WEST virginia legislature

2021 regular session

Introduced

Senate Bill 483

By Senator Weld

[Introduced March 1, 2021; referred

to the Committee on the Judiciary]

A BILL to amend and reenact §44-1-1, §44-1-3, and §44-1-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §44-1-31, all relating to allowing an oath to be taken before any person authorized to administer oaths under the laws of this state.

Be it enacted by the Legislature of West Virginia:

Article 1. Personal representatives.

§44-1-1. Executor has no powers before qualifying.

A person appointed by a will executor thereof shall not have the powers of executor until he or she qualifies as such by taking an oath and giving bond, unless not required to post bond by section eight of this article, ~~before~~ which shall then be admitted to the records of the clerk of the county ~~commission~~ in which the will, or an authenticated copy thereof, is admitted to record, ~~or before with the clerk thereof in vacation,~~ except that he or she may provide for the burial of the testator, pay reasonable funeral expenses and preserve the estate from waste.

§44-1-3. Oath of executor or administrator with will annexed.

The oath of an executor, or of an administrator with the will annexed, shall be in substantially the following form: that the writing admitted to record contains the true last will and testament of the deceased, as far as he knows or believes, and that he will faithfully perform the duties of his office to the best of his skill and judgment.

§44-1-6. Bond and oath; termination of grant in certain cases.

At the time of the grant of administration upon the estate of any intestate, the person to whom it is granted shall, in the county commission or before the clerk granting it, give bond, unless not required to post bond by section eight of this article, and take an oath in substantially the following form: that the deceased has left no will so far as he or she knows, and that he or she will faithfully perform the duties of the office to the best of his or her judgment. If a will of the deceased be afterwards admitted to record, or if, after administration is granted to a creditor or other person than a distributee, any distributee who shall not have before refused shall apply for administration, there may be a grant of probate or administration, after reasonable notice to such creditor or other person theretofore appointed, in like manner as if the former grant had not been made, and such former grant shall thereupon cease.

§44-1-31. Administration of oath.

An oath required in this chapter may be taken before any person authorized to administer oaths under the laws of this state.

NOTE: This bill allows an oath to be taken before any person authorized to administer oaths under the laws of this state.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.