

# **WEST VIRGINIA CODE: §41-5-5**

## **§41-5-5. Procedure for probate in solemn form.**

The county court, sitting in a regular or special session, shall hear and determine all proceedings to admit a will to probate in solemn form. Upon or at any time after the production of a will, any person may offer the will for probate in solemn form by filing in the county court having jurisdiction a petition duly verified by affidavit, stating when and where the testator died, his last place of residence, the nature of his estate, the relationship to decedent and place of residence of each of his heirs at law and distributees, surviving wife or husband, and each of the beneficiaries of the will. Process shall issue against and be served upon all persons interested in the probate of the will to appear at a day named, and show cause why the will should not be admitted to probate. A guardian ad litem for any person under disability shall be appointed, upon whom such process may be served, and such process shall be served upon parties resident in the state, and proceedings by order of publication or service in person without the state shall be had against all nonresidents and against all persons to the petitioner unknown, in the same manner as process is served and such proceeding had in suits in equity. At any time after the petition is filed and before final order is made admitting or refusing to admit the will to probate any person desiring to contest the will may appear and file a notice of contest in the proceeding, stating concisely the grounds of such contest. Thereupon, process shall issue on such notice and be served upon any person whose interest will be adversely affected by a refusal to admit the will to probate to appear and defend his interest. Any person sui juris may waive service of process upon the petition or notice, and the guardian ad litem of any person under disability may waive service of any such process, upon such person and upon himself. Process upon the petition or notice shall be served at least ten days before the return day thereof. Any petition or notice of contest hereunder may be filed in the office of, process be issued, served and returned, and a guardian ad litem appointed by, the clerk of the court in the vacation of the court, and the proceeding may be matured and set down for hearing.