5 distributee;
- 6 (iii) paying the amount to a custodian under the Indiana
- 7 Uniform Transfers to Minors Act (IC 30-2-8.5) or a
- 8 custodial trustee under the Uniform Custodial Trust Act
- 9 (IC 30-2-8.6); or
- 10 (iv) paying the amount to the trustee of a trust established by
- 11 the decedent or by the personal representative under
- 12 subsection (b); and
- 13 (B) make distributions of estate income and principal in kind,
- 14 in cash, or partly in each, in shares of differing composition.
- 15 (29) Perform any other act necessary or appropriate to administer
- 16 the estate.
- 17 (b) A personal representative who administers an estate under this
- 18 chapter may, without court order, establish a trust to make distributions
- 19 to a distributee who is under a legal disability or whom the personal
- 20 representative reasonably believes is incapacitated. In establishing a
- 21 trust under this subsection, a personal representative may exercise:
- 22 (1) the authority given to custodians under the Indiana Uniform
- 23 Transfers to Minors Act (IC 30-2-8.5) to create a trust that
- 24 satisfies the requirements of Section 2503(c) of the Internal
- 25 Revenue Code and the regulations adopted under that Section; or
- 26 (2) the authority given to an attorney in fact under
- 27 IC 30-5-5-15(a)(3) to establish a revocable trust for the benefit of
- 28 a principal.
- 29 **(c) Unless the court revokes unsupervised administration and**
- 30 **converts the estate to supervised administration, the issuance of an**
- 31 **order on any matter in an unsupervised estate does not revoke the**
- 32 **personal representative's authority to continue to administer an**
- 33 **estate according to unsupervised administration.**
- 34 SECTION 8. IC 29-1-8-1, AS AMENDED BY P.L.163-2018,
- 35 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JULY 1, 2019]: Sec. 1. (a) Forty-five (45) days after the death of a
- 37 decedent and upon being presented an affidavit that complies with
- 38 subsection (b), a person:
- 39 (1) indebted to the decedent; or
- 40 (2) having possession of personal property or an instrument
- 41 evidencing a debt, an obligation, a stock, or a chose in action
- 42 belonging to the decedent;



1 shall make payment of the indebtedness or deliver the personal  
 2 property or the instrument evidencing a debt, an obligation, a stock, or  
 3 a chose in action to a distributee claiming to be entitled to payment or  
 4 delivery of property of the decedent as alleged in the affidavit.

5 (b) The affidavit required by subsection (a) must be an affidavit  
 6 made by or on behalf of the distributee and must state the following:

7 (1) That the value of the gross probate estate, wherever located,  
 8 (less liens, encumbrances, and reasonable funeral expenses) does  
 9 not exceed:

10 **(A) twenty-five thousand dollars (\$25,000), for the estate of**  
 11 **an individual who dies before July 1, 2007; and**

12 **(B) fifty thousand dollars (\$50,000), for the estate of an**  
 13 **individual who dies after June 30, 2007.**

14 (2) That forty-five (45) days have elapsed since the death of the  
 15 decedent.

16 (3) That no application or petition for the appointment of a  
 17 personal representative is pending or has been granted in any  
 18 jurisdiction.

19 (4) The name and address of each distributee that is entitled to a  
 20 share of the property and the part of the property to which each  
 21 distributee is entitled.

22 (5) That the affiant has notified each distributee identified in the  
 23 affidavit of the affiant's intention to present an affidavit under this  
 24 section.

25 (6) That the affiant is entitled to payment or delivery of the  
 26 property on behalf of each distributee identified in the affidavit.

27 **(7) That the affiant has delivered a copy to the unit if:**

28 **(A) the decedent was at least fifty-five (55) years of age at**  
 29 **the time of death; and**

30 **(B) the decedent dies on or after June 30, 2019.**

31 **(8) That the affiant has notified each distributee identified in**  
 32 **the affidavit that the distributee will be liable, subject to the**  
 33 **limitations of liability specified under section 3.5 of this**  
 34 **chapter, to an extent determined by the value of the property**  
 35 **received by the distributee for any timely filed claim in the**  
 36 **decedent's estate if the decedent dies on or after June 30,**  
 37 **2019.**

38 (c) If a motor vehicle or watercraft (as defined in IC 9-13-2-198.5)  
 39 is part of the estate, nothing in this section shall prohibit a transfer of  
 40 the certificate of title to the motor vehicle if five (5) days have elapsed  
 41 since the death of the decedent and no appointment of a personal  
 42 representative is contemplated. A transfer under this subsection shall





1 be made by the bureau of motor vehicles upon receipt of an affidavit  
 2 containing a statement of the conditions required by subsection (b)(1)  
 3 and (b)(6). The affidavit must be duly executed by the distributees of  
 4 the estate.

5 (d) A transfer agent of a security shall change the registered  
 6 ownership on the books of a corporation from the decedent to a  
 7 distributee upon the presentation of an affidavit as provided in  
 8 subsection (a).

9 (e) For the purposes of subsection (a), an insurance company that,  
 10 by reason of the death of the decedent, becomes obligated to pay a  
 11 death benefit to the estate of the decedent is considered a person  
 12 indebted to the decedent.

13 (f) For purposes of subsection (a), property in a safe deposit box  
 14 rented by a decedent from a financial institution organized or  
 15 reorganized under the law of any state (as defined in IC 28-2-17-19) or  
 16 the United States is considered personal property belonging to the  
 17 decedent in the possession of the financial institution.

18 (g) For purposes of subsection (a), a distributee has the same rights  
 19 as a personal representative under IC 32-39 to access a digital asset (as  
 20 defined in IC 32-39-1-10) of the decedent.

21 **(h) If the decedent:**

22 **(1) was at least fifty-five (55) years of age at the time of death;**  
 23 **and**

24 **(2) dies after June 30, 2019;**

25 **the affiant shall deliver a copy of the affidavit required by**  
 26 **subsection (a) to the unit.**

27 SECTION 9. IC 29-1-8-3, AS AMENDED BY P.L.194-2017,  
 28 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2019]: Sec. 3. **(a) As used in this section, "fiduciary"**  
 30 **means:**

31 **(1) the personal representative of an unsupervised estate; or**

32 **(2) a person appointed by a court under this title to act on**  
 33 **behalf of the decedent or the decedent's distributees.**

34 **(a) (b) Except as otherwise provided in this section, if the value**  
 35 **of a decedent's gross probate estate, less liens and encumbrances, does**  
 36 **not exceed the sum of:**

37 **(1) an amount equal to:**

38 **(A) twenty-five thousand dollars (\$25,000), for the estate of an**  
 39 **individual who dies before July 1, 2007; and**

40 **(B) fifty thousand dollars (\$50,000), for the estate of an**  
 41 **individual who dies after June 30, 2007;**

42 **(2) the costs and expenses of administration; and**



1 (3) reasonable funeral expenses;  
 2 the personal representative of an unsupervised estate or a person acting  
 3 on behalf of the distributees; **fiduciary**, without giving notice to  
 4 creditors, may immediately **file a closing instrument as provided in**  
 5 **section 4 of this chapter and** disburse and distribute the estate to the  
 6 persons entitled to it, ~~and file a closing statement as provided in section~~  
 7 ~~4 of this chapter: as provided in section 4 of this chapter.~~

8 ~~(b)~~ **(c)** If an estate described in subsection ~~(a)~~ **(b)** includes real  
 9 property, an affidavit may be recorded in the office of the recorder in  
 10 the county in which the real property is located. The affidavit must  
 11 contain the following:

12 (1) The legal description of the real property.

13 (2) The following statement:

14 (A) If the individual dies after June 30, 2007, the following  
 15 statement: "It appears that the decedent's gross probate estate,  
 16 less liens and encumbrances, does not exceed the sum of the  
 17 following: fifty thousand dollars (\$50,000), the costs and  
 18 expenses of administration, and reasonable funeral expenses.".

19 (B) If the individual dies before July 1, 2007, the following  
 20 statement: "It appears that the decedent's gross probate estate,  
 21 less liens and encumbrances, does not exceed the sum of the  
 22 following: twenty-five thousand dollars (\$25,000), the costs  
 23 and expenses of administration, and reasonable funeral  
 24 expenses.".

25 (3) The name of each person entitled to at least a part interest in  
 26 the real property as a result of a decedent's death, the share to  
 27 which each person is entitled, and whether the share is a divided  
 28 or undivided interest.

29 (4) A statement which explains how each person's share has been  
 30 determined.

31 **(5) A statement that the affiant has delivered a copy of the**  
 32 **affidavit to the unit (as defined in IC 29-1-1-3(a)(30)) not less**  
 33 **than thirty (30) days before the affidavit is recorded in the**  
 34 **office of the recorder if the decedent:**

35 **(A) was at least fifty-five (55) years of age at the time of**  
 36 **death; and**

37 **(B) dies after June 30, 2019.**

38 **(6) A statement that the affiant has notified each distributee**  
 39 **identified in the affidavit that the distributee will be liable,**  
 40 **subject to any limitations of liability under other provisions of**  
 41 **this article, to an extent determined by the value of the**  
 42 **property received by the distributee for any timely filed claim**



1           in the decedent's estate if the decedent dies after June 30,  
 2           2019.  
 3           (d) If the decedent:  
 4           (A) was at least fifty-five (55) years of age at the time of  
 5           death; and  
 6           (B) dies after June 30, 2019;  
 7           the fiduciary shall deliver to the unit a copy of the closing  
 8           statement described in subsection (b) or the affidavit described in  
 9           subsection (c) not later than thirty (30) days before the affidavit is  
 10          recorded in the office of the recorder.

11          SECTION 10. IC 29-1-8-3.5 IS ADDED TO THE INDIANA CODE  
 12          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 13          1, 2019]: Sec. 3.5. (a) When a copy of an affidavit is provided to the  
 14          unit under section 1(h) or 3(d) of this chapter, the property  
 15          transferred under the affidavit is not subject to a claim filed by the  
 16          unit unless the unit determines that it has a claim for  
 17          reimbursement and the unit:

- 18           (1) files a claim and provides a copy of the claim to each
- 19           distributee identified in the affidavit not less than thirty (30)
- 20           days after the unit receives a copy of the affidavit; or
- 21           (2) provides to each distributee identified in the affidavit the
- 22           following notice not later than thirty (30) days after the unit
- 23           receives a copy of the affidavit:

24                           **NOTICE OF POTENTIAL CLAIM**

25          You are identified as a distributee of assets formerly owned by  
 26          \_\_\_\_\_, deceased (hereinafter referred to as the "decedent"),  
 27          in an affidavit (hereinafter referred to as the "affidavit") that was  
 28          delivered to the estate recovery unit of the office of Medicaid policy  
 29          and planning (hereinafter referred to as the "unit") pursuant to  
 30          IC 29-1-8-1(h) or IC 29-1-8-3(d), as shown by a copy of the  
 31          affidavit attached to this notice. You are hereby notified that the  
 32          unit holds a potential claim against the decedent's estate and that  
 33          you may be compelled to deliver to the personal representative of  
 34          the decedent's estate the value of any money or other property  
 35          described in the affidavit that you may have received following the  
 36          decedent's death unless a petition is not filed under IC 29-1-7-5 or  
 37          the unit elects not to file a claim in the decedent's estate and deliver  
 38          a copy of the claim to you not later than three (3) months after the  
 39          date of this notice.

40          Dated at \_\_\_\_\_, Indiana, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
 41          Estate Recovery Unit of the Office of Medicaid Policy and Planning  
 42          By: \_\_\_\_\_



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**Printed Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

- (b) With respect to a decedent who dies after June 30, 2019, if:**
  - (1) an affidavit is provided to the unit under section 1(h) or 3(d) of this chapter; and**
  - (2) the unit does not file a claim in the decedent's estate and deliver a copy of the claim to each distributee identified in the affidavit not later than three (3) months after the date of the notice described in subsection (a);**

**the distributee's interest in the property described in the affidavit shall not be subject to a claim filed by or on behalf of the unit.**

**(c) A bona fide purchaser, lender, or title insurance company may rely upon a representation in an affidavit made by a distributee of real property that the unit has not delivered a notice to the distributee under subsection (a) and that the interest of the bona fide purchaser, lender, or title insurance company in the real property will be free from a claim by the unit under IC 29-1-17-10(c) if the unit has not filed a claim in the decedent's estate not later than five (5) days after the affidavit is recorded under section 3(c) of this chapter.**

SECTION 11. IC 29-1-8-4, AS AMENDED BY P.L.194-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. **(a) As used in this section, "fiduciary" means:**

- (1) the personal representative of an unsupervised estate; or**
- (2) a person appointed by a court under this title to act on behalf of the decedent or the decedent's distributees.**

**(a) (b) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a ~~personal representative or a person acting on behalf of the distributees~~ fiduciary may close an estate administered under the summary procedures of section 3 of this chapter by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:**

- (1) to the best knowledge of the ~~personal representative or person acting on behalf of the distributees~~ fiduciary, the value of the gross probate estate, less liens and encumbrances, did not exceed the sum of:**

- (A) twenty-five thousand dollars (\$25,000), for the estate of an individual who dies before July 1, 2007, and fifty thousand dollars (\$50,000), for the estate of an individual who dies after June 30, 2007;**



