

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

HOUSE BILL NO. 1329
(Representatives Wald, Byerly, Meyer)
(Senators Kinnoin, Wardner, Watne)

AN ACT to amend and reenact section 30.1-21-03.1 of the North Dakota Century Code, relating to closing an estate and attorney's fees; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 30.1-21-03.1 of the North Dakota Century Code is amended and reenacted as follows:

30.1-21-03.1. Estate closing - Procedures.

1. If the personal representative has not filed with the court a verified statement to close the estate, or as part of the supervised administration proceedings in accordance with this chapter, within three years from the date of death of the decedent, any devisee, heir, distributee, or claimant may petition the court, formally or by any informal request, or the court on its own motion may order, that the personal representative and the attorney employed by the personal representative be required to show cause to the court why the estate has not been closed, and the. The court shall order the personal representative and the attorney employed by the personal representative to show cause to the court at a hearing scheduled within ninety days why the estate has not been closed, ~~and~~. The court shall serve notice upon all heirs, devisees, claimants, distributees, and beneficiaries of the estate of ~~such the~~ order to show cause ~~and~~, the date of the hearing, and ~~invite such respondents of their right~~ to participate in the hearing proceedings, ~~after which the court shall issue its order establishing a timetable for the closing of the estate based upon the showing made at such proceeding. The court may award attorneys' fees and costs in favor of a petitioner if the court finds at such hearing that the personal representative has failed to show cause why the estate has not been closed within three years from the date of death of the decedent.~~
2. Within twenty days of receipt of the order to show cause, the personal representative or the attorney employed by the personal representative shall provide the court with a report containing a timeframe for the anticipated closure of the estate; a detailed explanation as to why the estate has not been closed; and a detailed accounting of all disbursements made by the estate, including specific information as to all fees and other disbursements made to the personal representative, and to any attorney, auditor, investment advisor, or other specialized agent or assistant employed to do work for the estate.
3. After the order to show cause hearing, the court shall issue an order establishing a timetable for the closing of the estate based upon the information provided in the report and the evidence provided during the hearing. The court may award attorney's fees and costs in favor of a petitioner if the court finds that the personal representative or the attorney employed by the personal representative has failed to show cause why the estate has not been closed within three years from the date of death of the decedent unless extended by the court. The court may file a complaint with the disciplinary board against the attorney.

SECTION 2. RETROACTIVE APPLICATION. This Act applies retroactively to an estate proceeding initiated before August 1, 1999.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1329.

House Vote: Yeas 91 Nays 3 Absent 4

Senate Vote: Yeas 29 Nays 19 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State