

## Memorandum 82-56

Subject: Study L-611 - Probate Law (Presumption of Death)

## BACKGROUND

California Law

Probate Code Sections 280-294 provide a procedure for the administration of estates of persons missing for seven years. (A copy of these sections is attached to this memorandum as Exhibit 2.) The time period is the same as the common law presumption of death, but Section 280 actually provides for administration "as though such person were dead." The general administration provisions are incorporated except as specially provided. See Sections 280, 294. The property in the estate of the missing person may not be distributed until one year after the appointment and qualification of the executor or administrator. See Sections 285, 286. Property may be distributed after one year and before the expiration of three years if the distributee gives a bond in favor of the missing person or a successor in interest. See Section 286. If the missing person has been missing for over 10 years, the property may be finally distributed without bond upon the expiration of one year after the appointment of the executor or administrator. If the 10-year period has run, the statute of limitations is deemed to have run against all claimants. See Section 292.

Prior Commission Decision

At the March meeting, the Commission directed the staff to draft a revised statute with a view toward shortening the duration of the period of absence. Although this subject is largely a matter of administration, the Commission felt that it was a severable subject that could be profitably considered before any overall study of the administration provisions in Division 3 of the Probate Code is undertaken. A staff draft that shortens the missing period to five years and eliminates the procedural detail along the lines of the Uniform Probate Code is attached to this memorandum as Exhibit 1.

Uniform Probate Code Approach

The UPC handles the subject of administration of estates of missing persons presumed dead without much detail. UPC Section 1-107 provides

in relevant part as follows:

(3) a person who is absent for a continuous period of five years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead. His death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

Two other provisions in the probate and administration portion of the UPC bear on this subject. UPC Section 3-412 in part provides that in formal testacy proceedings:

(5) The finding of the fact of death is conclusive as to the alleged decedent only if notice of the hearing on the petition in the formal testacy proceeding was sent by registered or certified mail addressed to the alleged decedent at his last known address and the court finds that a search under Section 3-403(b) was made.

If the alleged decedent is not dead, even if notice was sent and search was made, he may recover estate assets in the hands of the personal representative. In addition to any remedies available to the alleged decedent by reason of any fraud or intentional wrongdoing, the alleged decedent may recover any estate or its proceeds from distributees that is in their hands, or the value of distributions received by them, to the extent that any recovery from distributees is equitable in view of all of the circumstances.

The search provision referred to in this provision (UPC Section 3-403(b)) provides:

(b) If it appears by the petition or otherwise that the fact of the death of the alleged decedent may be in doubt, or on the written demand of an interested person, a copy of the notice of the hearing on said petition shall be sent by registered mail to the alleged decedent at his last known address. The Court shall direct the petitioner to report the results of, or make and report back concerning, a reasonably diligent search for the alleged decedent in any manner that may seem advisable, including any or all of the following methods:

(1) by inserting in one or more suitable periodicals a notice requesting information from any person having knowledge of the whereabouts of the alleged decedent;

(2) by notifying law enforcement officials and public welfare agencies in appropriate locations of the disappearance of the alleged decedent;

(3) by engaging the services of an investigator.

The costs of any search so directed shall be paid by the petitioner if there is no administration or by the estate of the decedent in case there is administration.

A petition for supervised administration under UPC Section 3-502 also appears to be subject to these provisions, but whether the presumption

of death may be relied upon in procedures for informal probate or informal appointment under UPC Sections 3-301 to 3-311 is doubtful.

#### POLICY ISSUES

##### Duration of Absence Giving Rise to Presumption of Death

California has codified the common law rule that a presumption of death arises from seven years' unexplained absence. See Evid. Code § 667; Prob. Code § 280. However, it should be remembered that the missing person is conclusively presumed to be dead only after 10 years pursuant to Probate Code Section 291; between seven and 10 years, the estate of the missing person may be administered as if he were dead as provided in Probate Code Section 280.

