

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 483**

BY SENATOR WELD

[Originating in the Committee on the Judiciary;

reported on March 22, 2021]



1 A BILL to amend and reenact §44-1-1, §44-1-3, and §44-1-6 of the Code of West Virginia, 1931,  
2 as amended; and to amend said code by adding thereto a new section, designated §44-  
3 1-31, all relating to allowing an oath to be taken before any person authorized to administer  
4 oaths under the laws of this state or any other state; and allowing a bond to be executed  
5 before any person authorized to administer oaths under the law of this state or any other  
6 state.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 1. PERSONAL REPRESENTATIVES.**

**§44-1-1. Executor has no powers before qualifying.**

1 A person appointed to be the executor of a will ~~executor thereof~~ shall not have the powers  
2 of executor until he or she qualifies ~~as such~~ by taking an oath and giving bond, unless not required  
3 to post bond by ~~section eight of this article~~ §44-1-8 of this code, ~~before which shall then be~~  
4 admitted to the records of the clerk of the county commission in which the will, or an authenticated  
5 copy thereof, is admitted to record, ~~or before with the clerk thereof in vacation~~, except that he or  
6 she may provide for the burial of the testator, pay reasonable funeral expenses, and preserve the  
7 estate from waste.

**§44-1-3. Oath of executor or administrator with will annexed.**

1 The oath of an executor, or of an administrator with the will annexed, shall be in  
2 substantially the following form: ~~that~~ The writing admitted to record contains the true last will and  
3 testament of the deceased, as far as he or she knows or believes, and that he or she will faithfully  
4 perform the duties of his or her office to the best of his or her skill and judgment.

**§44-1-6. Bond and oath; termination of grant in certain cases.**

1 At the time of the grant of administration upon the estate of any intestate, the person to  
2 whom it is granted shall, in the county commission or before the clerk granting it, give bond, unless  
3 not required to post bond by ~~section eight of this article~~ §44-1-8 of this code, and take an oath in  
4 substantially the following form: ~~that~~ The deceased has left no will so far as he or she knows, and

5 that he or she will faithfully perform the duties of the office to the best of his or her judgment. If a  
6 will of the deceased be afterwards admitted to record, or if, after administration is granted to a  
7 creditor or other person than a distributee, any distributee who shall not have before refused shall  
8 apply for administration, there may be a grant of probate or administration, after reasonable notice  
9 to such creditor or other person theretofore appointed, in like manner as if the former grant had  
10 not been made, and such former grant shall thereupon cease.

**§44-1-31. Administration of oath; execution of bond.**

1 An oath required in this chapter may be taken before any person authorized to administer  
2 oaths under the laws of this state or any other state. A bond may be executed, if not in person  
3 before the county clerk, before any person authorized to administer oaths under the laws of this  
4 state or any other state.