



February 18, 2019

HOUSE BILL No. 1591

DIGEST OF HB 1591 (Updated February 18, 2019 12:48 pm - DI 123)

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. 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. Differentiates gross probate estate caps in the following manner in certain instances: (1) \$25,000, for the estate of an individual who dies before July 1, 2007. (2) \$50,000, for the estate of an individual who dies after June 30, 2007, and before July 1, 2019. (3) \$100,000, for the estate of an individual who dies after June 30, 2019. Specifies certain requirements for affidavits concerning probate estates with values that are: (1) \$25,000, for the estate of an individual who dies before July 1, 2007; and (2) \$50,000, for the estate of an individual who dies after June 30, 2007. Specifies notice requirements for claims made by the estate recovery unit of the office of Medicaid policy and

(Continued next page)

Effective: July 1, 2019.

Young J

January 22, 2019, read first time and referred to Committee on Judiciary.
February 18, 2019, amended, reported — Do Pass.

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Digest Continued

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.

HB 1591—LS 7517/DI 123



February 18, 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.

HOUSE BILL No. 1591

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

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



1 distributees under this section may be established by an affidavit
 2 containing the following information:

3 (1) The decedent's name.

4 (2) The decedent's date of death.

5 (3) A description of the most recent instrument recorded in
 6 the office of the recorder of the county where the real estate
 7 is located.

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

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

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

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

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

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

22 (8) A statement that establishes that:

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

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

29 (C) a probate court has not issued findings and an
 30 accompanying order preventing the limitations in section
 31 15.1(b) of this chapter from applying to the decedent's real
 32 property.

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

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

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



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

- 4 **(1) record the affidavit; and**
 5 **(2) index the affidavit as the most recent instrument**
 6 **responsible for the transfer of the real estate described in**
 7 **subsection (b).**

8 **(e) Any person may rely upon an affidavit:**

- 9 **(1) made in good faith; and**
 10 **(2) under this section;**

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

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

- 18 (1) before the deadlines imposed by section ~~15.1(e)~~ **15.1(f)** of this
 19 chapter, unless the will is probated for a purpose described in
 20 section ~~15.1(f)~~ **15.1(g)** of this chapter; and
 21 (2) in the manner and for the purpose stated in sections 26 and 27
 22 of this chapter.

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

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

- 32 (1) Retain assets owned by the decedent pending distribution or
 33 liquidation including those in which the representative is
 34 personally interested or which are otherwise improper for trust
 35 investment.
 36 (2) Receive assets from fiduciaries or other sources.
 37 (3) Perform, compromise, or refuse performance of the decedent's
 38 contracts that continue as obligations of the estate, as the personal
 39 representative may determine under the circumstances. In
 40 performing enforceable contracts by the decedent to convey or
 41 lease land, the personal representative, among other possible
 42 courses of action, may:



- 1 (A) execute and deliver a deed of conveyance for cash
2 payment of all sums remaining due or the purchaser's note for
3 the sum remaining due secured by a mortgage or deed of trust
4 on the land; or
5 (B) deliver a deed in escrow with directions that the proceeds,
6 when paid in accordance with the escrow agreement, be paid
7 to the successors of the decedent, as designated in the escrow
8 agreement.
- 9 (4) Satisfy written charitable pledges of the decedent irrespective
10 of whether the pledges constituted binding obligations of the
11 decedent or were properly presented as claims, if in the judgment
12 of the personal representative the decedent would have wanted
13 the pledges completed under the circumstances.
- 14 (5) If funds are not needed to meet debts and expenses currently
15 payable and are not immediately distributable, deposit or invest
16 liquid assets of the estate, including moneys received from the
17 sale of other assets, in federally insured interest-bearing accounts,
18 readily marketable secured loan arrangements, or other prudent
19 investments which would be reasonable for use by trustees
20 generally.
- 21 (6) Acquire or dispose of an asset, including land in this or
22 another state, for cash or on credit, at public or private sale; and
23 manage, develop, improve, exchange, partition, change the
24 character of, or abandon an estate asset.
- 25 (7) Make ordinary or extraordinary repairs or alterations in
26 buildings or other structures, demolish any improvements, raze
27 existing or erect new party walls or buildings.
- 28 (8) Subdivide, develop, or dedicate land to public use; make or
29 obtain the vacation of plats and adjust boundaries; or adjust
30 differences in valuation on exchange or partition by giving or
31 receiving considerations; or dedicate easements to public use
32 without consideration.
- 33 (9) Enter for any purpose into a lease as lessor or lessee, with or
34 without option to purchase or renew, for a term within or
35 extending beyond the period of administration.
- 36 (10) Enter into a lease or arrangement for exploration and
37 removal of minerals or other natural resources or enter into a
38 pooling or unitization agreement.
- 39 (11) Abandon property when, in the opinion of the personal
40 representatives, it is valueless, or is so encumbered, or is in
41 condition that it is of no benefit to the estate.
- 42 (12) Vote stocks or other securities in person or by general or



