

**391.035 District Court hearing to determine persons entitled to property passing by intestate succession.**

- (1) If real or personal property passes by the laws of intestate succession, or under a will to a beneficiary not named in the will, proceedings may be had in the District Court to determine the persons entitled to the property.
- (2)
  - (a) If an estate is in process of administration, the executor, administrator, or any person claiming an interest in the property may file a motion in the District Court where administration is in process. If there is no pending administration or administration has been dispensed with, any person claiming an interest in the property may file a motion in the District Court of the county in which the decedent last resided or, if the decedent was not a Kentucky resident, in the District Court of the county in which the property, or the greater part thereof, is located;
  - (b) The motion shall set forth all of the facts known to the movant relating to the matter, including the names, ages, and addresses of all persons who are or may be entitled to share in the property and their relationship to the decedent or to the class of beneficiaries entitled to share. The motion shall also describe the property under consideration and an estimate of its value;
  - (c) The motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action and shall set forth the place and time, which shall not be less than twenty (20) days from the date of service, when the motion will come on for hearing.
- (3) Upon the hearing on the motion, any person claiming an interest in the property may introduce proof in support of his claim and the court may entertain the admission of any other relevant evidence to aid the court in determining the persons entitled to share in the property.
- (4) After hearing all the evidence, the court shall enter judgment in which the names, ages, and addresses of the persons entitled to share in the property are set forth and the proportionate interest of each. The judgment shall be conclusive evidence of the facts determined therein as against all parties, whether known or unknown, to the proceeding.
- (5) In a case where some or all of the property is real property located in this state, a certified copy of the judgment shall be recorded in the office of the appropriate county clerk in lieu of the affidavit required by KRS 382.120. The judgment shall be conclusive evidence of the facts determined therein as against all parties, whether known or unknown, to the proceeding.
- (6) Any party may at any time prior to judgment institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).
- (7) Any aggrieved party may, no later than thirty (30) days from the date of the judgment, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(1)(b).
- (8) Any unknown defendants before the court by constructive service alone shall be entitled to the protection afforded by Civil Rule 4.11.

- (9) No proceedings under this section shall be conducted by or before a commissioner of the District Court.

**Effective:** September 1, 1998

**History:** Amended 1998 Ky. Acts ch. 420, sec. 1, effective July 15, 1998; and ch. 517, sec. 10, effective September 1, 1998. -- Created 1988 Ky. Acts ch. 90, sec. 2, effective July 15, 1988.

**Legislative Research Commission Note (7/15/98).** This section was amended by 1998 Ky. Acts chs. 420 and 517 which do not appear to be in conflict and have been codified together.

**Legislative Research Commission Note (6/24/2003).** Under the authority of KRS 7.136, the Reviser of Statutes has changed a reference in subsection (6) of this section from "KRS 24A.120(1)(b)" to "KRS 24A.120(2)."