- 1 (B) the costs and expenses of administration; and  
 2 (C) reasonable funeral expenses;  
 3 (2) the ~~personal representative or person acting on behalf of the~~  
 4 ~~distributees~~ **fiduciary** has fully administered the estate by  
 5 disbursing and distributing it to the persons entitled to it; ~~and~~  
 6 (3) the ~~personal representative of an unsupervised estate or person~~  
 7 ~~acting on behalf of the distributees~~ **fiduciary** has sent a copy of  
 8 the closing statement to all distributees of the estate and to all  
 9 creditors or other claimants of whom the ~~personal representative~~  
 10 ~~or person acting on behalf of the distributees~~ **fiduciary** is aware  
 11 and has furnished a full accounting in writing of the  
 12 administration to the distributees whose interests are affected;  
 13 **(4) the fiduciary has delivered a copy to the unit if the**  
 14 **decedent was at least fifty-five (55) years of age at the time of**  
 15 **death if the decedent dies after June 30, 2019; and**  
 16 **(5) each distributee identified in the statement will be liable,**  
 17 **subject to the limitations of liability specified under section**  
 18 **3.5 of this chapter, to an extent determined by the value of the**  
 19 **property received by the distributee for any timely filed claim**  
 20 **in the decedent's estate if the decedent dies on or after June**  
 21 **30, 2019.**
- 22 ~~(b)~~ **(c)** If no actions, claims, objections, or proceedings involving the  
 23 ~~personal representative of an unsupervised estate or person acting on~~  
 24 ~~behalf of the distributees~~ **fiduciary** are filed in the court within three  
 25 ~~(3)~~ **two (2)** months after the closing statement is filed, the **fiduciary**  
 26 **may immediately disburse and distribute the estate free from**  
 27 **claims to the persons entitled to the disbursement and distribution.**  
 28 **After disbursing and distributing an estate, the fiduciary must file**  
 29 **a report in the court of the disbursement and distribution. The**  
 30 **appointment of the personal representative or the duties of the person**  
 31 **acting on behalf of the distributees **fiduciary, as applicable, shall**  
 32 **terminate upon the filing of the report.****
- 33 ~~(c)~~ **(d)** A closing statement filed under this section has the same  
 34 effect as one (1) filed under IC 29-1-7.5-4.
- 35 ~~(d)~~ **(e)** A copy of any affidavit recorded under section ~~3(b)~~ **3(c)** of  
 36 this chapter must be attached to the closing statement filed under this  
 37 section.
- 38 SECTION 12. IC 29-1-10-14 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. **(a) As used in this**  
 40 **section, "devisee" shall include any person prosecuting or**  
 41 **defending any will pursuant to IC 29-1-7-16 or IC 29-1-7-17.5 and,**  
 42 **if multiple wills are being challenged pursuant to IC 29-1-7-17.5,**



1 **any person prosecuting or defending a will next prior to the earliest**  
 2 **will being challenged pursuant to IC 29-1-7-17.5.**

3 (b) When any person designated as executor in a will, or the  
 4 administrator with the will annexed, or if at any time there be no such  
 5 representative, then any devisee therein, defends it or prosecutes any  
 6 proceedings in good faith and with just cause for the purpose of having  
 7 it admitted to probate, whether successful or not, ~~he~~ **the devisee** shall  
 8 be allowed out of the estate ~~his~~ necessary expenses and disbursements,  
 9 including reasonable attorney's fees in such proceedings.

10 SECTION 13. IC 29-1-21-3, AS AMENDED BY THE  
 11 TECHNICAL CORRECTIONS BILL OF THE 2019 GENERAL  
 12 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2019]: Sec. 3. The following terms are defined for this  
 14 chapter:

15 (1) "Actual presence" means that:

16 (A) a witness; or

17 (B) another individual who observes the execution of the  
 18 electronic will;

19 is physically present in the same physical location as the testator.  
 20 The term does not include any form of observation or interaction  
 21 that is conducted by means of audio, visual, or audiovisual  
 22 telecommunication or similar technological means.

23 (2) "Affidavit of regularity" means an affidavit executed by a  
 24 custodian or other person under section 13 of this chapter with  
 25 respect to the electronic record for an electronic will or a  
 26 complete converted copy of an electronic will.

27 (3) "Complete converted copy" means a document in any format  
 28 that:

29 (A) can be visually perceived in its entirety on a monitor or  
 30 other display device;

31 (B) can be printed; and

32 (C) contains:

33 (i) the text of the electronic will;

34 (ii) the electronic signatures of the testator and the  
 35 witnesses;

36 (iii) a readable copy of any associated document integrity  
 37 evidence that may be a part of or attached to the electronic  
 38 will; and

39 (iv) a self-proving clause concerning the electronic will, if  
 40 the electronic will is self-proved.

41 (4) "Custodian" means a person, other than:

42 (A) the testator who executed the electronic will;



- 1 (B) an attorney;  
 2 (C) a person who is named in the electronic will as a personal  
 3 representative of the testator's estate; or  
 4 (D) a person who is named or defined as a distributee in the  
 5 electronic will;  
 6 who has authorized possession or control of the electronic will.  
 7 The term may include an attorney in fact serving under a living  
 8 testator's durable power of attorney who possesses general  
 9 authority over records, reports, statements, electronic records, or  
 10 estate planning transactions.
- 11 (5) "Custody" means the authorized possession and control of at  
 12 least one (1) of the following:
- 13 (A) A complete copy of the electronic record for the electronic  
 14 will, including a self-proving clause if a self-proving clause is  
 15 executed.  
 16 (B) A complete converted copy of the electronic will, if the  
 17 complete electronic record has been lost or destroyed or the  
 18 electronic will has been revoked.
- 19 (6) "Document integrity evidence" means the part of the  
 20 electronic record for the electronic will that:
- 21 (A) is created and maintained electronically;  
 22 (B) includes digital markers showing that the electronic will  
 23 has not been altered after its initial execution and witnessing;  
 24 (C) is logically associated with the electronic will in a tamper  
 25 evident manner so that any change made to the text of the  
 26 electronic will after its execution is visibly perceptible when  
 27 the electronic record is displayed or printed;  
 28 (D) displays any changes made to the text of will generate an  
 29 error message, invalidate an electronic signature, make the  
 30 electronic record unreadable, or otherwise display  
 31 evidence that some alteration was made to the electronic  
 32 will after its execution; and  
 33 (E) displays the following information:
- 34 (i) The city **and** state **in which, and the** date and time **at**  
 35 **which**, the electronic will was executed by the testator and  
 36 the attesting witnesses.  
 37 (ii) The text of the self-proving clause, if the electronic will  
 38 is electronically self-proved through use of a self-proving  
 39 clause executed under section 4(c) of this chapter.  
 40 (iii) The name of the testator and attesting witnesses.  
 41 (iv) The name and address of the person responsible for  
 42 marking the testator's signature on the electronic will at the



- 1 testator's direction and in the actual presence of the testator  
 2 and attesting witnesses.
- 3 (v) Copies of or links to the electronic signatures of the  
 4 testator and the attesting witnesses on the electronic will.
- 5 (vi) A general description of the type of identity verification  
 6 evidence used to verify the testator's identity.
- 7 (vii) The text of the advisory instruction, if any, that is  
 8 provided to the testator under section 6 of this chapter at the  
 9 time of the execution of the electronic will.
- 10 (viii) The content of the cryptographic hash or unique code  
 11 **used to complete the electronic record and make the**  
 12 **electronic will tamper evident if a public key**  
 13 **infrastructure or similar secure technology was** used by  
 14 **the testator to sign or authenticate** the electronic will **in the**  
 15 **event that public key infrastructure or similar secure**  
 16 **technology was used to sign or authenticate the electronic**  
 17 **will: and if the vendor or the software for the technology**  
 18 **makes inclusion feasible.**
- 19 Document integrity evidence may, but is not required to, contain  
 20 other information about the electronic will such as a unique  
 21 document number, client number, or other identifier that an  
 22 attorney or custodian assigns to the electronic will or a link to a  
 23 secure Internet web site where a complete copy of the electronic  
 24 will is accessible. The title, heading, or label, if any, that is  
 25 assigned to the document integrity evidence (such as "certificate  
 26 of completion", "audit trail", or "audit log" ~~log~~) is ~~immaterial~~:  
 27 **immaterial.**
- 28 (7) "Electronic" has the meaning set forth in IC 26-2-8-102.
- 29 (8) "Electronic record" has the meaning set forth in  
 30 IC 26-2-8-102. The term may include one (1) or both of the  
 31 following:
- 32 (A) The document integrity evidence associated with the  
 33 electronic will.
- 34 (B) The identity verification evidence of the testator who  
 35 executed the electronic will.
- 36 (9) "Electronic signature" has the meaning set forth in  
 37 IC 26-2-8-102.
- 38 (10) "Electronic will" means the will of a testator that:
- 39 (A) is initially created and maintained as an electronic record;  
 40 (B) contains the electronic signatures of:  
 41 (i) the testator; and  
 42 (ii) the attesting witnesses; and





- 1 (C) contains the date and times of the electronic signatures  
 2 described by ~~items (i) and (ii):~~ **clause (B)(i) and (B)(ii).**  
 3 The term may include a codicil that amends an electronic will or  
 4 a traditional paper will if the codicil is executed in accordance  
 5 with the requirements of this chapter.
- 6 (11) "Executed" means the signing of an electronic will. The term  
 7 includes the use of an electronic signature.
- 8 (12) "Identity verification evidence" means either:  
 9 (A) a copy of the testator's government issued photo  
 10 identification card; or  
 11 (B) any other information that verifies the identity of the  
 12 testator if derived from one (1) or more of the following  
 13 sources:  
 14 (i) A knowledge based authentication method.  
 15 (ii) A physical device.  
 16 (iii) A digital certificate using a public key infrastructure.  
 17 (iv) A verification or authorization code sent to or used by  
 18 the testator.  
 19 (v) Biometric identification.  
 20 (vi) Any other commercially reasonable method for  
 21 verifying the testator's identity using current or future  
 22 technology.
- 23 (13) "Logically associated" means electronically connected, cross  
 24 referenced, or linked in a reliable manner.
- 25 (14) "Sign" means valid use of a properly executed electronic  
 26 signature.
- 27 (15) "Signature" means the authorized use of the testator's name  
 28 to authenticate an electronic will. The term includes an electronic  
 29 signature.
- 30 (16) "Tamper evident" means the feature of an electronic record,  
 31 such as an electronic will or document integrity evidence for an  
 32 electronic will, that will cause any alteration ~~of~~ or tampering ~~of~~  
 33 **with** the electronic record, after it is created or signed, to be  
 34 perceptible to any person viewing the electronic record when it is  
 35 printed on paper or viewed on a monitor or other display device.  
 36 **The term applies even if the nature or specific content of the**  
 37 **alteration is not perceptible.**
- 38 (17) "Traditional paper will" means a will or codicil that is signed  
 39 by the testator and the attesting witnesses:  
 40 (A) on paper; and  
 41 (B) in the manner specified in IC 29-1-5-3 or IC 29-1-5-3.1.
- 42 (18) "Will" includes all wills, testaments, and codicils. The term



1 includes:

- 2 (A) an electronic will; and  
 3 (B) any testamentary instrument that:  
 4 (i) appoints an executor; or  
 5 (ii) revives or revokes another will.

6 SECTION 14. IC 29-1-21-17, AS ADDED BY P.L.40-2018,  
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2019]: Sec. 17. (a) This section shall apply to the situation  
 9 created by:

- 10 (1) the rejection of a petition to probate a deceased testator's  
 11 electronic or traditional paper will; or  
 12 (2) the revocation of a deceased testator's electronic will due to  
 13 the timely filing of a will contest as described in IC 29-1-7-17.

14 (b) The following terms are defined for this section:

15 (1) "Other electronic will" means:

16 (A) an electronic will that the same testator purportedly  
 17 executed in compliance with applicable laws on a date that  
 18 preceded the date of execution seen in the rejected will; or

19 (B) an electronic will that the same testator purportedly  
 20 executed in compliance with applicable laws on a date that  
 21 followed the date of execution seen on the rejected will;

22 where the petitioner or proponent for the electronic will is not  
 23 aware of any other paper will or electronic will executed by the  
 24 testator at a date later than the date of the testator's purported  
 25 execution of the other electronic will.

26 (2) "Rejected will" means a will that is rejected for a reason  
 27 described in subsection (a).

28 (c) On or before the end of the time period specified in  
 29 ~~IC 29-1-7-15.1(d)(2)~~ **IC 29-1-7-15.1(e)(2)** or ~~IC 29-1-7-15.1(d)(3)~~  
 30 **IC 29-1-7-15.1(f)(3)**, any interested person may file a petition  
 31 requesting probate of another electronic will associated with the  
 32 testator. A complete converted copy of the other electronic will and an  
 33 affidavit of regularity must accompany any petition filed under this  
 34 subsection. The complete converted copy of another electronic will is  
 35 prima facie evidence of:

- 36 (1) the substance of the other electronic will; and  
 37 (2) the proper execution of the other electronic will.

38 (d) ~~Section 18~~ **Section 16** of this chapter shall apply to any  
 39 proceeding concerning the probate of another electronic will of a  
 40 deceased testator. In the absence of:

- 41 (1) clear and convincing evidence; and  
 42 (2) written evidence;



1 of the testator's contrary intentions, the court shall presume that the  
 2 deceased testator would have preferred the probate and enforcement of  
 3 the testator's other electronic will to intestacy.