- 1 limited proxy.
- 2 (13) Pay calls, assessments, and other sums chargeable or
3 accruing against or on account of securities, unless barred by the
4 provisions relating to claims.
- 5 (14) Hold a security in the name of a nominee or in other form
6 without disclosure of the interest of the estate but the personal
7 representative is liable for any act of the nominee in connection
8 with the security so held.
- 9 (15) Hold, manage, safeguard, and control the estate's real and
10 personal property, insure the assets of the estate against damage,
11 loss, and liability, and insure the personal representative
12 personally against liability as to third persons.
- 13 (16) Borrow money with or without security to be repaid from the
14 estate assets or otherwise and advance money for the protection
15 of the estate.
- 16 (17) Effect a fair and reasonable compromise with any debtor or
17 obligor, or extend, renew, or in any manner modify the terms of
18 any obligation owing to the estate. If the personal representative
19 holds a mortgage, pledge, or other lien upon property of another
20 person, the personal representative may, in lieu of foreclosure,
21 accept a conveyance or transfer of encumbered assets from the
22 owner thereof in satisfaction of the indebtedness secured by lien.
- 23 (18) Pay taxes, assessments, compensation of the personal
24 representative, and other expenses incident to the administration
25 of the estate.
- 26 (19) Hold an interest in a proprietorship, partnership, limited
27 liability company, business trust, corporation, or another domestic
28 or foreign form of business or enterprise.
- 29 (20) Continue a business.
- 30 (21) Take any action that may be taken by shareholders, partners,
31 members, or property owners, including contributing additional
32 capital to or merging, consolidating, reorganizing, recapitalizing,
33 dissolving, or otherwise changing the form of the business
34 organization.
- 35 (22) Allocate items of income or expense to either estate income
36 or principal, as permitted or provided by IC 30-2-14.
- 37 (23) Employ persons, including attorneys, auditors, investment
38 advisors, or agents, even if they are associated with the personal
39 representative, to advise or assist the personal representative in
40 the performance of the personal representative's administrative
41 duties; act without independent investigation upon their
42 recommendations; and instead of acting personally, employ one



- 1 (1) or more agents to perform any act of administration, whether
 2 or not discretionary.
- 3 (24) Do any of the following concerning a claim or demand made
 4 in favor of or against the estate for the protection of the estate and
 5 of the personal representative in the performance of the personal
 6 representative's duties:
- 7 (A) Release, assign, settle, compromise, or contest the claim
 8 or demand.
- 9 (B) Participate in mediation or submit to arbitration to resolve
 10 any dispute concerning the claim or demand.
- 11 (C) Extend the time for payment of the claim or demand.
- 12 (D) Abandon the claim or demand.
- 13 (25) Sell, mortgage, or lease any real or personal property of the
 14 estate or any interest therein for cash, credit, or for part cash and
 15 part credit, and with or without security for unpaid balances.
- 16 (26) Select a settlement option under any qualified or
 17 nonqualified benefit or retirement plan, annuity, or life insurance
 18 payable to the estate, and take appropriate action to collect the
 19 proceeds.
- 20 (27) Inspect and investigate property held, directly or indirectly,
 21 by the personal representative for the purpose of:
- 22 (A) determining the application of environmental law with
 23 respect to the property; and
- 24 (B) doing the following:
- 25 (i) Take action to prevent, abate, or remedy an actual or a
 26 potential violation of an environmental law affecting the
 27 property, whether taken before or after the assertion of a
 28 claim or the initiation of governmental enforcement by
 29 federal, state, or local authorities.
- 30 (ii) Compromise claims against the estate that may be
 31 asserted for an alleged violation of environmental law.
- 32 (iii) Pay the expense of inspection, review, abatement, or
 33 remedial action to comply with the environmental law.
- 34 (28) Distribute assets of the estate upon such terms as the
 35 personal representative may impose. To the extent practicable,
 36 taking into account the decedent's probable intention, the power
 37 to distribute assets includes the power to:
- 38 (A) pay an amount to a distributee who is under a legal
 39 disability or whom the personal representative reasonably
 40 believes to be incapacitated by:
- 41 (i) paying the amount directly to the distributee or applying
 42 the amount for the distributee's use and benefit;



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



1 delivery of property of the decedent as alleged in the affidavit.

