

FIRST REGULAR SESSION

# SENATE BILL NO. 234

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

0439S.01I

ADRIANE D. CROUSE, Secretary

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Section A. Section 473.117, RSMo, is repealed and one new  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

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

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

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

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

14 (4) **A person who has been finally adjudicated and**  
15 **found guilty, or entered a plea of guilty or nolo**  
16 **contendere, in a criminal prosecution under the laws of any**  
17 **state or of the United States for a felony of which an**

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

18 **essential element is fraud, misrepresentation, or**  
19 **dishonesty, whether or not a sentence was imposed;**

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

24 **[(4)] (6)** A habitual drunkard;

25 **[(5)] (7)** Except as otherwise provided by section  
26 362.600, a corporation, partnership or association organized  
27 under the law of a state or country other than the state of  
28 Missouri, or any United States national banking association  
29 having its principal place of business outside the state of  
30 Missouri;

31 **[(6)] (8)** No personal representative of a personal  
32 representative, in consequence thereof, shall be a personal  
33 representative of the first decedent.

34 2. When any corporation is named as personal  
35 representative in any will hereafter executed, and qualifies  
36 as such, the presumption is that the will was not prepared  
37 by a salaried employee of such corporation. However, upon  
38 the application of any heir or devisee, made in the probate  
39 division of the circuit court of the county for the removal  
40 of such personal representative, said presumption may be  
41 rebutted by evidence satisfactory to the court hearing the  
42 application, unless the will or some codicil or certificate  
43 attached thereto contains a recital that at or before the  
44 execution of the will the testator had advice or counsel in  
45 relation thereto from someone not under salary from such  
46 corporation. In the absence of such recital, the court may  
47 on such application and upon satisfactory evidence that said  
48 will was prepared by a salaried employee of the corporation

49     revoke the appointment of and remove such corporation as  
50     personal representative.

51             3. Before a nonresident of this state or a corporation  
52     organized under the laws of another state or country is  
53     issued letters testamentary or of administration he, she or  
54     it shall file in the probate division of the circuit court a  
55     designation, including the signature and address, of a  
56     resident of this state, or a corporation of this state  
57     authorized to administer trusts, as agent for the service of  
58     process on and the receipt of notice by such nonresident or  
59     foreign corporation. This designation shall be recited in  
60     the letters testamentary or of administration. Such a  
61     designation may be revoked only by a new designation of an  
62     agent for service and notice in this state, which shall be  
63     endorsed on the letters testamentary or of administration.  
64     By filing such designation, the nonresident submits  
65     personally to the jurisdiction of the court in all  
66     proceedings relating to the administration of the estate and  
67     to the performance of his fiduciary duties until discharged  
68     of those duties by the court.

69             4. Service of process may be made upon a personal  
70     representative who is a nonresident of this state, or a  
71     corporation organized under the laws of another state or  
72     country, by registered or certified mail, addressed to his,  
73     her or its last reasonably ascertainable address. Notice by  
74     ordinary first class mail is sufficient if registered or  
75     certified mail service to the addressee is unavailable.  
76     Service may be made upon such a personal representative in  
77     the manner in which service could have been made under other  
78     laws of this state on either the personal representative or  
79     his decedent immediately prior to death. If service is made  
80     upon a personal representative as provided in this

81 subsection, he shall be allowed at least thirty days within  
82 which to appear or respond.

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