4 SECTION 15. IC 29-1-22 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2019]:

7 **Chapter 22. Electronic Estate Planning Documents Registry**

8 **Sec. 1. The following terms are defined for this chapter:**

9 (1) "Complete converted copy" means a document in any  
 10 format that:

11 (A) can be visually perceived in its entirety on a monitor or  
 12 other display device;

13 (B) can be printed; and

14 (C) contains the following:

15 (i) The text of an electronic will.

16 (ii) The respective electronic signatures of the testator  
 17 and attesting witnesses.

18 (iii) A readable copy of all document integrity evidence,  
 19 if applicable.

20 (iv) A self-proving affidavit if the electronic will is  
 21 self-proved.

22 (2) "Document integrity evidence" means the part of the  
 23 electronic will, electronic trust instrument, or electronic  
 24 power of attorney that:

25 (A) is created and maintained electronically;

26 (B) includes digital markers to demonstrate that the  
 27 electronic will, electronic trust instrument, or electronic  
 28 power of attorney has not been altered or tampered with  
 29 after its execution;

30 (C) is logically associated with the electronic will,  
 31 electronic trust instrument, or electronic power of  
 32 attorney;

33 (D) will generate an error message, invalidate an electronic  
 34 signature, make the electronic record unreadable, or  
 35 otherwise display evidence that some alteration was made  
 36 to the electronic record after its execution; and

37 (E) includes the following information:

38 (i) The city, state, date, and time of the execution of the  
 39 electronic will, electronic trust instrument, or electronic  
 40 power of attorney by the testator, settlor, or principal  
 41 and any attesting witnesses as applicable.

42 (ii) The text of the self-proving affidavit if the document



- 1 is an electronic will and is self-proved.
- 2 (iii) The name of the testator, settlor, or principal and
- 3 the names of all attesting witnesses, if applicable.
- 4 (iv) The name and address of any person responsible for
- 5 signing the signature of the testator, settlor, or principal
- 6 on the electronic document at the direction and in the
- 7 presence of the testator, settlor, or principal.
- 8 (v) Copies of or links to the electronic signatures of the
- 9 testator, settlor, or principal and any attesting witnesses,
- 10 if applicable.
- 11 (vi) A general description of the type of identity
- 12 verification evidence used to verify the identity of the
- 13 testator, settlor, or principal.
- 14 (vii) The content of the cryptographic hash or unique
- 15 code used to complete the electronic will, electronic trust
- 16 instrument, or electronic power of attorney and make
- 17 the electronic will, electronic trust instrument, or
- 18 electronic power of attorney tamper evident if a public
- 19 key infrastructure or similar secure technology was used
- 20 to sign or authenticate the electronic will, electronic trust
- 21 instrument, or electronic power of attorney and if the
- 22 vendor or the software for the technology makes
- 23 inclusion feasible.
- 24 (3) "Electronic estate planning document" means:
- 25 (A) an electronic will;
- 26 (B) an electronic trust instrument;
- 27 (C) an electronic power of attorney; or
- 28 (D) any electronic document that:
- 29 (i) revokes; or
- 30 (ii) amends;
- 31 any document described in clauses (A) through (C).
- 32 (4) "Electronic power of attorney" means a power of attorney
- 33 created by a principal that:
- 34 (A) is initially created and maintained as an electronic
- 35 record;
- 36 (B) contains the electronic signature of the principal
- 37 creating the power of attorney;
- 38 (C) contains the date and time of the electronic signature
- 39 of the principal creating the power of attorney; and
- 40 (D) is notarized.
- 41 The term includes an amendment to or a restatement of the
- 42 power of attorney if the amendment or restatement complies



- 1 with the requirements described in IC 30-5-11-5.  
 2 (5) "Electronic record" has the meaning set forth in  
 3 IC 26-2-8-102(9). The term may include one (1) or more of the  
 4 following:  
 5 (A) The document integrity evidence associated with an  
 6 electronic will, electronic trust instrument, or electronic  
 7 power of attorney.  
 8 (B) The identity verification evidence of the testator,  
 9 settlor, or principal who executed the electronic will,  
 10 electronic trust instrument, or electronic power of  
 11 attorney.  
 12 (6) "Electronic signature" has the meaning set forth in  
 13 IC 26-2-8-102(10).  
 14 (7) "Electronic trust instrument" means a trust instrument  
 15 for an inter vivos trust created by a settlor or other person  
 16 that:  
 17 (A) is initially created and maintained as an electronic  
 18 record;  
 19 (B) contains the electronic signature of the settlor or other  
 20 person creating the trust; and  
 21 (C) contains the date and time of the electronic signature  
 22 of the settlor or other person creating the trust.  
 23 The term includes an amendment to or a restatement of a  
 24 revocable trust instrument when the amendment or  
 25 restatement is executed in accordance with the requirements  
 26 of IC 30-4-1.5-6.  
 27 (8) "Electronic will" means the will of a testator that:  
 28 (A) is initially created and maintained as an electronic  
 29 record;  
 30 (B) contains the electronic signatures of the testator and  
 31 attesting witnesses; and  
 32 (C) contains the date and time of the electronic signatures.  
 33 (9) "Executed" means the signing of an electronic estate  
 34 planning document. The term includes the use of an electronic  
 35 signature.  
 36 (10) "Identity verification evidence" means:  
 37 (A) a copy of the government issued photo identification  
 38 card of the testator, settlor, or principal; or  
 39 (B) any other information that verifies the identity of the  
 40 testator, settlor, or principal if derived from one (1) or  
 41 more of the following sources:  
 42 (i) A knowledge based authentication method.



- 1           (ii) A physical device.
- 2           (iii) A digital certificate using a public key
- 3           infrastructure.
- 4           (iv) A verification or authorization code sent to or used
- 5           by the testator, settlor, or principal.
- 6           (v) Biometric identification.
- 7           (vi) Any other commercially reasonable method for
- 8           verifying the identity of the testator, settlor, or principal
- 9           using current or future technology.
- 10       (11) "Index" means the electronic estate planning documents
- 11       index created under section 2(e) of this chapter.
- 12       (12) "Logically associated" means electronically connected,
- 13       cross-referenced, or linked in a reliable manner.
- 14       (13) "Registry" means the statewide electronic estate
- 15       planning documents registry described in section 2(a) of this
- 16       chapter.
- 17       (14) "Sign" means valid use of a properly executed electronic
- 18       signature.
- 19       (15) "Signature" means the authorized use of the name of the
- 20       testator, settlor, or principal to authenticate an electronic will,
- 21       electronic trust instrument, or electronic power of attorney.
- 22       The term includes an electronic signature.
- 23       (16) "Tamper evident" means the feature of an electronic
- 24       record, such as an electronic estate planning document or
- 25       document integrity evidence for an electronic estate planning
- 26       document, that will cause any alteration of or tampering with
- 27       the electronic record, after it is created or signed, to be
- 28       perceptible to any person viewing the electronic record when
- 29       it is printed on paper or viewed on a monitor or other display
- 30       device. The term applies even if the nature or specific content
- 31       of the alteration is not perceptible.
- 32       (17) "Traditional paper estate planning document" means a
- 33       will, codicil, trust instrument, or power of attorney that is
- 34       signed on paper by the testator, settlor, or principal and:
- 35       (A) the attesting witnesses, in the case of a will or codicil;
- 36       or
- 37       (B) a notary public, in the case of a power of attorney.
- 38       Sec. 2. (a) The Indiana supreme court and the office of judicial
- 39       administration are authorized to establish and administer a
- 40       statewide electronic estate planning documents registry under
- 41       rules adopted by the Indiana supreme court.
- 42       (b) If permitted under the rules adopted for the registry, the



1 following individuals may deposit one (1) or more of the items  
2 described in subsection (c) with the registry:

- 3 (1) A testator.  
4 (2) A settlor.  
5 (3) A principal.  
6 (4) An attorney for any person described in subdivisions (1)  
7 through (3).  
8 (5) A custodian of an electronic estate planning document.

9 (c) The following items may be deposited in the registry:

- 10 (1) Information concerning:  
11 (A) individual testators, settlors, or principals;  
12 (B) electronic estate planning documents; or  
13 (C) the execution of an electronic estate planning document  
14 deposited into the registry.  
15 (2) The electronic record for an electronic estate planning  
16 document.  
17 (3) Any document integrity evidence associated with an  
18 electronic estate planning document.  
19 (4) A digital and readable copy of a complete converted copy  
20 of an electronic estate planning document.

21 An item described in this subsection may be submitted to or  
22 deposited with the registry through digital or online means if  
23 permitted by the rules adopted for the registry.

24 (d) The administrator of the registry may collect a one (1) time  
25 fee for deposit of an item described in subsection (b). The amount  
26 charged under this subsection must:

- 27 (1) be set by the office of judicial administration; and  
28 (2) be charged at the time of the deposit.

29 (e) The registry administrator shall create an index consisting  
30 of each item submitted to or deposited with the registry. The index  
31 shall be organized according to the following characteristics:

- 32 (1) The name of the testator, settlor, or principal.  
33 (2) The county of residence for the testator, settlor, or  
34 principal.  
35 (3) The date of execution of an electronic estate planning  
36 document.  
37 (4) The date of submission to or deposit with the registry of  
38 information pertaining to an electronic estate planning  
39 document submitted to or deposited with the registry.  
40 (5) The name of any attorney responsible for the preparation  
41 or execution of an electronic estate planning document.

42 The registry administrator shall assign a unique document number



1 or identifier to each electronic estate planning document submitted  
2 to or deposited with the registry.

3 (f) The registry administrator shall make the index:

4 (1) available to the public; and

5 (2) searchable by digital or online means.

6 The registry administrator may not charge a fee for access to or  
7 use of the index.

8 (g) The registry administrator shall ensure that any  
9 information:

10 (1) contained in an electronic estate planning document  
11 submitted to or deposited with the registry; and

12 (2) not described in subsection (e);

13 is not accessible to or searchable by the public.

14 (h) The registry administrator, upon receipt of a digital, online,  
15 or written request by an interested person, shall issue a certified  
16 report specifying whether or not the registry possesses any items  
17 described in subsection (c) for the specific testator, settlor, or  
18 principal who is the subject of the request. If the registry possesses  
19 any items described in subsection (c) for a specific testator, settlor,  
20 or principal, any certified report issued under this subsection must  
21 contain the information described in subsection (e) for the  
22 applicable testator, settlor, or principal. The registry administrator  
23 may charge and collect a fee for each report issued under this  
24 subsection. A fee charged under this subsection must be:

25 (1) set by the office of judicial administration; and

26 (2) charged at the time the report described in this subsection  
27 is issued.

28 (i) The registry administrator, upon receipt of a digital, online,  
29 or written request from:

30 (1) a living testator, settlor, or principal;

31 (2) an attorney for a person described in subdivision (1);

32 (3) a person possessing written authorization from a living  
33 testator;

34 (4) a person nominated as the personal representative, trustee,  
35 or attorney in fact in an electronic estate planning document;  
36 or

37 (5) any interested person with respect to the testator's estate  
38 following the testator's death;

39 shall prepare and issue a certified transcript of the electronic estate  
40 planning document and all associated items in a form that may be  
41 digitally saved and printed.

42 (j) A certified transcript issued under subsection (i) must consist





1 of:

- 2 (1) the electronic estate planning document or a complete  
 3 converted copy of the electronic estate planning document, as  
 4 applicable, if the complete document was submitted to or  
 5 deposited with the registry;  
 6 (2) any document integrity evidence associated with the  
 7 electronic estate planning document, as applicable;  
 8 (3) the date and time the electronic estate planning document  
 9 was submitted to or deposited with the registry; and  
 10 (4) the unique document number or identifier that was  
 11 assigned to the electronic estate planning document under  
 12 subsection (e).

13 The registry administrator may charge a fee for each transcript  
 14 issued under subsection (i). The amount charged for the issuance  
 15 of a transcript must be set by the office of judicial administration  
 16 and charged at the time the transcript is issued.

17 (k) A certified report issued under subsection (h) or a certified  
 18 transcript issued under subsection (i) constitutes prima facie  
 19 evidence of their respective contents and may be filed with a court  
 20 without further authentication in any proceeding described under  
 21 IC 29-1-7.

22 (l) Nothing in this chapter shall be construed to prohibit the  
 23 Indiana supreme court and the office of judicial administration  
 24 from expanding the scope of the registry to permit:

- 25 (1) traditional paper estate planning documents; or  
 26 (2) information concerning the execution of traditional paper  
 27 estate planning documents;

28 from being submitted to or deposited with the registry. Documents  
 29 described in subdivisions (1) and (2) must be subject to the same or  
 30 substantially the same indexing, search procedures, transcript  
 31 procedures, and fee rates as electronic estate planning documents.

32 SECTION 16. IC 30-4-1-2, AS AMENDED BY P.L.163-2018,  
 33 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2019]: Sec. 2. As used in this article:

- 35 (1) "Adult" means any person eighteen (18) years of age or older.  
 36 (2) "Affiliate" means a parent, descendant, spouse, spouse of a  
 37 descendant, brother, sister, spouse of a brother or sister,  
 38 employee, director, officer, partner, joint venturer, a corporation  
 39 subject to common control with the trustee, a shareholder, or  
 40 corporation who controls the trustee or a corporation controlled  
 41 by the trustee other than as a fiduciary, an attorney, or an agent.  
 42 (3) "Beneficiary" has the meaning set forth in IC 30-2-14-2.