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

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

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

9 **(B) fifty thousand dollars (\$50,000), for the estate of an
10 individual who dies after June 30, 2007, and before July 1,
11 2019; and**

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

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) includes real property,
 9 an affidavit may be recorded in the office of the recorder in the county
 10 in which the real property is located. The affidavit must contain the
 11 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)~~ **IC**
 30 **29-1-7-15.1(f)(3)**, any interested person may file a petition requesting
 31 probate of another electronic will associated with the testator. A
 32 complete converted copy of the other electronic will and an affidavit of
 33 regularity must accompany any petition filed under this subsection. The
 34 complete converted copy of another electronic will is prima facie
 35 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 30-4-1-2, AS AMENDED BY P.L.163-2018,
 5 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2019]: Sec. 2. As used in this article:

7 (1) "Adult" means any person eighteen (18) years of age or older.

8 (2) "Affiliate" means a parent, descendant, spouse, spouse of a
 9 descendant, brother, sister, spouse of a brother or sister,
 10 employee, director, officer, partner, joint venturer, a corporation
 11 subject to common control with the trustee, a shareholder, or
 12 corporation who controls the trustee or a corporation controlled
 13 by the trustee other than as a fiduciary, an attorney, or an agent.

14 (3) "Beneficiary" has the meaning set forth in IC 30-2-14-2.

15 (4) "Breach of trust" means a violation by the trustee of any duty
 16 which is owed to the settlor or beneficiary.

17 (5) "Charitable trust" means a trust in which all the beneficiaries
 18 are the general public or organizations, including trusts,
 19 corporations, and associations, and that is organized and operated
 20 wholly for religious, charitable, scientific, public safety testing,
 21 literary, or educational purposes. The term does not include
 22 charitable remainder trusts, charitable lead trusts, pooled income
 23 funds, or any other form of split-interest charitable trust that has
 24 at least one (1) noncharitable beneficiary.

25 **(6) "Child" includes an adopted child or a child who is in**
 26 **gestation before the death of a deceased parent and born**
 27 **within forty-three (43) weeks after the death of that parent.**
 28 **The term does not include a grandchild or other more remote**
 29 **descendants, nor, except as provided in IC 29-1-2-7, a child**
 30 **born out of wedlock.**

31 ~~(6)~~ (7) "Court" means a court having jurisdiction over trust
 32 matters.

33 ~~(7)~~ (8) "Income", except as otherwise stated in a trust agreement,
 34 has the meaning set forth in IC 30-2-14-4.

35 ~~(8)~~ (9) "Income beneficiary" has the meaning set forth in
 36 IC 30-2-14-5.

37 ~~(9)~~ (10) "Inventory value" means the cost of property to the settlor
 38 or the trustee at the time of acquisition or the market value of the
 39 property at the time it is delivered to the trustee, or the value of
 40 the property as finally determined for purposes of an estate or
 41 inheritance tax.

42 ~~(10)~~ (11) "Minor" means any person under the age of eighteen



- 1 (18) years.
- 2 ~~(11)~~ **(12)** "No contest provision" refers to a provision of a trust
- 3 instrument that, if given effect, would reduce or eliminate the
- 4 interest of a beneficiary of the trust who, directly or indirectly,
- 5 initiates or otherwise pursues:
- 6 (A) an action to contest the validity of:
- 7 (i) the trust; or
- 8 (ii) the terms of the trust;
- 9 (B) an action to set aside or vary any term of the trust; or
- 10 (C) any other act to frustrate or defeat the settlor's intent as
- 11 expressed in the terms of the trust.
- 12 ~~(12)~~ **(13)** "Person" has the meaning set forth in IC 30-2-14-9.
- 13 ~~(13)~~ **(14)** "Personal representative" means an executor or
- 14 administrator of a decedent's or absentee's estate, guardian of the
- 15 person or estate, guardian ad litem or other court appointed
- 16 representative, next friend, parent or custodian of a minor,
- 17 attorney in fact, or custodian of an incapacitated person (as
- 18 defined in IC 29-3-1-7.5).
- 19 ~~(14)~~ **(15)** "Principal" has the meaning set forth in IC 30-2-14-10.
- 20 ~~(15)~~ **(16)** "Qualified beneficiary" means:
- 21 (A) a beneficiary who, on the date the beneficiary's
- 22 qualification is determined:
- 23 (i) is a distributee or permissible distributee of trust income
- 24 or principal;
- 25 (ii) would be a distributee or permissible distributee of trust
- 26 income or principal if the interest of the distributee
- 27 described in item (i) terminated on that date;
- 28 (iii) would be a distributee or permissible distributee of trust
- 29 income or principal if the trust terminated on that date;
- 30 (iv) is a charitable organization expressly designated to
- 31 receive distributions under the terms of a charitable trust;
- 32 (v) is a person appointed to enforce a trust for the care of an
- 33 animal under IC 30-4-2-18; or
- 34 (vi) is a person appointed to enforce a trust for a
- 35 noncharitable purpose under IC 30-4-2-19; or
- 36 (B) the attorney general, if the trust is a charitable trust having
- 37 its principal place of administration in Indiana.
- 38 ~~(16)~~ **(17)** "Remainderman" means a beneficiary entitled to
- 39 principal, including income which has been accumulated and
- 40 added to the principal.
- 41 ~~(17)~~ **(18)** "Settlor" means a person who establishes a trust
- 42 including the testator of a will under which a trust is created.