The seven-year period is arbitrary, having been drawn by analogy from English statutes of the seventeenth century governing bigamy and estates for life. See Jalet, Mysterious Disappearance: The Presumption of Death and the Administration of the Estates of Missing Persons or Absentees, 54 Iowa L. Rev. 177, 181 (1968). In the past, most states that provided by statute for a presumption of death set it at seven years. However, there is a trend toward reducing the period to five years, in part because of the influence of the Uniform Probate Code. Fifteen years ago only four states provides for a five-year presumption of death. Currently at least 14 states provide a five-year period, although 20 states still provide for a seven-year period and the common law presumably applies the seven-year period in states without a statutory rule. Minnesota has adopted a four-year period. Louisiana has reduced its 30-year period to 10 years. At least four states that have adopted the UPC provisions have retained the seven-year presumption.

The staff proposes adoption of a five-year presumption of death. Since the time period is arbitrary, there is not much to guide a decision in this area. The staff recommends the five-year period because it is in line with the UPC and with the general trend. The State Bar has concluded that "there appears to be no objection to the five-year period provided under the UPC." State Bar of California, The Uniform Probate Code: Analysis and Critique 7 (1973).

At the March meeting, some sentiment was expressed for an even shorter period, although the point was not discussed. As noted above, only Minnesota has gone below the five-year period. Shortening the period too much risks disapproval by the courts on due process grounds.

The seven plus three and 10 plus one scheme of existing California law was upheld against constitutional challenge in *Sevier v. Bank of America*, 101 Cal. App.2d 184, 225 P.2d 3 (1950), where the court found the time periods not unreasonable. It should be remembered that a conservator may be appointed to preserve the missing person's estate and support his or her family prior to the expiration of the applicable period for the presumption of death. See Memorandum 82-49 on the agenda for this meeting.

It is not necessary to wait out the seven-year period if there is sufficient evidence to establish death before such time. See *In re Estate of Christin*, 128 Cal. App. 625, 627, 17 P.2d 1068 (1933). But if there is not sufficient evidence of the fact or time of death, the presumption of death after a reasonable time appears to be a very useful and sensible approach. However, Wigmore and others have sharply criticized the seven-year rule for being much too long. See Jalet, *supra* at 182-185, 198. It can be argued that modern means of communication and record keeping make it more difficult to disappear without being heard from, but it can also be argued that with modern transportation and large populations it has become easier to disappear.

Wigmore's view found formulation in the Uniform Absence as Evidence of Death and Absentees' Property Act of 1939 which in Section 1 provides that death is not to be presumed from absence for any particular period but that the issue of death is one to be decided as a question of fact by the court or jury based on the evidence. This Uniform Act has not been very well received. It appears to have been enacted in only three states--Tennessee, Maryland, and Wisconsin--and Wisconsin repealed it in 1973. Even then, Wisconsin had omitted Section 1 of the Uniform Act and Tennessee enacted a stopgap seven-year presumption of death. The Uniform Commissioners themselves seem to have given up on the approach advocated by the 1939 Act since Uniform Probate Code Section 1-107(3) provides a five-year period as set forth supra.

#### "Missing" Standard

The staff draft in Exhibit 1 adopts the Uniform Probate Code standard for determining whether a person is missing for purposes of the presumption of death, with one modification. Probate Code Section 280 refers to absence from the person's last known place of residence whereas UPC Section 1-107(3) "fails to specify from whence a person should be absent

to be presumed dead," as noted by the State Bar. See State Bar of California, The Uniform Probate Code: Analysis and Critique 6 (1973).

#### Procedural Setting

Existing law and the staff draft both require a petition for probate or administration as a prerequisite to the operation of the presumption statute. Resort to more formal proceedings in this case is appropriate for the protection of the rights of the alleged missing person.

#### Search

The UPC standard recommended in the staff draft refers to a person "whose absence is not satisfactorily explained after diligent search or inquiry." See UPC Section 1-107(3). At the March meeting, the Commission decided not to provide explicitly for a court-ordered search in the statute relating to conservatorship for property of persons missing less than seven years. However, in this context, since the estate is distributed and the rights of the missing person are ultimately cut off, the staff recommends making specific provision for a court-ordered search patterned on UPC Section 3-403(b) set forth above. See draft Section 1304 in Exhibit 1.