- 1 (4) "Breach of trust" means a violation by the trustee of any duty  
 2 which is owed to the settlor or beneficiary.
- 3 (5) "Charitable trust" means a trust in which all the beneficiaries  
 4 are the general public or organizations, including trusts,  
 5 corporations, and associations, and that is organized and operated  
 6 wholly for religious, charitable, scientific, public safety testing,  
 7 literary, or educational purposes. The term does not include  
 8 charitable remainder trusts, charitable lead trusts, pooled income  
 9 funds, or any other form of split-interest charitable trust that has  
 10 at least one (1) noncharitable beneficiary.
- 11 **(6) "Child" includes an adopted child or a child who is in  
 12 gestation before the death of a deceased parent and born  
 13 within forty-three (43) weeks after the death of that parent.  
 14 The term does not include a grandchild or other more remote  
 15 descendants, nor, except as provided in IC 29-1-2-7, a child  
 16 born out of wedlock.**
- 17 ~~(6)~~ (7) "Court" means a court having jurisdiction over trust  
 18 matters.
- 19 ~~(7)~~ (8) "Income", except as otherwise stated in a trust agreement,  
 20 has the meaning set forth in IC 30-2-14-4.
- 21 ~~(8)~~ (9) "Income beneficiary" has the meaning set forth in  
 22 IC 30-2-14-5.
- 23 ~~(9)~~ (10) "Inventory value" means the cost of property to the settlor  
 24 or the trustee at the time of acquisition or the market value of the  
 25 property at the time it is delivered to the trustee, or the value of  
 26 the property as finally determined for purposes of an estate or  
 27 inheritance tax.
- 28 ~~(10)~~ (11) "Minor" means any person under the age of eighteen  
 29 (18) years.
- 30 ~~(11)~~ (12) "No contest provision" refers to a provision of a trust  
 31 instrument that, if given effect, would reduce or eliminate the  
 32 interest of a beneficiary of the trust who, directly or indirectly,  
 33 initiates or otherwise pursues:  
 34 (A) an action to contest the validity of:  
 35 (i) the trust; or  
 36 (ii) the terms of the trust;  
 37 (B) an action to set aside or vary any term of the trust; or  
 38 (C) any other act to frustrate or defeat the settlor's intent as  
 39 expressed in the terms of the trust.
- 40 ~~(12)~~ (13) "Person" has the meaning set forth in IC 30-2-14-9.
- 41 ~~(13)~~ (14) "Personal representative" means an executor or  
 42 administrator of a decedent's or absentee's estate, guardian of the



1 person or estate, guardian ad litem or other court appointed  
 2 representative, next friend, parent or custodian of a minor,  
 3 attorney in fact, or custodian of an incapacitated person (as  
 4 defined in IC 29-3-1-7.5).

5 ~~(14)~~ **(15)** "Principal" has the meaning set forth in IC 30-2-14-10.

6 ~~(15)~~ **(16)** "Qualified beneficiary" means:

7 (A) a beneficiary who, on the date the beneficiary's  
 8 qualification is determined:

9 (i) is a distributee or permissible distributee of trust income  
 10 or principal;

11 (ii) would be a distributee or permissible distributee of trust  
 12 income or principal if the interest of the distributee  
 13 described in item (i) terminated on that date;

14 (iii) would be a distributee or permissible distributee of trust  
 15 income or principal if the trust terminated on that date;

16 (iv) is a charitable organization expressly designated to  
 17 receive distributions under the terms of a charitable trust;

18 (v) is a person appointed to enforce a trust for the care of an  
 19 animal under IC 30-4-2-18; or

20 (vi) is a person appointed to enforce a trust for a  
 21 noncharitable purpose under IC 30-4-2-19; or

22 (B) the attorney general, if the trust is a charitable trust having  
 23 its principal place of administration in Indiana.

24 ~~(16)~~ **(17)** "Remainderman" means a beneficiary entitled to  
 25 principal, including income which has been accumulated and  
 26 added to the principal.

27 ~~(17)~~ **(18)** "Settlor" means a person who establishes a trust  
 28 including the testator of a will under which a trust is created.

29 ~~(18)~~ **(19)** "Terms of a trust", "terms of the trust", or "terms of a  
 30 charitable trust" means the manifestation of the intent of a settlor  
 31 or decedent with respect to the trust, expressed in a manner that  
 32 admits of its proof in a judicial proceeding, whether by written or  
 33 spoken words or by conduct.

34 ~~(19)~~ **(20)** "Trust estate" means the trust property and the income  
 35 derived from its use.

36 ~~(20)~~ **(21)** "Trust for a benevolent public purpose" means a  
 37 charitable trust (as defined in subdivision (5)), a split-interest  
 38 trust (as defined in Section 4947 of the Internal Revenue Code),  
 39 a perpetual care fund or an endowment care fund established  
 40 under IC 23-14-48-2, a prepaid funeral plan or funeral trust  
 41 established under IC 30-2-9, a funeral trust established under  
 42 IC 30-2-10, a trust or an escrow account created from payments



1 of funeral, burial services, or merchandise in advance of need  
 2 described in IC 30-2-13, and any other form of split-interest  
 3 charitable trust that has both charitable and noncharitable  
 4 beneficiaries, including but not limited to charitable remainder  
 5 trusts, charitable lead trusts, and charitable pooled income funds.  
 6 ~~(21)~~ **(22)** "Trust instrument" means an instrument, agreement, or  
 7 other written document executed by the settlor that contains the  
 8 terms of the trust, including any amendments to the terms of the  
 9 trust.

10 ~~(22)~~ **(23)** "Trust property" means property either placed in trust or  
 11 purchased or otherwise acquired by the trustee for the trust  
 12 regardless of whether the trust property is titled in the name of the  
 13 trustee or the name of the trust.

14 ~~(23)~~ **(24)** "Trustee" has the meaning set forth in IC 30-2-14-13.

15 SECTION 17. IC 30-4-1.5-3, AS ADDED BY P.L.40-2018,  
 16 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2019]: Sec. 3. The following terms are defined for this  
 18 chapter:

19 (1) "Affidavit of regularity" means an affidavit executed by a  
 20 custodian or other person under section 10 of this chapter with  
 21 respect to the electronic record for an electronic trust instrument  
 22 or a complete converted copy of an electronic trust instrument.

23 (2) "Complete converted copy" means a document in any format  
 24 that:

25 (A) can be visually perceived in its entirety on a monitor or  
 26 other display device;

27 (B) can be printed; and

28 (C) contains:

29 (i) the text of an electronic trust instrument; and

30 (ii) a readable copy of the document integrity evidence, if  
 31 any, that is or was part of or attached to the electronic trust  
 32 instrument.

33 (3) "Custodian" means a person other than:

34 (A) the settlor who executed the electronic trust instrument;

35 (B) an attorney;

36 (C) a person who is named in the electronic trust instrument as  
 37 a current trustee or successor trustee of the trust; or

38 (D) a person who is named or defined as a beneficiary in the  
 39 electronic trust instrument;

40 who has authorized possession or control of the electronic trust  
 41 instrument. The term may include an attorney in fact serving  
 42 under a living settlor's durable power of attorney who possesses



1 general authority over records, reports, statements, electronic  
2 records, or estate planning transactions.

3 (4) "Custody" means the authorized possession and control of at  
4 least one (1) of the following:

5 (A) A complete copy of the electronic record for the electronic  
6 trust instrument.

7 (B) A complete converted copy of the electronic trust  
8 instrument if the complete electronic record has been lost or  
9 destroyed or if the electronic trust instrument has been  
10 revoked.

11 (5) "Document integrity evidence" means the part of the  
12 electronic record for the electronic trust instrument that:

13 (A) is created and maintained electronically;

14 (B) includes digital markers showing that the electronic trust  
15 instrument has not been altered after its initial execution by the  
16 settlor;

17 (C) is logically associated with the electronic trust instrument  
18 in a tamper evident manner so that any change made to the text  
19 of the electronic trust instrument after its execution is visibly  
20 perceptible when the electronic record is displayed or printed;

21 (D) ~~displays any changes made to the text of~~ **will generate an**  
22 **error message, invalidate an electronic signature, make the**  
23 **electronic record unreadable, or otherwise display**  
24 **evidence that some alteration was made to** the electronic  
25 trust instrument after its execution; and

26 (E) displays the following information:

27 (i) The city **and state in which, and the date and time at**  
28 **which**, the electronic trust instrument was executed by the  
29 settlor.

30 (ii) The name of the settlor.

31 (iii) The name and address of another person, if any,  
32 responsible for marking the settlor's electronic signature on  
33 the electronic trust instrument at the settlor's direction and  
34 in the actual presence of the settlor.

35 (iv) A copy of or a link to the electronic signature of the  
36 settlor on the electronic trust instrument.

37 (v) A general description of the type of identity verification  
38 evidence used to verify the settlor's identity.

39 (vi) The content of the cryptographic hash or unique code  
40 used **to complete the electronic record and make the**  
41 **electronic trust instrument tamper evident if a public**  
42 **key infrastructure or a similar secure technology was**



1           **used by the settlor to sign or authenticate** the electronic  
 2           **trust instrument in the event that public key infrastructure or**  
 3           **a similar secure technology was used to sign or authenticate**  
 4           **the electronic trust instrument. and if the vendor or the**  
 5           **software for the technology makes inclusion feasible.**

6           Document integrity evidence may, but is not required to, contain  
 7           other information about the electronic trust instrument such as a  
 8           unique document number, client number, or other identifier that  
 9           an attorney or custodian assigns to the electronic trust instrument  
 10          or a link to a secure Internet web site where a complete copy of  
 11          the electronic trust instrument is accessible. The title, heading, or  
 12          label, if any, that is assigned to the document integrity evidence  
 13          (such as "certificate of completion", "audit trail", or "audit log"  
 14          **log") is immaterial): immaterial.**

15          (6) "Electronic" has the meaning set forth in IC 26-2-8-102.

16          (7) "Electronic record" has the meaning set forth in  
 17          IC 26-2-8-102. The term may include one (1) or both of the  
 18          following:

19            (A) The document integrity evidence associated with the  
 20            electronic trust instrument.

21            (B) The identity verification evidence of the settlor who  
 22            executed the electronic trust instrument.

23          (8) "Electronic signature" has the meaning set forth in  
 24          IC 26-2-8-102.

25          (9) "Electronic trust instrument" means a trust instrument for an  
 26          inter vivos trust created by a settlor or other person that:

27            (A) is initially created and maintained as an electronic record;

28            (B) contains the electronic signature of the settlor or other  
 29            person creating the trust; and

30            (C) contains the date and time of the electronic signature of the  
 31            settlor or other person creating the trust.

32          The term includes an amendment to or a restatement of a  
 33          revocable trust instrument when the amendment or restatement is  
 34          executed in accordance with the requirements of section 6 of this  
 35          chapter.

36          (10) "Executed" means the signing of an electronic trust  
 37          instrument. The term includes the use of an electronic signature.

38          (11) "Identity verification evidence" means either:

39            (A) a copy of the settlor's government issued photo  
 40            identification card; or

41            (B) any other information that verifies the identity of the  
 42            settlor if derived from one (1) or more of the following



- 1 sources:
- 2 (i) A knowledge based authentication method.
- 3 (ii) A physical device.
- 4 (iii) A digital certificate using a public key infrastructure.
- 5 (iv) A verification or authorization code sent to or used by
- 6 the settlor.
- 7 (v) Biometric identification.
- 8 (vi) Any other commercially reasonable method for
- 9 verifying the settlor's identity using current or future
- 10 technology.
- 11 (12) "Logically associated" means electronically connected, cross
- 12 referenced, or linked in a reliable manner.
- 13 (13) "Sign" means valid use of a properly executed electronic
- 14 signature.
- 15 (14) "Signature" means the authorized use of the settlor's name to
- 16 authenticate an electronic trust instrument. The term includes an
- 17 electronic signature.
- 18 (15) "Tamper evident" means the feature of an electronic record,
- 19 such as an electronic trust instrument or document integrity
- 20 evidence for an electronic trust instrument, that will cause **the**
- 21 **fact of** any alteration **of** or tampering **of with** the electronic
- 22 record, after it is created or signed, to be perceptible to any person
- 23 viewing the electronic record when it is printed on paper or
- 24 viewed on a monitor or other display device. **The term applies**
- 25 **even if the nature or the specific content of the alteration is**
- 26 **not perceptible.**
- 27 (16) "Traditional paper trust instrument" means a trust instrument
- 28 or an amendment to or a restatement of a trust instrument that is
- 29 signed by the settlor on paper.
- 30 SECTION 18. IC 30-4-2.1-4 IS AMENDED TO READ AS
- 31 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Except as
- 32 provided in subsection (b) and section 5 of this chapter, when a settlor
- 33 fails to provide in the settlor's trust for a child who is:
- 34 (1) born or adopted after the making of the settlor's trust; and
- 35 (2) born before or after the settlor's death;
- 36 the child is entitled to receive a share in the trust assets. The child's
- 37 share of the trust assets shall be determined by ascertaining what the
- 38 child's intestate share would have been under IC 29-1-2-1 if the settlor
- 39 had died intestate. The child is entitled to receive a share of the trust
- 40 assets equivalent in value to the intestacy share determined under
- 41 IC 29-1-2-1.
- 42 (b) Subsection (a) does not apply to a child of the settlor if:



1 (1) it appears from the trust that the settlor intentionally failed to  
2 provide in the settlor's trust for the child; or

3 (2) **the settlor: when the trust was executed:**

4 (A) ~~the settlor~~ had at least one (1) child known to the settlor to  
5 be living **when the trust was executed**; and

6 (B) ~~the settlor~~ devised substantially all of the settlor's ~~estate~~  
7 **trust assets** to the settlor's surviving spouse.