1 ~~(18)~~ **(19)** "Terms of a trust", "terms of the trust", or "terms of a
2 charitable trust" means the manifestation of the intent of a settlor
3 or decedent with respect to the trust, expressed in a manner that
4 admits of its proof in a judicial proceeding, whether by written or
5 spoken words or by conduct.

6 ~~(19)~~ **(20)** "Trust estate" means the trust property and the income
7 derived from its use.

8 ~~(20)~~ **(21)** "Trust for a benevolent public purpose" means a
9 charitable trust (as defined in subdivision (5)), a split-interest
10 trust (as defined in Section 4947 of the Internal Revenue Code),
11 a perpetual care fund or an endowment care fund established
12 under IC 23-14-48-2, a prepaid funeral plan or funeral trust
13 established under IC 30-2-9, a funeral trust established under
14 IC 30-2-10, a trust or an escrow account created from payments
15 of funeral, burial services, or merchandise in advance of need
16 described in IC 30-2-13, and any other form of split-interest
17 charitable trust that has both charitable and noncharitable
18 beneficiaries, including but not limited to charitable remainder
19 trusts, charitable lead trusts, and charitable pooled income funds.

20 ~~(21)~~ **(22)** "Trust instrument" means an instrument, agreement, or
21 other written document executed by the settlor that contains the
22 terms of the trust, including any amendments to the terms of the
23 trust.

24 ~~(22)~~ **(23)** "Trust property" means property either placed in trust or
25 purchased or otherwise acquired by the trustee for the trust
26 regardless of whether the trust property is titled in the name of the
27 trustee or the name of the trust.

28 ~~(23)~~ **(24)** "Trustee" has the meaning set forth in IC 30-2-14-13.

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

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

37 (2) "Complete converted copy" means a document in any format
38 that:

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

41 (B) can be printed; and

42 (C) contains:



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



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



- 1 person creating the trust; and
 2 (C) contains the date and time of the electronic signature of the
 3 settlor or other person creating the trust.
 4 The term includes an amendment to or a restatement of a
 5 revocable trust instrument when the amendment or restatement is
 6 executed in accordance with the requirements of section 6 of this
 7 chapter.
 8 (10) "Executed" means the signing of an electronic trust
 9 instrument. The term includes the use of an electronic signature.
 10 (11) "Identity verification evidence" means either:
 11 (A) a copy of the settlor's government issued photo
 12 identification card; or
 13 (B) any other information that verifies the identity of the
 14 settlor 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 settlor.
 21 (v) Biometric identification.
 22 (vi) Any other commercially reasonable method for
 23 verifying the settlor'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 settlor's name to
 30 authenticate an electronic trust instrument. The term includes an
 31 electronic signature.
 32 (15) "Tamper evident" means the feature of an electronic record,
 33 such as an electronic trust instrument or document integrity
 34 evidence for an electronic trust instrument, that will cause **the**
 35 **fact of** any alteration **of** or tampering **of with** the electronic
 36 record, 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 the specific content of the alteration is**
 40 **not perceptible.**
 41 (16) "Traditional paper trust instrument" means a trust instrument
 42 or an amendment to or a restatement of a trust instrument that is



