

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 483

BY SENATOR WELD

[Introduced March 1, 2021; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §44-1-1, §44-1-3, and §44-1-6 of the Code of West Virginia, 1931,
 2 as amended; and to amend said code by adding thereto a new section, designated §44-
 3 1-31, all relating to allowing an oath to be taken before any person authorized to administer
 4 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.

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

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

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

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

1 At the time of the grant of administration upon the estate of any intestate, the person to
 2 whom it is granted shall, in the county commission or before the clerk granting it, give bond, unless
 3 not required to post bond by section eight of this article, and take an oath in substantially the
 4 following form: that the deceased has left no will so far as he or she knows, and that he or she
 5 will faithfully perform the duties of the office to the best of his or her judgment. If a will of the
 6 deceased be afterwards admitted to record, or if, after administration is granted to a creditor or
 7 other person than a distributee, any distributee who shall not have before refused shall apply for

8 administration, there may be a grant of probate or administration, after reasonable notice to such
9 creditor or other person theretofore appointed, in like manner as if the former grant had not been
10 made, and such former grant shall thereupon cease.

§44-1-31. Administration of oath.

1 An oath required in this chapter may be taken before any person authorized to administer
2 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.