8 SECTION 19. IC 30-5-2-1.5 IS ADDED TO THE INDIANA CODE  
9 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
10 1, 2019]: **Sec. 1.5. "Account", for purposes of IC 30-5-5-6.5, has the**  
11 **meaning set forth in IC 30-5-5-6.5(a)(1).**

12 SECTION 20. IC 30-5-2-1.8 IS ADDED TO THE INDIANA CODE  
13 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
14 1, 2019]: **Sec. 1.8. "All other matters", for purposes of**  
15 **IC 30-5-5-6.5, has the meaning set forth in IC 30-5-5-19.**

16 SECTION 21. IC 30-5-2-3.8 IS ADDED TO THE INDIANA CODE  
17 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
18 1, 2019]: **Sec. 3.8. "Financial exploitation", for purposes of**  
19 **IC 30-5-5-6.5, has the meaning set forth in IC 30-5-5-6.5(a)(3).**

20 SECTION 22. IC 30-5-2-9 IS ADDED TO THE INDIANA CODE  
21 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
22 1, 2019]: **Sec. 9. "Specified adult", for purposes of IC 30-5-5-6.5,**  
23 **has the meaning set forth in IC 30-5-5-6.5(a)(4).**

24 SECTION 23. IC 30-5-2-10 IS ADDED TO THE INDIANA CODE  
25 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
26 1, 2019]: **Sec. 10. "Trusted contact person", for purposes of**  
27 **IC 30-5-5-6.5, has the meaning set forth in IC 30-5-5-6.5(a)(5).**

28 SECTION 24. IC 30-5-5-6.5 IS ADDED TO THE INDIANA CODE  
29 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
30 1, 2019]: **Sec. 6.5. (a) The following definitions apply throughout**  
31 **this section:**

32 (1) "Account" means any account that a specified adult may  
33 access or use to transact business.

34 (2) "All other matters" has the meaning set forth in  
35 IC 30-5-5-19.

36 (3) "Financial exploitation" means:

37 (A) the unlawful or unauthorized taking, withholding,  
38 appropriation, or use of a specified adult's funds or  
39 securities; or

40 (B) any:

41 (i) act;

42 (ii) omission;





- 1 (iii) use of a power of attorney;  
 2 (iv) use of a guardianship; or  
 3 (v) use of any other legal authority concerning a  
 4 specified adult;  
 5 to obtain control over the specified adult's money, assets,  
 6 or property or to convert the specified adult's money,  
 7 assets, or property, through use of deception, intimidation,  
 8 or undue influence.
- 9 (4) "Specified adult" means:  
 10 (A) a person not less than sixty-five (65) years of age; or  
 11 (B) a person who:  
 12 (i) is at least eighteen (18) years of age; and  
 13 (ii) has a mental or physical impairment that prohibits  
 14 the person from protecting the person's interests.
- 15 (5) "Trusted contact person" means a person who may be  
 16 contacted about matters concerning a specified adult's  
 17 account.
- 18 (b) Language conferring general authority concerning financial  
 19 exploitation authorizes the attorney in fact to do one (1) or more of  
 20 the following:  
 21 (1) Serve as the trusted contact person for the principal.  
 22 (2) Designate or change the trusted contact person for a  
 23 specified adult.  
 24 (3) Authorize a person described in subdivision (1) or (2) to:  
 25 (A) receive notice of financial exploitation; or  
 26 (B) act on behalf of a specified adult in response to  
 27 financial exploitation.  
 28 (4) Act to prevent, stop, correct, or remediate account losses  
 29 incurred as a result of financial exploitation.
- 30 (c) A power of attorney that:  
 31 (1) is executed before July 1, 2019; and  
 32 (2) confers general authority with respect to all other matters;  
 33 also confers general authority to address any issues concerning the  
 34 financial exploitation of an account.
- 35 SECTION 25. IC 30-5-11-3, AS AMENDED BY THE  
 36 TECHNICAL CORRECTIONS BILL OF THE 2019 GENERAL  
 37 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2019]: Sec. 3. The following terms are defined for this  
 39 chapter:  
 40 (1) "Affidavit of regularity" means an affidavit executed by a  
 41 custodian or other person under section 9 of this chapter with  
 42 respect to the electronic record for an electronic power of attorney



- 1 or a complete converted copy of an electronic power of attorney.  
 2 (2) "Complete converted copy" means a document in any format  
 3 that:  
 4 (A) can be visually viewed in its entirety on a monitor or other  
 5 display device;  
 6 (B) can be printed; and  
 7 (C) contains the text of an electronic power of attorney and a  
 8 readable copy of any associated document integrity evidence  
 9 that may be a part of or attached to the electronic power of  
 10 attorney.  
 11 (3) "Custodian" means a person other than:  
 12 (A) the principal who executed the electronic power of  
 13 attorney;  
 14 (B) an attorney; or  
 15 (C) a person who is named in the electronic power of attorney  
 16 as an attorney in fact or successor attorney in fact under the  
 17 power of attorney.  
 18 (4) "Custody" means the authorized possession and control of at  
 19 least one (1) of the following:  
 20 (A) A complete copy of the electronic record for the electronic  
 21 power of attorney.  
 22 (B) A complete converted copy of the electronic power of  
 23 attorney if the complete electronic record has been lost or  
 24 destroyed or the electronic power of attorney has been  
 25 revoked.  
 26 (5) "Document integrity evidence" means the part of the  
 27 electronic record for the electronic power of attorney that:  
 28 (A) is created and maintained electronically;  
 29 (B) includes digital markers showing that the electronic power  
 30 of attorney has not been altered after its initial execution by  
 31 the principal;  
 32 (C) is logically associated with the electronic power of  
 33 attorney in a tamper evident manner so that any change made  
 34 to the text of the electronic power of attorney after its  
 35 execution is visibly perceptible when the electronic record is  
 36 displayed or printed;  
 37 (D) **displays any changes made to the text of will generate an**  
 38 **error message, invalidate an electronic signature, make the**  
 39 **electronic record unreadable, or otherwise display**  
 40 **evidence that some alteration was made to** the electronic  
 41 power of attorney after its execution; and  
 42 (E) displays the following information:



- 1 (i) The city **and state in which, and the date and time at**  
 2 **which**, the electronic power of attorney was executed by the  
 3 principal.  
 4 (ii) The name of the principal.  
 5 (iii) The name and address of the person responsible for  
 6 marking the principal's signature on the electronic power of  
 7 attorney at the principal's direction and in the principal's  
 8 presence, as applicable.  
 9 (iv) A copy of or a link to the electronic signature of the  
 10 principal on the electronic power of attorney.  
 11 (v) A general description of the type of identity verification  
 12 evidence used to verify the principal's identity.  
 13 **(vi) The content of the cryptographic hash or unique**  
 14 **code used to complete the electronic record and make the**  
 15 **electronic power of attorney tamper evident if a public**  
 16 **key infrastructure or a similar secure technology was**  
 17 **used to sign or authenticate the electronic power of**  
 18 **attorney and if the vendor or software for the technology**  
 19 **makes inclusion feasible.**  
 20 Document integrity evidence may, but is not required to, contain  
 21 other information about the electronic power of attorney such as  
 22 a unique document number, client number, or other identifier that  
 23 an attorney or custodian assigns to the electronic power of  
 24 attorney or a link to a secure Internet web site where a complete  
 25 copy of the electronic power of attorney is accessible. The title,  
 26 heading, or label, if any, that is assigned to the document integrity  
 27 evidence (such as "certificate of completion", "audit trail", or  
 28 "audit log" ~~log~~) is ~~immaterial~~: **immaterial.**  
 29 (6) "Electronic" has the meaning set forth in IC 26-2-8-102.  
 30 (7) "Electronic power of attorney" means a power of attorney  
 31 created by a principal that:  
 32 (A) is initially created and maintained as an electronic record;  
 33 (B) contains the electronic signature of the principal creating  
 34 the power of attorney;  
 35 (C) contains the date and time of the electronic signature of the  
 36 principal creating the power of attorney; and  
 37 (D) is notarized.  
 38 The term includes an amendment to or a restatement of the power  
 39 of attorney if the amendment or restatement complies with the  
 40 requirements described in section 5 of this chapter.  
 41 (8) "Electronic record" has the meaning set forth in  
 42 IC 26-2-8-102. The term may include one (1) or both of the



- 1 following:
- 2 (A) The document integrity evidence associated with an
- 3 electronic power of attorney.
- 4 (B) The identity verification evidence of the principal who
- 5 executed the electronic power of attorney.
- 6 (9) "Electronic signature" has the meaning set forth in
- 7 IC 26-2-8-102.
- 8 (10) "Executed" means the signing of a power of attorney. The
- 9 term includes the use of an electronic signature.
- 10 (11) "Identity verification evidence" means either:
- 11 (A) a copy of a government issued photo identification card
- 12 belonging to the principal; or
- 13 (B) any other information that verifies the identity of the
- 14 principal if derived from one (1) or more of the following
- 15 sources:
- 16 (i) A knowledge based authentication method.
- 17 (ii) A physical device.
- 18 (iii) A digital certificate using a public key infrastructure.
- 19 (iv) A verification or authorization code sent to or used by
- 20 the principal.
- 21 (v) Biometric identification.
- 22 (vi) Any other commercially reasonable method for
- 23 verifying the principal's identity using current or future
- 24 technology.
- 25 (12) "Logically associated" means electronically connected, cross
- 26 referenced, or linked in a reliable manner.
- 27 (13) "Sign" means valid use of a properly executed electronic
- 28 signature.
- 29 (14) "Signature" means the authorized use of the principal's name
- 30 to authenticate a power of attorney. The term includes an
- 31 electronic signature.
- 32 (15) "Tamper evident" means the feature of an electronic record,
- 33 such as an electronic power of attorney or document integrity
- 34 evidence for an electronic power of attorney, that will cause **the**
- 35 **fact of** any alteration or tampering ~~of~~ **with** the electronic record,
- 36 after it is created or signed, to be perceptible to any person
- 37 viewing the electronic record when it is printed on paper or
- 38 viewed on a monitor or other display device. **The term applies**
- 39 **even if the nature or specific content of the alteration is not**
- 40 **perceptible.**
- 41 (16) "Traditional paper power of attorney" means a power of
- 42 attorney or an amendment to or a restatement of a power of



- 1 attorney that is signed by the principal on paper.
- 2 SECTION 26. IC 32-17-1-2 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A conveyance of
- 4 land that is:
- 5 (1) worded in substance as "A.B. conveys and warrants to C.D."
- 6 (insert a description of the premises) "for the sum of" (insert the
- 7 consideration); and
- 8 (2) dated and signed, sealed, and acknowledged by the grantor;
- 9 is a conveyance in fee simple to the grantee and the grantee's heirs and
- 10 assigns with a covenant as described in subsection (b).
- 11 (b) A conveyance in fee simple under subsection (a) includes a
- 12 covenant from the grantor for the grantor and the grantor's heirs and
- 13 personal representatives that the grantor:
- 14 (1) is lawfully seized of the premises;
- 15 (2) has good right to convey the premises;
- 16 (3) guarantees the quiet possession of the premises;
- 17 (4) guarantees that the premises are free from all encumbrances;
- 18 and
- 19 (5) will warrant and defend the title to the premises against all
- 20 lawful claims.
- 21 **(c) If a transfer on death deed under IC 32-17-14 has been**
- 22 **recorded before the death of the owner with the recorder of deeds**
- 23 **in the county in which the real property is situated, a subsequent**
- 24 **conveyance of the real property is void if it is not recorded before**
- 25 **the death of the owner with the recorder of deeds in the county in**
- 26 **which the real property is situated.**
- 27 SECTION 27. IC 32-17-14-3, AS AMENDED BY P.L.81-2015,
- 28 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 29 JULY 1, 2019]: Sec. 3. The following definitions apply throughout this
- 30 chapter:
- 31 (1) "Beneficiary" means a person designated or entitled to receive
- 32 property because of another person's death under a transfer on
- 33 death transfer.
- 34 (2) "Beneficiary designation" means a written instrument other
- 35 than a will or trust that designates the beneficiary of a transfer on
- 36 death transfer.
- 37 (3) "Governing instrument" refers to a written instrument agreed
- 38 to by an owner that establishes the terms and conditions of an
- 39 ownership in beneficiary form.
- 40 (4) "Intangible personal property" means incorporeal property,
- 41 such as money, deposits, credits, shares of stock, bonds, notes,
- 42 other evidences of indebtedness, and other evidences of property



- 1 interests.
- 2 (5) "Joint owners" refers to persons who hold property as joint  
3 tenants with a right of survivorship. However, the term does not  
4 include a husband and wife who hold property as tenants by the  
5 entirety.
- 6 (6) "LDPS" means an abbreviation of lineal descendants per  
7 stirpes, which may be used in a beneficiary designation to  
8 designate a substitute beneficiary as provided in section 22 of this  
9 chapter.
- 10 (7) "Owner", **except as provided in subdivision (14)**, refers to a  
11 person or persons who have a right to designate the beneficiary of  
12 a transfer on death transfer.
- 13 (8) "Ownership in beneficiary form" means holding property  
14 under a registration in beneficiary form or other written  
15 instrument that:
- 16 (A) names the owner of the property;
- 17 (B) directs ownership of the property to be transferred upon  
18 the death of the owner to the designated beneficiary; and
- 19 (C) designates the beneficiary.
- 20 (9) "Person" means an individual, a sole proprietorship, a  
21 partnership, an association, a fiduciary, a trustee, a corporation,  
22 a limited liability company, or any other business entity.
- 23 (10) "Proof of death" means a death certificate or a record or  
24 report that is prima facie proof or evidence of an individual's  
25 death.
- 26 (11) "Property" means any present or future interest in real  
27 property, intangible personal property, or tangible personal  
28 property. The term includes:
- 29 (A) a right to direct or receive payment of a debt;
- 30 (B) a right to direct or receive payment of money or other  
31 benefits due under a contract, account agreement, deposit  
32 agreement, employment contract, or trust or by operation of  
33 law;
- 34 (C) a right to receive performance remaining due under a  
35 contract;
- 36 (D) a right to receive payment under a promissory note or a  
37 debt maintained in a written account record;
- 38 (E) rights under a certificated or uncertificated security;
- 39 (F) rights under an instrument evidencing ownership of  
40 property issued by a governmental agency; and
- 41 (G) rights under a document of title (as defined in  
42 IC 26-1-1-201).



