WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED

SENATE BILL NO. 246

(By Senator Wooton)

PASSED March 2, 1994
In Effect 90 days from Passage
AN ACT to amend and reenact section eleven, article five, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to reducing the appeal periods for impeaching or establishing a will.

Be it enacted by the Legislature of West Virginia:

That section eleven, article five, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. PRODUCTION, PROBATE AND RECORD OF WILLS.

§41-5-11. Impeachment or establishment of will — By person who was not party to prior proceeding; trial by jury.

1 After a judgment or order entered as aforesaid in a proceeding for probate ex parte, any person interested who was not a party to the proceeding, or any person who was not a party to a proceeding for probate in solemn form, may proceed by complaint to impeach or establish the will, on which complaint, if required by any party, a trial by jury shall be ordered, to ascertain whether any, and if any, how much, of what was so
offered for probate, be the will of the decedent. The court may require all other testamentary papers of the decedent to be produced, and the inquiry shall then be which one of all, or how much of any, of the testamentary papers is the will of the decedent. If the judgment or order was entered by the circuit court on appeal from the county commission, such complaint shall be filed within six months from the date thereof, and if the judgment or order was entered by the county commission and there was no appeal therefrom, such complaint shall be filed within six months from the date of such order of the county commission. If no such complaint be filed within the time prescribed, the judgment or order shall be forever binding. Any complaint filed under this section shall be in the circuit court of the county wherein probate of the will was allowed or denied.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Ernest E. Moore

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 10th
day of November, 1994.

Governor
PRESENTED TO THE
GOVERNOR
Date 3-8-94
Time 2:42 p.m.