

1 ENGROSSED HOUSE  
2 BILL NO. 1048

By: Cox and Pittman of the  
House

3 and

4 Jolley of the Senate  
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8 An Act relating to probate procedure; amending 58  
9 O.S. 2001, Section 946, which relates to presumed  
10 death; requiring certain information when decree of  
11 death is issued; requiring certified copy of decree  
12 be delivered to the State Department of Health;  
13 prohibiting Department from issuing death certificate  
14 unless certain conditions are met; and providing an  
15 effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 58 O.S. 2001, Section 946, is  
18 amended to read as follows:

19 Section 946. A. At the hearing, the court shall determine  
20 whether the absentee is a person who is presumed to be dead. The  
21 court may receive evidence and consider the affidavits and  
22 depositions of persons likely to have seen or heard from or know the  
23 location of the absentee.

24 B. If the court is not satisfied that a diligent search or  
inquiry has been made for the absentee, the court may order the  
petitioner to conduct a diligent search or inquiry and to report the

1 results. The court may order the search or inquiry to be made in  
2 any manner that the court determines to be advisable.

3 C. The costs of a search ordered by the court pursuant to  
4 subsection B of this section shall be paid by the estate of the  
5 absentee.

6 D. If, upon said hearing, it appears to the court, upon the  
7 evidence offered and of witnesses sworn and examined, that said  
8 person for the estate of whom letters testamentary or of  
9 administration is asked, has been continuously absent and  
10 unaccounted for for a period of more than seven (7) years prior to  
11 the date of the filing of said petition, and if it shall further  
12 appear upon said hearing that the person for whom letters  
13 testamentary or of administration is being asked is qualified, as  
14 now provided by law, to act as such, said court shall make and enter  
15 a decree declaring such person to be legally dead, and have the full  
16 power and authority to issue letters testamentary or of  
17 administration to said person, or any other fit and proper person,  
18 and that thereafter all further proceedings upon the estate of said  
19 absent person shall be had as provided by law, and, with the same  
20 force and effect as if the death of said absent person had been  
21 definitely proven.

22 E. Any decree issued pursuant to subsection D of this section  
23 shall contain the declared decedent's full legal name, any aliases,  
24 name at birth, date of birth, place of birth including city and

1 state, Social Security number, and parents' full names including  
2 mother's maiden name. A certified copy of the decree shall be  
3 delivered to the State Department of Health, Division of Vital  
4 Records so that the state of birth may be notified of the declared  
5 death. The Division shall not issue a death certificate pursuant to  
6 this section unless the requirements of Section 5-1 of Chapter 105  
7 of Title 310 of the Oklahoma Administrative Code are met.

8 SECTION 2. This act shall become effective November 1, 2011.

9 Passed the House of Representatives the 22nd day of February,  
10 2011.

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13 Presiding Officer of the House of  
14 Representatives

15 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2011.

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18 Presiding Officer of the Senate

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