- 1 signed by the settlor on paper.
- 2 SECTION 17. IC 30-4-2.1-4 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Except as
- 4 provided in subsection (b) and section 5 of this chapter, when a settlor
- 5 fails to provide in the settlor's trust for a child who is:
- 6 (1) born or adopted after the making of the settlor's trust; and
- 7 (2) born before or after the settlor's death;
- 8 the child is entitled to receive a share in the trust assets. The child's
- 9 share of the trust assets shall be determined by ascertaining what the
- 10 child's intestate share would have been under IC 29-1-2-1 if the settlor
- 11 had died intestate. The child is entitled to receive a share of the trust
- 12 assets equivalent in value to the intestacy share determined under
- 13 IC 29-1-2-1.
- 14 (b) Subsection (a) does not apply to a child of the settlor if:
- 15 (1) it appears from the trust that the settlor intentionally failed to
- 16 provide in the settlor's trust for the child; or
- 17 (2) **the settlor: when the trust was executed:**
- 18 (A) ~~the settlor~~ had at least one (1) child known to the settlor to
- 19 be living **when the trust was executed;** and
- 20 (B) ~~the settlor~~ devised substantially all of the settlor's ~~estate~~
- 21 **trust assets** to the settlor's surviving spouse.
- 22 SECTION 18. IC 30-5-2-1.5 IS ADDED TO THE INDIANA CODE
- 23 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
- 24 1, 2019]: **Sec. 1.5. "Account", for purposes of IC 30-5-5-6.5, has the**
- 25 **meaning set forth in IC 30-5-5-6.5(a)(1).**
- 26 SECTION 19. IC 30-5-2-1.8 IS ADDED TO THE INDIANA CODE
- 27 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
- 28 1, 2019]: **Sec. 1.8. "All other matters", for purposes of**
- 29 **IC 30-5-5-6.5, has the meaning set forth in IC 30-5-5-19.**
- 30 SECTION 20. IC 30-5-2-3.8 IS ADDED TO THE INDIANA CODE
- 31 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
- 32 1, 2019]: **Sec. 3.8. "Financial exploitation", for purposes of**
- 33 **IC 30-5-5-6.5, has the meaning set forth in IC 30-5-5-6.5(a)(3).**
- 34 SECTION 21. IC 30-5-2-9 IS ADDED TO THE INDIANA CODE
- 35 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
- 36 1, 2019]: **Sec. 9. "Specified adult", for purposes of IC 30-5-5-6.5,**
- 37 **has the meaning set forth in IC 30-5-5-6.5(a)(4).**
- 38 SECTION 22. IC 30-5-2-10 IS ADDED TO THE INDIANA CODE
- 39 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
- 40 1, 2019]: **Sec. 10. "Trusted contact person", for purposes of**
- 41 **IC 30-5-5-6.5, has the meaning set forth in IC 30-5-5-6.5(a)(5).**
- 42 SECTION 23. IC 30-5-5-6.5 IS ADDED TO THE INDIANA CODE



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2019]: **Sec. 6.5. (a) The following definitions apply throughout
3 this section:**

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

6 **(2) "All other matters" has the meaning set forth in
7 IC 30-5-5-19.**

8 **(3) "Financial exploitation" means:**

9 **(A) the unlawful or unauthorized taking, withholding,
10 appropriation, or use of a specified adult's funds or
11 securities; or**

12 **(B) any:**

13 **(i) act;**

14 **(ii) omission;**

15 **(iii) use of a power of attorney;**

16 **(iv) use of a guardianship; or**

17 **(v) use of any other legal authority concerning a
18 specified adult;**

19 **to obtain control over the specified adult's money, assets,
20 or property or to convert the specified adult's money,
21 assets, or property, through use of deception, intimidation,
22 or undue influence.**

23 **(4) "Specified adult" means:**

24 **(A) a person not less than sixty-five (65) years of age; or**

25 **(B) a person who:**

26 **(i) is at least eighteen (18) years of age; and**

27 **(ii) has a mental or physical impairment that prohibits
28 the person from protecting the person's interests.**

29 **(5) "Trusted contact person" means a person who may be
30 contacted about matters concerning a specified adult's
31 account.**

32 **(b) Language conferring general authority concerning financial
33 exploitation authorizes the attorney in fact to do one (1) or more of
34 the following:**

35 **(1) Serve as the trusted contact person for the principal.**

36 **(2) Designate or change the trusted contact person for a
37 specified adult.**

38 **(3) Authorize a person described in subdivision (1) or (2) to:**

39 **(A) receive notice of financial exploitation; or**

40 **(B) act on behalf of a specified adult in response to
41 financial exploitation.**

42 **(4) Act to prevent, stop, correct, or remediate account losses**



1 **incurred as a result of financial exploitation.**

2 **(c) A power of attorney that:**

3 **(1) is executed before July 1, 2019; and**

4 **(2) confers general authority with respect to all other matters;**
 5 **also confers general authority to address any issues concerning the**
 6 **financial exploitation of an account.**

7 SECTION 24. IC 30-5-11-3, AS AMENDED BY THE
 8 TECHNICAL CORRECTIONS BILL OF THE 2019 GENERAL
 9 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2019]: Sec. 3. The following terms are defined for this
 11 chapter:

12 (1) "Affidavit of regularity" means an affidavit executed by a
 13 custodian or other person under section 9 of this chapter with
 14 respect to the electronic record for an electronic power of attorney
 15 or a complete converted copy of an electronic power of attorney.