#### Rights of Reappearing Missing Person

Existing law provides in some detail for the rights of the missing person who reappears between seven and 10 years after first disappearing. See Prob. Code §§ 287-289 in Exhibit 2. These sections might be viewed as providing usefully detailed procedures, but the staff has opted for the more simple UPC scheme. As noted above, under existing law, a distributee who receives property during the second or third year after the appointment of an executor or administrator must give a bond to which the reappearing missing person may resort. However, California law cuts off any claims by the missing person absolutely after the three-year period has run; if the proceedings are commenced when the person has been missing 10 years, claims are cut off upon distribution at the end of one year after the appointment of an executor or administrator. These procedures seem needlessly complex.

In effect California has a 10- or 11-year conclusive presumption of death with a possibility of preliminary distribution after approximately eight years. If the seven-year period were lowered to five years without changing the law governing claims by reappearing missing persons, we would still have an eight- or nine-year conclusive presumption. The

staff believes the period should be reduced more drastically and so we would eliminate the provision preventing distribution for one year after appointment of an executor or administrator and the provision requiring the distributee to furnish a bond as a condition of distribution during the second and third years after appointment. The staff draft adopts the UPC scheme which permits the reappearing missing person to reclaim property in the hands of the representative and also to pursue the distributed estate in the hands of distributees to the extent that it is equitable in the circumstances. See draft Section 1306 in Exhibit 1. It must be admitted that this is not a very definite standard. If the Commission is uneasy with the equitable recovery provision, the staff suggests a more rigid procedure patterned after existing law, but with shorter periods. Hence, we would not bar distribution within the first year; the normal administration procedures should apply and preliminary distribution under Probate Code Section 1000 et seq. should be permissible. The grace period during which a reappearing missing person may recover estate assets from distributees should be either eliminated or reduced to a one-year period from the three-year period of existing law.

General Presumption--Evidence Code Section 667

Evidence Code Section 667 provides that a "person not heard from in seven years is presumed to be dead." The staff draft would amend the general presumption of death to lower the time to five years, consistent with the presumption that would be applicable in probate proceedings. This presumption would apply in nonprobate situations such as to determine rights under insurance policies and survivorship under joint tenancies. California law already provides a five-year period of absence in bigamy situations. See Civil Code §§ 4401(2), 4425(b).

Respectfully submitted,

Stan G. Ulrich  
Staff Counsel

## EXHIBIT 1

40302

STAFF DRAFTMissing Persons Presumed Dead -  
Proposed Probate Code §§ 1300-1306Probate Code §§ 1300-1306 (added). Administration of Estates of Missing  
Persons Presumed Dead

SEC. . Chapter 23 (commencing with Section 1300) is added to Division 3 of the Probate Code, to read:

CHAPTER 23. ADMINISTRATION OF ESTATES OF  
MISSING PERSONS PRESUMED DEAD

§ 1300. Presumption of death for purposes of administration

1300. In proceedings under this division, a person who is absent from his or her last known place of residence for a continuous period of five years, during which he or she has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is presumed to be dead. The person's death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

Comment. The first sentence of Section 1300 supersedes a portion of former Section 280 (person deemed missing person if absent for seven years). The second sentence is new. Section 1300 is the same in substance as Uniform Probate Code Section 1-107(3) except that the Uniform Probate Code provision does not state the place from which the missing person is found to be absent. See also Evid. Code §§ 667 (general presumption of death), 1282 (finding of presumed death by federal employee).

40304

§ 1301. Administration of estate of person presumed dead; jurisdiction

1301. (a) If a person is presumed dead pursuant to Section 1300 the person's estate may be administered in the manner provided generally for the administration of estates of deceased persons, subject to the provisions of this chapter.

(b) Jurisdiction shall be determined on the basis of the missing person's residence at the time of his or her disappearance.

Comment. Subdivision (a) of Section 1301 continues the substance of a portion of former Section 280. Subdivision (b), in conjunction with Section 301, continues the substance of the first sentence of former Section 281.

40313

§ 1302. Contents of petition for administration or probate

1302. In addition to matters otherwise required, the petition for administration or probate shall state the following:

- (a) The last known place of residence of the missing person.
- (b) The time of the person's disappearance from his or her last known place of residence.
- (c) That the missing person has not been heard from by the persons most likely to hear (naming them and their relationship to the missing person) for a period of five years and that his or her whereabouts is unknown to such persons and to the petitioner.
- (d) A description of any search or inquiry made concerning the whereabouts of the missing person.

Comment. Section 1302 supersedes a portion of former Section 282. Pursuant to Section 1301, the general requirements for a petition for probate (see Section 326) or a petition for letters of administration (see Section 440) are applicable.

