

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 HOUSE BILL 1048

 By: Cox

7 AS INTRODUCED

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.

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

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

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

22 B. If the court is not satisfied that a diligent search or
23 inquiry has been made for the absentee, the court may order the

1 petitioner to conduct a diligent search or inquiry and to report the
2 results. The court may order the search or inquiry to be made in
3 any manner that the court determines to be advisable.

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

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

23

24

1 E. Any decree issued pursuant to subsection D of this section
2 shall contain the declared decedent's full legal name, any aliases,
3 name at birth, date of birth, place of birth including city and
4 state, Social Security number, and parents' full names including
5 mother's maiden name. A certified copy of the decree shall be
6 delivered to the State Department of Health, Division of Vital
7 Records so that the state of birth may be notified of the declared
8 death. The Division shall not issue a death certificate pursuant to
9 this section unless the requirements of Section 5-1 of Chapter 105
10 of Title 310 of the Oklahoma Administrative Code are met.

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

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/15/2011 - DO
13 PASS.

14
15
16
17
18
19
20
21
22
23
24