16 (2) "Complete converted copy" means a document in any format
 17 that:

18 (A) can be visually viewed in its entirety on a monitor or other
 19 display device;

20 (B) can be printed; and

21 (C) contains the text of an electronic power of attorney and a
 22 readable copy of any associated document integrity evidence
 23 that may be a part of or attached to the electronic power of
 24 attorney.

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

26 (A) the principal who executed the electronic power of
 27 attorney;

28 (B) an attorney; or

29 (C) a person who is named in the electronic power of attorney
 30 as an attorney in fact or successor attorney in fact under the
 31 power of attorney.

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

34 (A) A complete copy of the electronic record for the electronic
 35 power of attorney.

36 (B) A complete converted copy of the electronic power of
 37 attorney if the complete electronic record has been lost or
 38 destroyed or the electronic power of attorney has been
 39 revoked.

40 (5) "Document integrity evidence" means the part of the
 41 electronic record for the electronic power of attorney that:

42 (A) is created and maintained electronically;



- 1 (B) includes digital markers showing that the electronic power
 2 of attorney has not been altered after its initial execution by
 3 the principal;
- 4 (C) is logically associated with the electronic power of
 5 attorney in a tamper evident manner so that any change made
 6 to the text of the electronic power of attorney after its
 7 execution is visibly perceptible when the electronic record is
 8 displayed or printed;
- 9 (D) ~~displays any changes made to the text of~~ **will generate an**
 10 **error message, invalidate an electronic signature, make the**
 11 **electronic record unreadable, or otherwise display**
 12 **evidence that some alteration was made to** the electronic
 13 power of attorney after its execution; and
- 14 (E) displays the following information:
- 15 (i) The city **and state in which, and the** date and time **at**
 16 **which**, the electronic power of attorney was executed by the
 17 principal.
- 18 (ii) The name of the principal.
- 19 (iii) The name and address of the person responsible for
 20 marking the principal's signature on the electronic power of
 21 attorney at the principal's direction and in the principal's
 22 presence, as applicable.
- 23 (iv) A copy of or a link to the electronic signature of the
 24 principal on the electronic power of attorney.
- 25 (v) A general description of the type of identity verification
 26 evidence used to verify the principal's identity.
- 27 **(vi) The content of the cryptographic hash or unique**
 28 **code used to complete the electronic record and make the**
 29 **electronic power of attorney tamper evident if a public**
 30 **key infrastructure or a similar secure technology was**
 31 **used to sign or authenticate the electronic power of**
 32 **attorney and if the vendor or software for the technology**
 33 **makes inclusion feasible.**
- 34 Document integrity evidence may, but is not required to, contain
 35 other information about the electronic power of attorney such as
 36 a unique document number, client number, or other identifier that
 37 an attorney or custodian assigns to the electronic power of
 38 attorney or a link to a secure Internet web site where a complete
 39 copy of the electronic power of attorney is accessible. The title,
 40 heading, or label, if any, that is assigned to the document integrity
 41 evidence (such as "certificate of completion", "audit trail", or
 42 "audit log" ~~log~~) is ~~immaterial~~: **immaterial.**



- 1 (6) "Electronic" has the meaning set forth in IC 26-2-8-102.
 2 (7) "Electronic power of attorney" means a power of attorney
 3 created by a principal that:
 4 (A) is initially created and maintained as an electronic record;
 5 (B) contains the electronic signature of the principal creating
 6 the power of attorney;
 7 (C) contains the date and time of the electronic signature of the
 8 principal creating the power of attorney; and
 9 (D) is notarized.
 10 The term includes an amendment to or a restatement of the power
 11 of attorney if the amendment or restatement complies with the
 12 requirements described in section 5 of this chapter.
 13 (8) "Electronic record" has the meaning set forth in
 14 IC 26-2-8-102. The term may include one (1) or both of the
 15 following:
 16 (A) The document integrity evidence associated with an
 17 electronic power of attorney.
 18 (B) The identity verification evidence of the principal who
 19 executed the electronic power of attorney.
 20 (9) "Electronic signature" has the meaning set forth in
 21 IC 26-2-8-102.
 22 (10) "Executed" means the signing of a power of attorney. The
 23 term includes the use of an electronic signature.
 24 (11) "Identity verification evidence" means either:
 25 (A) a copy of a government issued photo identification card
 26 belonging to the principal; or
 27 (B) any other information that verifies the identity of the
 28 principal if derived from one (1) or more of the following
 29 sources:
 30 (i) A knowledge based authentication method.
 31 (ii) A physical device.
 32 (iii) A digital certificate using a public key infrastructure.
 33 (iv) A verification or authorization code sent to or used by
 34 the principal.
 35 (v) Biometric identification.
 36 (vi) Any other commercially reasonable method for
 37 verifying the principal's identity using current or future
 38 technology.
 39 (12) "Logically associated" means electronically connected, cross
 40 referenced, or linked in a reliable manner.
 41 (13) "Sign" means valid use of a properly executed electronic
 42 signature.