40316

§ 1303. Notice to missing person's last known address

1303. A copy of the petition for administration or probate and notice of the hearing on the petition shall be sent by registered mail to the missing person at his or her last known address. Proof of mailing shall be filed at or prior to the hearing.

Comment. Section 1303 continues a portion of former Section 283. It is also consistent with a portion of Section 3-403(b) of the Uniform Probate Code. See also Section 5 (certified mail equivalent of registered mail).



§ 1304. Search for missing person

1304. (a) If the court is not satisfied that a diligent search or inquiry has been made for the missing person, the court may order the petitioner to conduct a reasonably diligent search and to report the results of the search. The court may order the search to be made in any manner than seems advisable, including any or all of the following methods:

(1) By inserting in one or more suitable periodicals a notice requesting information from any person having knowledge of the whereabouts of the missing person.

(2) By notifying law enforcement officials and public welfare agencies in appropriate locations of the disappearance of the missing person.

(3) By engaging the services of an investigator.

(b) The costs of any search ordered by the court pursuant to subdivision (a) shall be paid by the petitioner if there is no administration or by the estate of the decedent if there is administration.

Comment. Section 1304 is drawn from subdivision (b) of Section 3-403 of the Uniform Probate Code.

40318

§ 1305. Determination of date of disappearance

1305. If the court appoints an executor or administrator for the estate of a missing person pursuant to this chapter, the court shall determine the date the missing person became absent from his or her last known place of residence.

Comment. Section 1305 continues the substance of a portion of former Section 284.

40319

§ 1306. Rights of missing person upon reappearance

1306. If the missing person reappears, he or she may recover any of his or her estate in the hands of the executor or administrator. The person may also recover from distributees any estate or its proceeds

that is in their hands, or the value of distributions received by them, to the extent that any recovery from distributees is equitable in view of all of the circumstances.

Comment. Section 1306 supersedes former Sections 287-289 and is drawn from a portion of subdivision (5) of Section 3-412 of the Uniform Probate Code.

40320

CONFORMING CHANGE

Evidence Code § 667 (amended). Presumption of death

SEC. . Section 667 of the Evidence Code is amended to read:

667. A person not heard from in ~~seven~~ five years is presumed to be dead.

Comment. Section 667 is amended to be consistent with Probate Code Section 1300 (administration of estates of persons missing five years). See also Civil Code §§ 4401(2), 4425(b) (five-year absence in bigamy situations).

## EXHIBIT 2

Probate Code Sections 280-294 (to be repealed)

## Chapter 2

ADMINISTRATION OF ESTATES OF PERSONS  
MISSING OVER SEVEN YEARS**§ 280. Missing person defined; administration as though dead**

Whenever any person owning property in the State of California has been absent from his last known place of residence for the continuous period of seven years, with his whereabouts for such period unknown to the persons most likely to know thereof, he shall be deemed to be a missing person, and all property of such person in the State of California may be administered, as though such person were dead, in the same manner as provided for the administration of deceased persons by this code, subject to the conditions, restrictions and limitations hereinafter prescribed.

**§ 281. Jurisdiction; title of proceedings**

If such person was a resident of this State at the time of his disappearance, the superior court of the county of his residence shall have jurisdiction in the premises; if a nonresident the superior court in any county where any real property of the missing person is located, or of the county where any personal property is located, in case there be no real property in the State, shall have jurisdiction in the premises. The title of all proceedings commenced and prosecuted under the preceding sections, shall be entitled in the court, and "In the matter of the estate of . . . . ., a missing person."

**§ 282. Petition; date of hearing; contents of petition**

Whenever a verified petition is presented to the court having jurisdiction in the premises, as provided in section 281, by his spouse or any of his family or friends, representing that his whereabouts has been for such period of time and still is unknown and that he left an estate which requires administration, the clerk of the court shall appoint a day for hearing such petition, not less than three months from the date of filing. Said petition may be for administration or probate of the last will, as the case may be, of the missing person and shall be verified to the best of the knowledge and belief of the petitioner; said petition shall set forth a statement of the facts required as in the case of the administration of estates of deceased persons, and shall, in addition thereto, contain allegations as to the last known place of residence of the missing person, and when he disappeared therefrom; the fact that he has not been heard from by the persons most likely to hear (naming them and their relationship), for a period of seven years, and the fact that his whereabouts is unknown to such persons and to the petitioner.

