

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Dowd

SENATE BILL 632

"AN ACT TO AMEND SECTION 50 OF ACT 140 OF 1949, AS AMENDED,
[ARK. STAT. ANN. §62-2111] TO ADD A REQUIREMENT FOR NOTICE TO
KNOWN CREDITORS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 50 of Act 140 of 1949, as amended, the same being Ark. Stat. Ann. §62-2111, is hereby amended to read as follows:

"Section 50. Promptly after the letters have been granted on the estate of a deceased person, the personal representative shall cause to be published a notice of his appointment, stating the date thereof, and requiring all persons having claims against the estate to exhibit them, properly verified to him, within three (3) months from the date of the first publication of the notice, or they shall be forever barred and precluded from any benefit in such estate. Provided, that claims for injury or death caused by the negligence of the decedent shall be filed within six (6) months from the date of the first publication of notice, or they shall be forever barred and precluded from any benefit in such estate. The notice shall state the mail address of the personal representative. If a will of the decedent has been probated, the notice shall also state the date of admission of the will to probate and that a contest of such order of probate can be effected only by filing a petition within the time provided by law. Within one (1) month after the first publication of notice, a copy thereof shall also be served upon each heir and devisee whose name and address are known, and upon all unpaid creditors whose names, status as creditors, and addresses are known to the personal representative, or can be ascertained with the exercise of reasonable diligence, in accordance with Section 12b(1), (2) or (3). When a will is to be probated without an administration of the estate, the notice shall be published by the proponents of the will and shall state the mail address of each of the one or more propo-

nents and the name and address of the attorney for the proponents. The notice shall be in substantially the following form:

In the Probate Court of

In the probate Court of _____ County, Arkansas.

Estate of _____ deceased.

Last known address _____.

Date of death _____.

a. (To be used where no will.)

The undersigned was appointed administrator of the estate of the above named decedent on the _____ day of _____, 19____.

b. (To be used when a will is probated and a personal representative appointed.)

An instrument dated _____ was on the _____ day of _____, 19__, admitted to probate as the last will of the above named decedent and the undersigned has been appointed executor (or administrator) thereunder. A contest of the probate of the will can be effected only by filing a petition within the time provided by law.

c. (To be used in either case.)

All persons having claims against the estate must exhibit them, duly verified, to the undersigned within three (3) months from the date of the first publication of this notice, or they shall be forever barred and precluded from any benefit in the estate. Provided, that claims for injury or death caused by the negligence of the decedent shall be filed within six (6) months from the date of the first publication of the notice, or they shall be forever barred and precluded from any benefit in such estate.

d. (To be used when a will is probated but no personal representative appointed.)

An instrument dated _____ was on the _____ day of _____, 19____, admitted to probate as the last will of the above named decedent. A contest of the probate of the will can be effected only by filing within the time provided by law a petition for an order revoking or modifying the order admitting the will to probate, and delivering a copy of such petition to the undersigned proponent(s) or to the undersigned attorney for the proponent(s) at his (their) address hereunder shown.

This notice first published _____, 19____.

(Administrator or Executor)

(Mail Address)

Publication of the notice shall be as provided in Section 12 b (4) unless the value of the estate to be administered upon does not exceed One Thousand Dollars (\$1,000) exclusive of homestead, in which event publication may be given by posting notice in the courthouse at a conspicuous place near a principal entrance for a period of three (3) weeks, and, in addition, the Court may, by general rule or by special order in a particular case, require that notice shall be given by ordinary mail to all persons whose names and addresses appear in the petition.

SECTION 2. This Act shall be applicable to estates where administration is pending at the time of the effective date of this Act. If any notice required by this Act has not previously been given by the personal representative, the personal representative shall give such notice within ninety (90) days from the effective date of this Act, notwithstanding the fact that the claims of persons having properly received notice are barred by the expiration of the period set forth in Section 110 of Act 140 of 1949 as amended.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. It has been found and is declared by the General Assembly of Arkansas that existing law relating to notice to creditors only by the publication of legal notice may be unconstitutional by reason of recent decisions of the United States Supreme Court. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