1 (14) "Signature" means the authorized use of the principal's name
 2 to authenticate a power of attorney. The term includes an
 3 electronic signature.

4 (15) "Tamper evident" means the feature of an electronic record,
 5 such as an electronic power of attorney or document integrity
 6 evidence for an electronic power of attorney, that will cause **the**
 7 **fact of** any alteration or tampering ~~of~~ **with** the electronic record,
 8 after it is created or signed, to be perceptible to any person
 9 viewing the electronic record when it is printed on paper or
 10 viewed on a monitor or other display device. **The term applies**
 11 **even if the nature or specific content of the alteration is not**
 12 **perceptible.**

13 (16) "Traditional paper power of attorney" means a power of
 14 attorney or an amendment to or a restatement of a power of
 15 attorney that is signed by the principal on paper.

16 SECTION 25. IC 32-17-1-2 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A conveyance of
 18 land that is:

19 (1) worded in substance as "A.B. conveys and warrants to C.D."
 20 (insert a description of the premises) "for the sum of" (insert the
 21 consideration); and

22 (2) dated and signed, sealed, and acknowledged by the grantor;
 23 is a conveyance in fee simple to the grantee and the grantee's heirs and
 24 assigns with a covenant as described in subsection (b).

25 (b) A conveyance in fee simple under subsection (a) includes a
 26 covenant from the grantor for the grantor and the grantor's heirs and
 27 personal representatives that the grantor:

28 (1) is lawfully seized of the premises;

29 (2) has good right to convey the premises;

30 (3) guarantees the quiet possession of the premises;

31 (4) guarantees that the premises are free from all encumbrances;
 32 and

33 (5) will warrant and defend the title to the premises against all
 34 lawful claims.

35 **(c) If a transfer on death deed under IC 32-17-14 has been**
 36 **recorded before the death of the owner with the recorder of deeds**
 37 **in the county in which the real property is situated, a subsequent**
 38 **conveyance of the real property is void if it is not recorded before**
 39 **the death of the owner with the recorder of deeds in the county in**
 40 **which the real property is situated.**

41 SECTION 26. IC 32-17-14-3, AS AMENDED BY P.L.81-2015,
 42 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2019]: Sec. 3. The following definitions apply throughout this
2 chapter:

3 (1) "Beneficiary" means a person designated or entitled to receive
4 property because of another person's death under a transfer on
5 death transfer.

6 (2) "Beneficiary designation" means a written instrument other
7 than a will or trust that designates the beneficiary of a transfer on
8 death transfer.

9 (3) "Governing instrument" refers to a written instrument agreed
10 to by an owner that establishes the terms and conditions of an
11 ownership in beneficiary form.

12 (4) "Intangible personal property" means incorporeal property,
13 such as money, deposits, credits, shares of stock, bonds, notes,
14 other evidences of indebtedness, and other evidences of property
15 interests.

16 (5) "Joint owners" refers to persons who hold property as joint
17 tenants with a right of survivorship. However, the term does not
18 include a husband and wife who hold property as tenants by the
19 entirety.

20 (6) "LDPS" means an abbreviation of lineal descendants per
21 stirpes, which may be used in a beneficiary designation to
22 designate a substitute beneficiary as provided in section 22 of this
23 chapter.

24 (7) "Owner", **except as provided in subdivision (14)**, refers to a
25 person or persons who have a right to designate the beneficiary of
26 a transfer on death transfer.

27 (8) "Ownership in beneficiary form" means holding property
28 under a registration in beneficiary form or other written
29 instrument that:

30 (A) names the owner of the property;

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

33 (C) designates the beneficiary.

34 (9) "Person" means an individual, a sole proprietorship, a
35 partnership, an association, a fiduciary, a trustee, a corporation,
36 a limited liability company, or any other business entity.

37 (10) "Proof of death" means a death certificate or a record or
38 report that is prima facie proof or evidence of an individual's
39 death.

