

SB 246

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

SENATE BILL NO. 246

(By Senator Wooten)



PASSED March 2, 1994

In Effect 90 days from Passage

**E N R O L L E D**

**Senate Bill No. 246**

(BY SENATOR WOOTON)

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[Passed March 2, 1994; in effect ninety days from passage.]

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AN ACT to amend and reenact section eleven, article five, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to reducing the appeal periods for impeaching or establishing a will.

*Be it enacted by the Legislature of West Virginia:*

That section eleven, article five, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. PRODUCTION, PROBATE AND RECORD OF WILLS.**

**§41-5-11. Impeachment or establishment of will — By person who was not party to prior proceeding; trial by jury.**

1 After a judgment or order entered as aforesaid in a  
2 proceeding for probate ex parte, any person interested  
3 who was not a party to the proceeding, or any person  
4 who was not a party to a proceeding for probate in  
5 solemn form, may proceed by complaint to impeach or  
6 establish the will, on which complaint, if required by  
7 any party, a trial by jury shall be ordered, to ascertain  
8 whether any, and if any, how much, of what was so

9 offered for probate, be the will of the decedent. The  
10 court may require all other testamentary papers of the  
11 decedent to be produced, and the inquiry shall then be  
12 which one of all, or how much of any, of the testamen-  
13 tary papers is the will of the decedent. If the judgment  
14 or order was entered by the circuit court on appeal  
15 from the county commission, such complaint shall be  
16 filed within six months from the date thereof, and if  
17 the judgment or order was entered by the county  
18 commission and there was no appeal therefrom, such  
19 complaint shall be filed within six months from the  
20 date of such order of the county commission. If no  
21 such complaint be filed within the time prescribed, the  
22 judgment or order shall be forever binding. Any  
23 complaint filed under this section shall be in the  
24 circuit court of the county wherein probate of the will  
25 was allowed or denied.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

..... Ernest C. Moore  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Handwritten Signature]*  
.....  
Clerk of the Senate

*[Handwritten Signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten Signature]*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker House of Delegates

The within *is approved* this the *10<sup>th</sup>* day of *March*, 1994.

*[Handwritten Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3-8-94

Time 2:42 p.m.  
*ms*