1 (12) "Registration in beneficiary form" means titling of an  
 2 account record, certificate, or other written instrument that:

3 (A) provides evidence of ownership of property in the name of  
 4 the owner;

5 (B) directs ownership of the property to be transferred upon  
 6 the death of the owner to the designated beneficiary; and

7 (C) designates the beneficiary.

8 (13) "Security" means a share, participation, or other interest in  
 9 property, in a business, or in an obligation of an enterprise or  
 10 other issuer. The term includes a certificated security, an  
 11 uncertificated security, and a security account.

12 **(14) "The death of the owner" or "the owner's death" refers**  
 13 **to the death of the individual upon whose death the transfer**  
 14 **on death transfer occurs.**

15 ~~(14)~~ (15) "Tangible personal property" means corporeal personal  
 16 property, such as goods, wares, and merchandise.

17 ~~(15)~~ (16) "Transfer on death deed" means a deed that conveys an  
 18 interest in real property to a grantee by beneficiary designation.

19 ~~(16)~~ (17) "Transfer on death transfer" refers to a transfer of  
 20 property that takes effect upon the death of the owner under a  
 21 beneficiary designation made under this chapter.

22 ~~(17)~~ (18) "Transferring entity" means a person who:

23 (A) owes a debt or is obligated to pay money or benefits;

24 (B) renders contract performance;

25 (C) delivers or conveys property; or

26 (D) changes the record of ownership of property on the books,  
 27 records, and accounts of an enterprise or on a certificate or  
 28 document of title that evidences property rights.

29 The term includes a governmental agency, business entity, or  
 30 transfer agent that issues certificates of ownership or title to  
 31 property and a person acting as a custodial agent for an owner's  
 32 property. However, the term does not include a governmental  
 33 office charged with endorsing, entering, or recording the transfer  
 34 of real property in the public records.

35 SECTION 28. IC 32-17-14-16, AS AMENDED BY P.L.6-2010,  
 36 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2019]: Sec. 16. (a) A beneficiary designation may be revoked  
 38 or changed during the lifetime of the owner.

39 (b) A revocation or change of a beneficiary designation involving  
 40 property owned as tenants by the entirety must be made with the  
 41 agreement of both tenants for so long as both tenants are alive. After an  
 42 individual dies owning as a tenant by the entirety property that is



1 subject to a beneficiary designation, the individual's surviving spouse  
2 may revoke or change the beneficiary designation.

3 (c) A revocation or change of a beneficiary designation involving  
4 property owned in a form of ownership (other than as tenants by the  
5 entirety) that restricts conveyance of the interest unless another person  
6 joins in the conveyance must be made with the agreement of each  
7 living owner required to join in a conveyance.

8 (d) A revocation or change of a beneficiary designation involving  
9 property owned by joint owners with a right of survivorship must be  
10 made with the agreement of each living owner.

11 (e) A subsequent beneficiary designation revokes a prior beneficiary  
12 designation unless the subsequent beneficiary designation expressly  
13 provides otherwise.

14 (f) A revocation or change in a beneficiary designation must comply  
15 with the terms of any governing instrument, this chapter, and any other  
16 applicable law.

17 (g) A beneficiary designation may not be revoked or changed by a  
18 will or trust unless the beneficiary designation expressly grants the  
19 owner the right to revoke or change the beneficiary designation by a  
20 will or trust.

21 (h) A transfer during the owner's lifetime of the owner's interest in  
22 the property, with or without consideration, terminates the beneficiary  
23 designation with respect to the property transferred. **However, if the  
24 owner's interest is in real property, the deed of conveyance is void  
25 if it is not recorded before the death of the owner with the recorder  
26 of deeds in the county where the real property is situated.**

27 (i) The effective date of a revocation or change in a beneficiary  
28 designation is determined in the same manner as the effective date of  
29 a beneficiary designation.

30 (j) An owner may revoke a beneficiary designation made in a  
31 transfer on death deed by executing and recording before the death of  
32 the owner with the recorder of deeds in the county in which the real  
33 property is situated either:

34 (1) a subsequent deed of conveyance revoking, omitting, or  
35 changing the beneficiary designation; or

36 (2) an affidavit acknowledged or proved under IC 32-21-2-3 that  
37 revokes or changes the beneficiary designation.

38 **A deed of conveyance or affidavit described in this subsection is  
39 void if it is not recorded before the death of the owner with the  
40 recorder of deeds in the county where the real property is situated.**

41 (k) A physical act, such as a written modification on or the  
42 destruction of a transfer on death deed after the transfer on death deed





1 has been recorded, has no effect on the beneficiary designation.

2 (l) A transfer on death deed may not be revoked or modified by will  
3 or trust.

4 SECTION 29. IC 32-21-1-13 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. (a) Except for a  
6 bona fide lease for a term not exceeding three (3) years, a conveyance  
7 of land or of any interest in land shall be made by a deed that is:

8 (1) written; and

9 (2) subscribed, sealed, and acknowledged by the grantor (as  
10 defined in IC 32-17-1-1) or by the grantor's attorney.

11 **(b) If a transfer on death deed under IC 32-17-14 has been**  
12 **recorded before the death of the owner with the recorder of deeds**  
13 **in the county in which the real property is situated, a subsequent**  
14 **conveyance of the real property is void if it is not recorded before**  
15 **the death of the owner with the recorder of deeds in the county in**  
16 **which the real property is situated.**

17 SECTION 30. IC 32-21-1-15 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. (a) A conveyance  
19 of land that is:

20 (1) worded in substance as "A.B. quitclaims to C.D." (here  
21 describe the premises) "for the sum of" (here insert the  
22 consideration); and

23 (2) signed, sealed, and acknowledged by the grantor (as defined  
24 in IC 32-17-1-1);

25 is a good and sufficient conveyance in quitclaim to the grantee and the  
26 grantee's heirs and assigns.

27 **(b) If a transfer on death deed under IC 32-17-14 has been**  
28 **recorded before the death of the owner with the recorder of deeds**  
29 **in the county in which the real property is situated, a subsequent**  
30 **conveyance of the real property is void if it is not recorded before**  
31 **the death of the owner with the recorder of deeds in the county in**  
32 **which the real property is situated.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1591, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 9 and 10, begin a new line block indented and insert:

**"(30) "Unit" means the estate recovery unit of the office of Medicaid policy and planning established under IC 12-8-6.5-1."**

Page 4, line 10, strike "(30)" and insert "(31)".

Page 4, between lines 37 and 38, begin a new paragraph and insert:  
 "SECTION 3. IC 29-1-7-15.1, AS AMENDED BY P.L.163-2018, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15.1. (a) When it has been determined that a decedent died intestate and letters of administration have been issued upon the decedent's estate, no will shall be probated unless it is presented for probate:

- (1) before the court decrees final distribution of the estate; or
- (2) in an unsupervised estate, before a closing statement has been filed.

(b) No real estate located in Indiana of which any person may die seized shall be sold by the executor or administrator of the deceased person's estate to pay any debt or obligation of the deceased person, which is not a lien of record in the county in which the real estate is located, or to pay any costs of administration of any decedent's estate, unless:

- (1) a petition for the probate of a will and for the issuance of letters testamentary;
  - (2) a petition for the appointment of an administrator with the will annexed; or
  - (3) a petition for the appointment of an administrator;
- is filed in court under ~~IC 29-1-7-5~~ **section 5 of this chapter** not later than five (5) months after the decedent's death and the clerk issues letters testamentary or letters of administration not later than seven (7) months after the decedent's death.

(c) The limitation described in subsection (b) on the sale of real estate does not apply if:

- (1) a petition is filed in court under ~~IC 29-1-7-5~~ **section 5 of this chapter** not later than five (5) months after the decedent's death and if the petitioner has satisfied the requirements of:



- (A) this article;
  - (B) the Indiana Rules of Trial Procedure; and
  - (C) the local rules of the court; and
- (2) the failure of the clerk to issue letters testamentary or letters of administration not later than seven (7) months after the decedent's death is not the result of the petitioner's failure to comply with the requirements of:
- (A) this article;
  - (B) the Indiana Rules of Trial Procedure; or
  - (C) the local rules of the court.

**(d) The court shall order the limitation described in subsection (b) inapplicable to a claimant's claim concerning the sale of real estate if the court finds that the following conditions apply:**

- (1) A petition was filed in court under section 5 of this chapter not later than five (5) months after the decedent's death.**
- (2) More than thirty (30) days have elapsed since the petition was filed.**
- (3) The clerk has not issued letters testamentary or letters of administration.**
- (4) The claimant filed a claim in the estate not later than seven (7) months after the decedent's death.**
- (5) The petitioner has not satisfied the provisions of subsection (c).**
- (6) The claimant has not directly or indirectly caused or contributed to a delay in issuing letters testamentary or letters of administration through coordination or collaboration with the petitioner that filed the petition under section 5 of this chapter.**
- (7) Not later than seven (7) months after the decedent's death, the claimant files a motion requesting a show cause hearing concerning any delay related to the issuance of the letters testamentary or letters of administration.**

**(e)** The title of any real estate or interest therein purchased in good faith and for a valuable consideration from the heirs of any person who died seized of the real estate shall not be affected or impaired by any devise made by the person of the real estate so purchased, unless:

- (1) the will containing the devise has been probated and recorded in the office of the clerk of the court having jurisdiction within five (5) months after the death of the testator; or
- (2) an action to contest the will's validity is commenced within the time provided by law and, as a result, the will is ultimately probated.



~~(e)~~ **(f)** Except as provided in subsection ~~(f)~~; **(g)**, the will of the decedent shall not be admitted to probate unless the will is presented for probate before the latest of the following dates:

- (1) Three (3) years after the individual's death.
- (2) Sixty (60) days after the entry of an order denying the probate of a will of the decedent previously offered for probate and objected to under section 16 of this chapter.
- (3) Sixty (60) days after entry of an order revoking probate of a will of the decedent previously admitted to probate and contested under section 17 of this chapter.

However, in the case of an individual presumed dead under IC 29-2-5-1, the three (3) year period commences with the date the individual's death has been established by appropriate legal action.

~~(f)~~ **(g)** This subsection applies with respect to the will of an individual who dies after June 30, 2011. If:

- (1) no estate proceedings have been commenced for a decedent; and
- (2) an asset of the decedent remains titled or registered in the name of the decedent;

the will of the decedent may be presented to the court for probate and admitted to probate at any time after the expiration of the deadline determined under subsection ~~(e)~~ **(f)** for the sole purpose of transferring the asset described in subdivision (2). A will presented for probate under this subsection is subject to all rules governing the admission of wills to probate."

Page 5, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 5. IC 29-1-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 23. **(a)** When a person dies, ~~his~~ **the person's** real and personal property; passes to persons to whom it is devised by ~~his~~ **the person's** last will, or, in the absence of such disposition, to the persons who succeed to ~~his~~ **the person's** estate as ~~his~~ **the person's** heirs; but it shall be subject to the possession of the personal representative and to the election of the surviving spouse and shall be chargeable with the expenses of administering the estate, the payment of other claims and the allowance is under IC 29-1-4-1, except as otherwise provided in IC 29-1.

**(b) Prima facie evidence of the devolution of real estate title to distributees under this section may be established by an affidavit containing the following information:**

- (1) The decedent's name.**
- (2) The decedent's date of death.**
- (3) A description of the most recent instrument recorded in**



the office of the recorder of the county where the real estate is located.

(4) A description of the most recent instrument responsible for conveying title to the real estate.

(5) A description of the conveyed real estate as it appears in the instrument described in subdivision (4).

(6) Identifying information unique to the instrument or instruments described in subdivisions (3) and (4), as applicable, that may be used by the recorder to identify the instrument or instruments, as applicable, in the recorder's records.