40 (11) "Property" means any present or future interest in real
41 property, intangible personal property, or tangible personal
42 property. The term includes:



- 1 (A) a right to direct or receive payment of a debt;
- 2 (B) a right to direct or receive payment of money or other
- 3 benefits due under a contract, account agreement, deposit
- 4 agreement, employment contract, or trust or by operation of
- 5 law;
- 6 (C) a right to receive performance remaining due under a
- 7 contract;
- 8 (D) a right to receive payment under a promissory note or a
- 9 debt maintained in a written account record;
- 10 (E) rights under a certificated or uncertificated security;
- 11 (F) rights under an instrument evidencing ownership of
- 12 property issued by a governmental agency; and
- 13 (G) rights under a document of title (as defined in
- 14 IC 26-1-1-201).
- 15 (12) "Registration in beneficiary form" means titling of an
- 16 account record, certificate, or other written instrument that:
- 17 (A) provides evidence of ownership of property in the name of
- 18 the owner;
- 19 (B) directs ownership of the property to be transferred upon
- 20 the death of the owner to the designated beneficiary; and
- 21 (C) designates the beneficiary.
- 22 (13) "Security" means a share, participation, or other interest in
- 23 property, in a business, or in an obligation of an enterprise or
- 24 other issuer. The term includes a certificated security, an
- 25 uncertificated security, and a security account.
- 26 **(14) "The death of the owner" or "the owner's death" refers**
- 27 **to the death of the individual upon whose death the transfer**
- 28 **on death transfer occurs.**
- 29 ~~(14)~~ **(15)** "Tangible personal property" means corporeal personal
- 30 property, such as goods, wares, and merchandise.
- 31 ~~(15)~~ **(16)** "Transfer on death deed" means a deed that conveys an
- 32 interest in real property to a grantee by beneficiary designation.
- 33 ~~(16)~~ **(17)** "Transfer on death transfer" refers to a transfer of
- 34 property that takes effect upon the death of the owner under a
- 35 beneficiary designation made under this chapter.
- 36 ~~(17)~~ **(18)** "Transferring entity" means a person who:
- 37 (A) owes a debt or is obligated to pay money or benefits;
- 38 (B) renders contract performance;
- 39 (C) delivers or conveys property; or
- 40 (D) changes the record of ownership of property on the books,
- 41 records, and accounts of an enterprise or on a certificate or
- 42 document of title that evidences property rights.



1 The term includes a governmental agency, business entity, or
2 transfer agent that issues certificates of ownership or title to
3 property and a person acting as a custodial agent for an owner's
4 property. However, the term does not include a governmental
5 office charged with endorsing, entering, or recording the transfer
6 of real property in the public records.

7 SECTION 27. IC 32-17-14-16, AS AMENDED BY P.L.6-2010,
8 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2019]: Sec. 16. (a) A beneficiary designation may be revoked
10 or changed during the lifetime of the owner.

11 (b) A revocation or change of a beneficiary designation involving
12 property owned as tenants by the entirety must be made with the
13 agreement of both tenants for so long as both tenants are alive. After an
14 individual dies owning as a tenant by the entirety property that is
15 subject to a beneficiary designation, the individual's surviving spouse
16 may revoke or change the beneficiary designation.

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

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

25 (e) A subsequent beneficiary designation revokes a prior beneficiary
26 designation unless the subsequent beneficiary designation expressly
27 provides otherwise.

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

31 (g) A beneficiary designation may not be revoked or changed by a
32 will or trust unless the beneficiary designation expressly grants the
33 owner the right to revoke or change the beneficiary designation by a
34 will or trust.

35 (h) A transfer during the owner's lifetime of the owner's interest in
36 the property, with or without consideration, terminates the beneficiary
37 designation with respect to the property transferred. **However, if the**
38 **owner's interest is in real property, the deed of conveyance is void**
39 **if it is not recorded before the death of the owner with the recorder**
40 **of deeds in the county where the real property is situated.**

41 (i) The effective date of a revocation or change in a beneficiary
42 designation is determined in the same manner as the effective date of



1 a beneficiary designation.

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

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

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

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

13 (k) A physical act, such as a written modification on or the
14 destruction of a transfer on death deed after the transfer on death deed
15 has been recorded, has no effect on the beneficiary designation.

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

18 SECTION 28. IC 32-21-1-13 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. (a) Except for a
20 bona fide lease for a term not exceeding three (3) years, a conveyance
21 of land or of any interest in land shall be made by a deed that is:

22 (1) written; and

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

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

31 SECTION 29. IC 32-21-1-15 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. (a) A conveyance
33 of land that is:

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

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

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

41 **(b) If a transfer on death deed under IC 32-17-14 has been**
42 **recorded before the death of the owner with the recorder of deeds**



1 **in the county in which the real property is situated, a subsequent**
2 **conveyance of the real property is void if it is not recorded before**
3 **the death of the owner with the recorder of deeds in the county in**
4 **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.

Renumber 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.

