



Ohio Revised Code

Section 2121.02 Proceedings in case of presumption of death.

Effective: January 13, 2012

Legislation: Senate Bill 124 - 129th General Assembly

(A) When a presumption of death arises under section 2121.01 of the Revised Code with respect to a person who at the time of disappearance was domiciled in this state, the attorney general of this state or any person entitled under the will of the presumed decedent or under Chapter 2105. of the Revised Code to any share in the presumed decedent's property within this state, or any person or entity who, under the terms of any contract, beneficiary designation, trust, or otherwise, may be entitled to any property, right, or interest by reason of the death of the presumed decedent, may file a complaint setting forth the facts that raise the presumption of death in the probate court of the county of the presumed decedent's last residence.

(B) When a presumption of death arises pursuant to section 2121.01 of the Revised Code with respect to a person who at the time of the person's disappearance was domiciled at a place other than within the state, and the presumed decedent owns real property within this state, the complaint may be filed in the county where any part of the real property of the presumed decedent is located by any of the persons or entities referred to in division (A) of this section, or by any domiciliary executor or administrator of the decedent. A foreign fiduciary shall include with the complaint an exemplified copy of the domiciliary proceedings pursuant to which the foreign fiduciary was appointed.

(C) In the case of a presumed decedent who was domiciled in this state, the complainant shall name as parties defendant the presumed decedent and each of the following that do not join in the complaint:

(1) The presumed decedent's surviving spouse, if any;

(2) All persons known to the complainant who are entitled under the presumed decedent's will and all persons who are entitled under Chapter 2105. of the Revised Code to any share of the presumed decedent's property;



(3) All persons or entities known to the complainant who have or would have by reason of the presumed decedent's death any right or interest under any contract, beneficiary designation, trust, or otherwise;

(4) All contract obligors known to the complainant whose rights or obligations would be affected by a determination that the presumed decedent is in fact dead.

(D) In the case of a presumed decedent who was not domiciled in this state but who owned real property in this state, the complainant shall name as parties defendant each of the following that do not join in the complaint:

(1) The presumed decedent's surviving spouse, if any;

(2) All persons known to the complainant who are entitled under the presumed decedent's will and all persons who are entitled under Chapter 2105. of the Revised Code to any share of the presumed decedent's real property within this state.

(E) All parties defendant, other than the presumed decedent, shall be served with summons in the same manner as provided by the Rules of Civil Procedure.

(F) The complainant shall cause to be advertised once a week for four consecutive weeks in a newspaper published in the county, the fact that the complaint has been filed together with a notice that on a day certain, that shall be at least four weeks after the last appearance of the advertisement, or after the final publication where any defendant is being served by publication, whichever is later, the probate court will hear evidence relevant to the allegations of the complaint.

(G) No guardian ad litem, trustee for the suit, or other representative shall be required to be appointed to represent the presumed decedent in the proceeding.