(7) An explanation of how title devolved to each distributee under this section, including a recitation of devolution by:

(A) intestate transfer under IC 29-1-2-1; or

(B) a decedent's last will and testament that has been admitted to probate under section 9 of this chapter.

(8) A statement that establishes that:

(A) at least seven (7) months have elapsed since the decedent's death;

(B) no letters testamentary or letters of administration have been issued to a court appointed personal representative for the decedent within the time limits specified under section 15.1(c) of this chapter; and

(C) a probate court has not issued findings and an accompanying order preventing the limitations in section 15.1(b) of this chapter from applying to the decedent's real property.

(9) The name of each distributee known to the affiant.

(10) An explanation of how each portion of the fractional interest that may have devolved among multiple distributees known to the affiant was calculated.

(c) Upon presentation of an affidavit described in subsection (b), the auditor of the county where the real estate described in subsection (b) is located must endorse the affidavit and record the estate title transfer in the auditor's real estate ownership records as an instrument that is exempt from the requirements to file a sales disclosure.

(d) Upon presentation of an affidavit described in subsection (b), the recorder of the county where the real estate described in subsection (b) is located must:

(1) record the affidavit; and

(2) index the affidavit as the most recent instrument



responsible for the transfer of the real estate described in subsection (b).

(e) Any person may rely upon an affidavit:

(1) made in good faith; and

(2) under this section;

as evidence of an effective transfer of title of record (as defined in IC 32-30-3-1).

SECTION 6. IC 29-1-7-25, AS AMENDED BY P.L.163-2018, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 25. (a) Any will that has been proved or allowed in any other state or in any foreign country, according to the laws of that state or country, may be received and recorded in this state:

(1) before the deadlines imposed by section ~~15.1(e)~~ **15.1(f)** of this chapter, unless the will is probated for a purpose described in section ~~15.1(f)~~ **15.1(g)** of this chapter; and

(2) in the manner and for the purpose stated in sections 26 and 27 of this chapter.

(b) A foreign will received and recorded for a purpose described in section ~~15.1(f)~~ **15.1(g)** of this chapter may not be admitted to probate for any other purpose and is subject to all rules governing the admission of wills to probate."

Page 9, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 8. IC 29-1-8-1, AS AMENDED BY P.L.163-2018, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) Forty-five (45) days after the death of a decedent and upon being presented an affidavit that complies with subsection (b), a person:

(1) indebted to the decedent; or

(2) having possession of personal property or an instrument evidencing a debt, an obligation, a stock, or a chose in action belonging to the decedent;

shall make payment of the indebtedness or deliver the personal property or the instrument evidencing a debt, an obligation, a stock, or a chose in action to a distributee claiming to be entitled to payment or delivery of property of the decedent as alleged in the affidavit.

(b) The affidavit required by subsection (a) must be an affidavit made by or on behalf of the distributee and must state the following:

(1) That the value of the gross probate estate, wherever located, (less liens, encumbrances, and reasonable funeral expenses) does not exceed:

**(A) twenty-five thousand dollars (\$25,000), for the estate of an individual who dies before July 1, 2007;**



**(B) fifty thousand dollars (\$50,000), for the estate of an individual who dies after June 30, 2007, and before July 1, 2019; and**

**(C) one hundred thousand dollars (\$100,000), for the estate of an individual who dies after June 30, 2019.**

(2) That forty-five (45) days have elapsed since the death of the decedent.

(3) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction.

(4) The name and address of each distributee that is entitled to a share of the property and the part of the property to which each distributee is entitled.

(5) That the affiant has notified each distributee identified in the affidavit of the affiant's intention to present an affidavit under this section.

(6) That the affiant is entitled to payment or delivery of the property on behalf of each distributee identified in the affidavit.

**(7) That the affiant has delivered a copy to the unit if:**

**(A) the decedent was at least fifty-five (55) years of age at the time of death; and**

**(B) the decedent dies on or after June 30, 2019.**

**(8) That the affiant has notified each distributee identified in the affidavit that the distributee will be liable, subject to the limitations of liability specified under section 3.5 of this chapter, to an extent determined by the value of the property received by the distributee for any timely filed claim in the decedent's estate if the decedent dies on or after June 30, 2019.**

(c) If a motor vehicle or watercraft (as defined in IC 9-13-2-198.5) is part of the estate, nothing in this section shall prohibit a transfer of the certificate of title to the motor vehicle if five (5) days have elapsed since the death of the decedent and no appointment of a personal representative is contemplated. A transfer under this subsection shall be made by the bureau of motor vehicles upon receipt of an affidavit containing a statement of the conditions required by subsection (b)(1) and (b)(6). The affidavit must be duly executed by the distributees of the estate.

(d) A transfer agent of a security shall change the registered ownership on the books of a corporation from the decedent to a distributee upon the presentation of an affidavit as provided in subsection (a).



(e) For the purposes of subsection (a), an insurance company that, by reason of the death of the decedent, becomes obligated to pay a death benefit to the estate of the decedent is considered a person indebted to the decedent.

(f) For purposes of subsection (a), property in a safe deposit box rented by a decedent from a financial institution organized or reorganized under the law of any state (as defined in IC 28-2-17-19) or the United States is considered personal property belonging to the decedent in the possession of the financial institution.

(g) For purposes of subsection (a), a distributee has the same rights as a personal representative under IC 32-39 to access a digital asset (as defined in IC 32-39-1-10) of the decedent.

**(h) If the decedent:**

**(1) was at least fifty-five (55) years of age at the time of death; and**

**(2) dies after June 30, 2019;**

**the affiant shall deliver a copy of the affidavit required by subsection (a) to the unit.**

SECTION 9. IC 29-1-8-3, AS AMENDED BY P.L.194-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. **(a) As used in this section, "fiduciary" means:**

**(1) the personal representative of an unsupervised estate; or**

**(2) a person appointed by a court under this title to act on behalf of the decedent or the decedent's distributees.**

**(a) (b) Except as otherwise provided in this section,** if the value of a decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of:

**(1) an amount equal to:**

**(A) twenty-five thousand dollars (\$25,000), for the estate of an individual who dies before July 1, 2007; and**

**(B) fifty thousand dollars (\$50,000), for the estate of an individual who dies after June 30, 2007;**

**(2) the costs and expenses of administration; and**

**(3) reasonable funeral expenses;**

**the personal representative of an unsupervised estate or a person acting on behalf of the distributees; fiduciary,** without giving notice to creditors, may immediately file a closing instrument as provided in section 4 of this chapter and disburse and distribute the estate to the persons entitled to it, and file a closing statement as provided in section 4 of this chapter: as provided in section 4 of this chapter.

**(b) (c) If an estate described in subsection (a) includes real property,**





an affidavit may be recorded in the office of the recorder in the county in which the real property is located. The affidavit must contain the following:

- (1) The legal description of the real property.
- (2) The following statement:
  - (A) If the individual dies after June 30, 2007 the following statement: "It appears that the decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of the following: fifty thousand dollars (\$50,000), the costs and expenses of administration, and reasonable funeral expenses.".
  - (B) If the individual dies before July 1, 2007, the following statement: "It appears that the decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of the following: twenty-five thousand dollars (\$25,000), the costs and expenses of administration, and reasonable funeral expenses.".
- (3) The name of each person entitled to at least a part interest in the real property as a result of a decedent's death, the share to which each person is entitled, and whether the share is a divided or undivided interest.
- (4) A statement which explains how each person's share has been determined.
- (5) A statement that the affiant has delivered a copy of the affidavit to the unit (as defined in IC 29-1-1-3(a)(30)) not less than thirty (30) days before the affidavit is recorded in the office of the recorder if the decedent:**
  - (A) was at least fifty-five (55) years of age at the time of death; and**
  - (B) dies after June 30, 2019.**
- (6) A statement that the affiant has notified each distributee identified in the affidavit that the distributee will be liable, subject to any limitations of liability under other provisions of this article, to an extent determined by the value of the property received by the distributee for any timely filed claim in the decedent's estate if the decedent dies after June 30, 2019.**
- (d) If the decedent:**
  - (A) was at least fifty-five (55) years of age at the time of death; and**
  - (B) dies after June 30, 2019;**

**the fiduciary shall deliver to the unit a copy of the closing statement described in subsection (b) or the affidavit described in**



subsection (c) not later than thirty (30) days before the affidavit is recorded in the office of the recorder.

SECTION 10. IC 29-1-8-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 3.5. (a) When a copy of an affidavit is provided to the unit under section 1(h) or 3(d) of this chapter, the property transferred under the affidavit is not subject to a claim filed by the unit unless the unit determines that it has a claim for reimbursement and the unit:**

- (1) files a claim and provides a copy of the claim to each distributee identified in the affidavit not less than thirty (30) days after the unit receives a copy of the affidavit; or
- (2) provides to each distributee identified in the affidavit the following notice not later than thirty (30) days after the unit receives a copy of the affidavit:

**NOTICE OF POTENTIAL CLAIM**

You are identified as a distributee of assets formerly owned by \_\_\_\_\_, deceased (hereinafter referred to as the "decedent"), in an affidavit (hereinafter referred to as the "affidavit") that was delivered to the estate recovery unit of the office of Medicaid policy and planning (hereinafter referred to as the "unit") pursuant to IC 29-1-8-1(h) or IC 29-1-8-3(d), as shown by a copy of the affidavit attached to this notice. You are hereby notified that the unit holds a potential claim against the decedent's estate and that you may be compelled to deliver to the personal representative of the decedent's estate the value of any money or other property described in the affidavit that you may have received following the decedent's death unless a petition is not filed under IC 29-1-7-5 or the unit elects not to file a claim in the decedent's estate and deliver a copy of the claim to you not later than three (3) months after the date of this notice.

Dated at \_\_\_\_\_, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Estate Recovery Unit of the Office of Medicaid Policy and Planning

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

(b) With respect to a decedent who dies after June 30, 2019, if:

- (1) an affidavit is provided to the unit under section 1(h) or 3(d) of this chapter; and
- (2) the unit does not file a claim in the decedent's estate and deliver a copy of the claim to each distributee identified in the affidavit not later than three (3) months after the date of the



notice described in subsection (a);  
 the distributee's interest in the property described in the affidavit shall not be subject to a claim filed by or on behalf of the unit.

(c) A bona fide purchaser, lender, or title insurance company may rely upon a representation in an affidavit made by a distributee of real property that the unit has not delivered a notice to the distributee under subsection (a) and that the interest of the bona fide purchaser, lender, or title insurance company in the real property will be free from a claim by the unit under IC 29-1-17-10(c) if the unit has not filed a claim in the decedent's estate not later than five (5) days after the affidavit is recorded under section 3(c) of this chapter.

SECTION 11. IC 29-1-8-4, AS AMENDED BY P.L.194-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) As used in this section, "fiduciary" means:

- (1) the personal representative of an unsupervised estate; or
- (2) a person appointed by a court under this title to act on behalf of the decedent or the decedent's distributees.

(a) (b) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a ~~personal representative or a person acting on behalf of the distributees~~ **fiduciary** may close an estate administered under the summary procedures of section 3 of this chapter by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:

- (1) to the best knowledge of the ~~personal representative or person acting on behalf of the distributees~~ **fiduciary**, the value of the gross probate estate, less liens and encumbrances, did not exceed the sum of:
  - (A) twenty-five thousand dollars (\$25,000), for the estate of an individual who dies before July 1, 2007, and fifty thousand dollars (\$50,000), for the estate of an individual who dies after June 30, 2007;
  - (B) the costs and expenses of administration; and
  - (C) reasonable funeral expenses;
- (2) the ~~personal representative or person acting on behalf of the distributees~~ **fiduciary** has fully administered the estate by disbursing and distributing it to the persons entitled to it; and
- (3) the ~~personal representative of an unsupervised estate or person acting on behalf of the distributees~~ **fiduciary** has sent a copy of the closing statement to all distributees of the estate and to all



creditors or other claimants of whom the ~~personal representative or person acting on behalf of the distributees~~ **fiduciary** is aware and has furnished a full accounting in writing of the administration to the distributees whose interests are affected;

**(4) the fiduciary has delivered a copy to the unit if the decedent was at least fifty-five (55) years of age at the time of death if the decedent dies after June 30, 2019; and**

**(5) each distributee identified in the statement will be liable, subject to the limitations of liability specified under section 3.5 of this chapter, to an extent determined by the value of the property received by the distributee for any timely filed claim in the decedent's estate if the decedent dies on or after June 30, 2019.**

~~(b)~~ **(c)** If no actions, claims, objections, or proceedings involving the personal representative of an unsupervised estate or person acting on behalf of the distributees **fiduciary** are filed in the court within ~~three~~ **(3) two (2)** months after the closing statement is filed, the **fiduciary may immediately disburse and distribute the estate free from claims to the persons entitled to the disbursement and distribution. After disbursing and distributing an estate, the fiduciary must file a report in the court of the disbursement and distribution. The appointment of the personal representative or the duties of the person acting on behalf of the distributees fiduciary, as applicable, shall terminate upon the filing of the report.**

~~(c)~~ **(d)** A closing statement filed under this section has the same effect as one (1) filed under IC 29-1-7.5-4.

~~(d)~~ **(e)** A copy of any affidavit recorded under section ~~3(b)~~ **3(c)** of this chapter must be attached to the closing statement filed under this section."

