

HB288 INTRODUCED



1 HB288
2 BYT8D4Q-1
3 By Representative Robbins
4 RFD: Judiciary
5 First Read: 20-Jan-26



SYNOPSIS:

Under existing law, the probate court has original and general jurisdiction over the administration of decedents' estates.

Also under existing law, when certain estates are removed from probate court to circuit court for administration, the circuit court is bound by the probate court's prior legal and factual conclusions.

This bill would allow the circuit court to administer certain removed estates as a trial de novo unless the parties agree to the probate court's record of proceedings.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to removal of probate estates to circuit court; to amend Section 12-11-41, Code of Alabama 1975, to allow the circuit court to administer removed estates as a trial de novo unless the parties agree to the probate court



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record of proceedings; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 12-11-41, Code of Alabama 1975, is amended to read as follows:

"§12-11-41

(a) The administration of any estate may be removed from the probate court to the circuit court at any time after the issuance of letters testamentary, letter of administration, or letter of administration with the will annexed and before a final settlement. ~~thereof, by any heir, devisee, legatee, distributee, executor, administrator or administrator with the will annexed of any such estate, without assigning any special equity; and an~~

(b) An order of removal must be made by the court, upon payment of the circuit court costs and upon the filing of a sworn petition by any ~~such~~ heir, devisee, legatee, distributee, executor, administrator, or administrator with the will annexed of any such estate. ~~, reciting~~ The petition must state that the petitioner is ~~such~~ an heir, devisee, legatee, distributee, executor, administrator, or administrator with the will annexed and that, in the opinion of the petitioner, ~~such~~ the estate can be better administered in the circuit court than in the probate court.

(c) Any estate removed to the circuit court under this section shall be administered in the circuit court as a trial de novo unless the parties mutually agree to the record of the



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57 proceedings in probate court."

58 Section 2. This act shall become effective on October

59 1, 2026.