

SECOND REGULAR SESSION

SENATE BILL NO. 717

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3190S.01I

AN ACT

To repeal section 473.117, RSMo, and to enact in lieu thereof one new section relating to appointment of personal representatives.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 473.117, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 473.117, to read as follows:

473.117. 1. None of the following persons shall be appointed as a personal representative:

(1) No full-time judge of any court of this state or clerk, deputy clerk or division clerk of any court, but a judge, clerk, deputy clerk or division clerk may serve as a personal representative for a decedent who was a spouse or who was within the third degree of relationship by consanguinity or affinity as calculated according to the civil law;

(2) A person under the age of eighteen years or of unsound mind;

(3) **A person who has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States for a felony of which an essential element is fraud, misrepresentation, or dishonesty, whether or not a sentence was imposed;**

(4) A person who is under legal disability as a result of conviction of a crime;

[(4)] (5) A habitual drunkard;

(6) **A person who at any time within the last ten years filed a petition under the United States Bankruptcy Code, Title 11 U.S.C., or been subject to an insolvency or similar proceeding under state law;**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 ~~[(5)]~~ **(7)** Except as otherwise provided by section 362.600, a corporation,
21 partnership or association organized under the law of a state or country other
22 than the state of Missouri, or any United States national banking association
23 having its principal place of business outside the state of Missouri;

24 ~~[(6)]~~ **(8)** No personal representative of a personal representative, in
25 consequence thereof, shall be a personal representative of the first decedent.

26 2. When any corporation is named as personal representative in any will
27 hereafter executed, and qualifies as such, the presumption is that the will was
28 not prepared by a salaried employee of such corporation. However, upon the
29 application of any heir or devisee, made in the probate division of the circuit
30 court of the county for the removal of such personal representative, said
31 presumption may be rebutted by evidence satisfactory to the court hearing the
32 application, unless the will or some codicil or certificate attached thereto contains
33 a recital that at or before the execution of the will the testator had advice or
34 counsel in relation thereto from someone not under salary from such corporation.
35 In the absence of such recital, the court may on such application and upon
36 satisfactory evidence that said will was prepared by a salaried employee of the
37 corporation revoke the appointment of and remove such corporation as personal
38 representative.

39 3. Before a nonresident of this state or a corporation organized under the
40 laws of another state or country is issued letters testamentary or of
41 administration he, she or it shall file in the probate division of the circuit court
42 a designation, including the signature and address, of a resident of this state, or
43 a corporation of this state authorized to administer trusts, as agent for the
44 service of process on and the receipt of notice by such nonresident or foreign
45 corporation. This designation shall be recited in the letters testamentary or of
46 administration. Such a designation may be revoked only by a new designation
47 of an agent for service and notice in this state, which shall be endorsed on the
48 letters testamentary or of administration. By filing such designation, the
49 nonresident submits personally to the jurisdiction of the court in all proceedings
50 relating to the administration of the estate and to the performance of his
51 fiduciary duties until discharged of those duties by the court.

52 4. Service of process may be made upon a personal representative who is
53 a nonresident of this state, or a corporation organized under the laws of another
54 state or country, by registered or certified mail, addressed to his, her or its last
55 reasonably ascertainable address. Notice by ordinary first class mail is sufficient

56 if registered or certified mail service to the addressee is unavailable. Service may
57 be made upon such a personal representative in the manner in which service
58 could have been made under other laws of this state on either the personal
59 representative or his decedent immediately prior to death. If service is made
60 upon a personal representative as provided in this subsection, he shall be allowed
61 at least thirty days within which to appear or respond.

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