Page 14, line 12, strike "IC 29-1-7-15.1(d)(2)" and insert "**IC 29-1-7-15.1(e)(2)**".

Page 14, line 12, strike "IC 29-1-7-15.1(d)(3)" and insert "**IC 29-1-7-15.1(f)(3)**".

Page 14, delete lines 28 through 42.



Delete pages 15 through 20.  
Page 21, delete lines 1 through 13.  
Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1591 as introduced.)

TORR

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1591 be amended to read as follows:

Page 15, line 39, strike "and".

Page 15, line 41, delete ";" and insert ", **and before July 1, 2019; and**".

Page 15, between lines 41 and 42, begin a new line double block indented and insert:

**"(C) one hundred thousand dollars (\$100,000), for the estate of an individual who dies after June 30, 2019;"**.

Page 16, line 4, reset in roman "immediately".

Page 16, between lines 13 and 14, begin a new line double block indented and insert:

**"(A) If the individual dies after June 30, 2019, the following statement: "It appears that the decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of the following: one hundred thousand dollars (\$100,000), the costs and expenses of administration, and reasonable funeral expenses."**

Page 16, line 14, strike "(A)" and insert "(B)".

Page 16, line 19, strike "(B)" and insert "(C)".

Page 18, line 40, strike "and".

Page 18, line 42, delete ";" and insert ", **and before July 1,**



**2019, and one hundred thousand dollars (\$100,000) for the estate of an individual who dies after June 30, 2019;"**.

Renumber all SECTIONS consecutively.

(Reference is to HB 1591 as printed February 18, 2019.)

YOUNG J

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1591, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 7, line 13, delete "sections" and insert "**section**".

Page 7, line 31, after "suit." insert "**The court shall review the attorney's fee claims at the conclusion of the will contest. The award and allocation of attorney's fees paid from the estate shall be solely at the discretion of the court.**".

Page 7, line 34, delete "property," and insert "property".

Page 14, line 8, after "2007;" insert "**and**".

Page 14, line 10, delete "2007, and before July 1," and insert "**2007.**".

Page 14, delete lines 11 through 13.

Page 15, line 39, reset in roman "and".

Page 15, line 41, delete "2007, and before July 1," and insert "2007;".

Page 15, delete line 42.

Page 16, delete lines 1 through 2.

Page 16, line 11, strike "(a)" and insert "**(b)**".

Page 16, delete lines 17 through 22.

Page 16, line 23, reset in roman "(A)".

Page 16, line 23, delete "(B)".

Page 16, line 23, after "2007" insert ",".

Page 16, line 28, reset in roman "(B)".

Page 16, line 28, delete "(C)".

Page 19, line 9, delete "2007, and before July 1, 2019, and one hundred" and insert "2007;".

Page 19, delete lines 10 through 11.

**EH 1591—LS 7517/DI 123**



Page 25, between lines 14 through 15, begin a new paragraph and insert:

"SECTION 15. IC 29-1-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

**Chapter 22. Electronic Estate Planning Documents Registry**

**Sec. 1. The following terms are defined for this chapter:**

**(1) "Complete converted copy" means a document in any format that:**

- (A) can be visually perceived in its entirety on a monitor or other display device;**
- (B) can be printed; and**
- (C) contains the following:**
  - (i) The text of an electronic will.**
  - (ii) The respective electronic signatures of the testator and attesting witnesses.**
  - (iii) A readable copy of all document integrity evidence, if applicable.**
  - (iv) A self-proving affidavit if the electronic will is self-proved.**

**(2) "Document integrity evidence" means the part of the electronic will, electronic trust instrument, or electronic power of attorney that:**

- (A) is created and maintained electronically;**
- (B) includes digital markers to demonstrate that the electronic will, electronic trust instrument, or electronic power of attorney has not been altered or tampered with after its execution;**
- (C) is logically associated with the electronic will, electronic trust instrument, or electronic power of attorney;**
- (D) will generate an error message, invalidate an electronic signature, make the electronic record unreadable, or otherwise display evidence that some alteration was made to the electronic record after its execution; and**
- (E) includes the following information:**
  - (i) The city, state, date, and time of the execution of the electronic will, electronic trust instrument, or electronic power of attorney by the testator, settlor, or principal and any attesting witnesses as applicable.**
  - (ii) The text of the self-proving affidavit if the document is an electronic will and is self-proved.**



(iii) The name of the testator, settlor, or principal and the names of all attesting witnesses, if applicable.

(iv) The name and address of any person responsible for signing the signature of the testator, settlor, or principal on the electronic document at the direction and in the presence of the testator, settlor, or principal.

(v) Copies of or links to the electronic signatures of the testator, settlor, or principal and any attesting witnesses, if applicable.

(vi) A general description of the type of identity verification evidence used to verify the identity of the testator, settlor, or principal.

(vii) The content of the cryptographic hash or unique code used to complete the electronic will, electronic trust instrument, or electronic power of attorney and make the electronic will, electronic trust instrument, or electronic power of attorney tamper evident if a public key infrastructure or similar secure technology was used to sign or authenticate the electronic will, electronic trust instrument, or electronic power of attorney and if the vendor or the software for the technology makes inclusion feasible.

(3) "Electronic estate planning document" means:

- (A) an electronic will;
- (B) an electronic trust instrument;
- (C) an electronic power of attorney; or
- (D) any electronic document that:
  - (i) revokes; or
  - (ii) amends;

any document described in clauses (A) through (C).

(4) "Electronic power of attorney" means a power of attorney created by a principal that:

- (A) is initially created and maintained as an electronic record;
- (B) contains the electronic signature of the principal creating the power of attorney;
- (C) contains the date and time of the electronic signature of the principal creating the power of attorney; and
- (D) is notarized.

The term includes an amendment to or a restatement of the power of attorney if the amendment or restatement complies with the requirements described in IC 30-5-11-5.





(5) "Electronic record" has the meaning set forth in IC 26-2-8-102(9). The term may include one (1) or more of the following:

(A) The document integrity evidence associated with an electronic will, electronic trust instrument, or electronic power of attorney.

(B) The identity verification evidence of the testator, settlor, or principal who executed the electronic will, electronic trust instrument, or electronic power of attorney.

(6) "Electronic signature" has the meaning set forth in IC 26-2-8-102(10).

(7) "Electronic trust instrument" means a trust instrument for an inter vivos trust created by a settlor or other person that:

(A) is initially created and maintained as an electronic record;

(B) contains the electronic signature of the settlor or other person creating the trust; and

(C) contains the date and time of the electronic signature of the settlor or other person creating the trust.

The term includes an amendment to or a restatement of a revocable trust instrument when the amendment or restatement is executed in accordance with the requirements of IC 30-4-1.5-6.

(8) "Electronic will" means the will of a testator that:

(A) is initially created and maintained as an electronic record;

(B) contains the electronic signatures of the testator and attesting witnesses; and

(C) contains the date and time of the electronic signatures.

(9) "Executed" means the signing of an electronic estate planning document. The term includes the use of an electronic signature.

(10) "Identity verification evidence" means:

(A) a copy of the government issued photo identification card of the testator, settlor, or principal; or

(B) any other information that verifies the identity of the testator, settlor, or principal if derived from one (1) or more of the following sources:

(i) A knowledge based authentication method.

(ii) A physical device.



(iii) A digital certificate using a public key infrastructure.

(iv) A verification or authorization code sent to or used by the testator, settlor, or principal.

(v) Biometric identification.

(vi) Any other commercially reasonable method for verifying the identity of the testator, settlor, or principal using current or future technology.

(11) "Index" means the electronic estate planning documents index created under section 2(e) of this chapter.

(12) "Logically associated" means electronically connected, cross-referenced, or linked in a reliable manner.

(13) "Registry" means the statewide electronic estate planning documents registry described in section 2(a) of this chapter.

(14) "Sign" means valid use of a properly executed electronic signature.

(15) "Signature" means the authorized use of the name of the testator, settlor, or principal to authenticate an electronic will, electronic trust instrument, or electronic power of attorney. The term includes an electronic signature.

(16) "Tamper evident" means the feature of an electronic record, such as an electronic estate planning document or document integrity evidence for an electronic estate planning document, that will cause any alteration of or tampering with the electronic record, after it is created or signed, to be perceptible to any person viewing the electronic record when it is printed on paper or viewed on a monitor or other display device. The term applies even if the nature or specific content of the alteration is not perceptible.

(17) "Traditional paper estate planning document" means a will, codicil, trust instrument, or power of attorney that is signed on paper by the testator, settlor, or principal and:

(A) the attesting witnesses, in the case of a will or codicil;  
or

(B) a notary public, in the case of a power of attorney.

Sec. 2. (a) The Indiana supreme court and the office of judicial administration are authorized to establish and administer a statewide electronic estate planning documents registry under rules adopted by the Indiana supreme court.

(b) If permitted under the rules adopted for the registry, the following individuals may deposit one (1) or more of the items



described in subsection (c) with the registry:

- (1) A testator.
  - (2) A settlor.
  - (3) A principal.
  - (4) An attorney for any person described in subdivisions (1) through (3).
  - (5) A custodian of an electronic estate planning document.
- (c) The following items may be deposited in the registry:
- (1) Information concerning:
    - (A) individual testators, settlors, or principals;
    - (B) electronic estate planning documents; or
    - (C) the execution of an electronic estate planning document deposited into the registry.
  - (2) The electronic record for an electronic estate planning document.
  - (3) Any document integrity evidence associated with an electronic estate planning document.
  - (4) A digital and readable copy of a complete converted copy of an electronic estate planning document.

An item described in this subsection may be submitted to or deposited with the registry through digital or online means if permitted by the rules adopted for the registry.

(d) The administrator of the registry may collect a one (1) time fee for deposit of an item described in subsection (b). The amount charged under this subsection must:

- (1) be set by the office of judicial administration; and
- (2) be charged at the time of the deposit.

(e) The registry administrator shall create an index consisting of each item submitted to or deposited with the registry. The index shall be organized according to the following characteristics:

- (1) The name of the testator, settlor, or principal.
- (2) The county of residence for the testator, settlor, or principal.
- (3) The date of execution of an electronic estate planning document.
- (4) The date of submission to or deposit with the registry of information pertaining to an electronic estate planning document submitted to or deposited with the registry.
- (5) The name of any attorney responsible for the preparation or execution of an electronic estate planning document.

The registry administrator shall assign a unique document number or identifier to each electronic estate planning document submitted



to or deposited with the registry.

(f) The registry administrator shall make the index:

- (1) available to the public; and
- (2) searchable by digital or online means.

The registry administrator may not charge a fee for access to or use of the index.

(g) The registry administrator shall ensure that any information:

- (1) contained in an electronic estate planning document submitted to or deposited with the registry; and
- (2) not described in subsection (e);

is not accessible to or searchable by the public.

(h) The registry administrator, upon receipt of a digital, online, or written request by an interested person, shall issue a certified report specifying whether or not the registry possesses any items described in subsection (c) for the specific testator, settlor, or principal who is the subject of the request. If the registry possesses any items described in subsection (c) for a specific testator, settlor, or principal, any certified report issued under this subsection must contain the information described in subsection (e) for the applicable testator, settlor, or principal. The registry administrator may charge and collect a fee for each report issued under this subsection. A fee charged under this subsection must be:

- (1) set by the office of judicial administration; and
- (2) charged at the time the report described in this subsection is issued.

(i) The registry administrator, upon receipt of a digital, online, or written request from:

- (1) a living testator, settlor, or principal;
  - (2) an attorney for a person described in subdivision (1);
  - (3) a person possessing written authorization from a living testator;
  - (4) a person nominated as the personal representative, trustee, or attorney in fact in an electronic estate planning document;
- or
- (5) any interested person with respect to the testator's estate following the testator's death;

shall prepare and issue a certified transcript of the electronic estate planning document and all associated items in a form that may be digitally saved and printed.

(j) A certified transcript issued under subsection (i) must consist of:



- (1) the electronic estate planning document or a complete converted copy of the electronic estate planning document, as applicable, if the complete document was submitted to or deposited with the registry;**
- (2) any document integrity evidence associated with the electronic estate planning document, as applicable;**
- (3) the date and time the electronic estate planning document was submitted to or deposited with the registry; and**
- (4) the unique document number or identifier that was assigned to the electronic estate planning document under subsection (e).**

The registry administrator may charge a fee for each transcript issued under subsection (i). The amount charged for the issuance of a transcript must be set by the office of judicial administration and charged at the time the transcript is issued.

(k) A certified report issued under subsection (h) or a certified transcript issued under subsection (i) constitutes prima facie evidence of their respective contents and may be filed with a court without further authentication in any proceeding described under IC 29-1-7.

(l) Nothing in this chapter shall be construed to prohibit the Indiana supreme court and the office of judicial administration from expanding the scope of the registry to permit:

- (1) traditional paper estate planning documents; or**
- (2) information concerning the execution of traditional paper estate planning documents;**

from being submitted to or deposited with the registry. Documents described in subdivisions (1) and (2) must be subject to the same or substantially the same indexing, search procedures, transcript procedures, and fee rates as electronic estate planning documents."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to HB 1591 as reprinted February 21, 2019.)

HEAD, Chairperson

Committee Vote: Yeas 9, Nays 0.

**EH 1591—LS 7517/DI 123**