**§ 283. Notice of hearing; publication; service on heirs, devisees and legatees**

283. Notice of hearing the petition for administration or probate of the last will of the missing person shall be published in the form of similar notices of hearing in the administration of estates of deceased persons, pursuant to Section 6065 of the Government Code, the first publication to be at least three calendar months prior to the day set for the hearing of said petition; and in addition, within 20 days after the filing of the petition, copies of the notice shall be sent by registered mail to each person named in the petition as heir-at-law, next of kin, devisee and legatee, and to the last known address of such missing person; and proof by affidavit of such publication and such mailing shall be filed at or prior to the hearing.

**§ 284. Hearing; appointment of executor or administrator; finding of time of disappearance; evidence**

At the time so fixed for hearing or at any time to which said hearing shall be postponed, the court must hear the petition and the evidence sworn in support of or in opposition thereto, and, if satisfied that the allegations thereof are true, and that such person has remained missing, and his whereabouts unknown, continuously for a period of seven years, must thereupon appoint some duly qualified person as administrator or executor as in the manner provided for the estates of deceased persons. If the court grant such order, the court shall fix and determine the time when such person left his last place of residence and abode and became missing and that his whereabouts have not been known continuously for a period of at least seven years. Upon the hearing, the court may consider the testimony of any witnesses likely to know the last place of residence, and whereabouts of said alleged missing person, and may likewise receive in evidence and consider the affidavits and depositions of other competent witnesses and give it such weight as the court may deem proper.

**§ 285. Suspension of sale, encumbrance or other disposition of property for one year; exceptions**

Except for the purposes of paying taxes, assessments, liens, insurance premiums, allowing claims for debts contracted by the missing person before his disappearance or to prevent the depreciation of property on account of neglect, or waste, or to specifically perform contracts made by the missing person before his or her disappearance, no sale, mortgage or other disposition or distribution of the property of said missing person shall be had until the lapse of one year after the appointment and qualification of the executor or administrator.

**§ 286. Distribution; suspension; bond of distributee or assignee**

No distribution of the property of said estate to the heirs, devisees or legatees, of the missing person shall be made in any event until after the lapse of the period of one year after the appointment and qualification of the executor or administrator; nor shall such distribution be made until after the lapse of three years after the appointment and qualification of the executor or administrator, unless the distributee or assignee execute and deliver to the representative of said estate a surety company bond in a penal sum not less than the value of the property distributed and for such additional amount, as the court may prescribe, said bonds to be approved by the court, and conditioned for the return of the property or the value thereof to the representative of the estate in case the missing person be adjudicated, in the manner hereinafter set forth, to be still living since the commencement of said seven year period, and also conditioned to save the representative harmless from the damages and expenses of all suits brought by the missing person or anyone succeeding to his or her rights, by reason of such distribution having been made during said period of three years.

**§ 287. Person claiming to be missing person; petition; service; issue of identity; security**

In case any person shall, within the period of three years after the appointment and qualification of a representative, file a verified petition, claiming to be the missing person and shall also cause a copy thereof to be served personally or by registered mail upon the legal representative and upon each of the heirs, legatees and devisees, an issue shall thereupon be presented to the court to determine the identity of the claimant which issue shall be tried and determined by the court. The court may upon application or of its own motion require the claimant to give security to be approved by the court for all costs, and expenses involved in the hearing and ultimate determination thereof, in case the issue be decided against the claimant.

**§ 288. Person claiming to be missing person; contents of petition**

The verified petition of said claimant shall set forth the facts and circumstances of his disappearance and continued absence, and other facts and circumstances upon which he relies for his identification.

**§ 289. Vacation of proceedings; delivery of property to claimant; exceptions**

In the event that said issue be determined in favor of the claimant, and it be determined that the missing person be still living, then an order shall be made vacating all of the proceedings for administration, except those providing for the payment of taxes, assessments, liens, insurance premiums, allowed claims, the specific performance of contracts, preservation of the property, and any sale, encumbrance or other disposition of the property made in compliance with an order of the court; and thereupon the residue of said estate, less fees, costs and expenses thus far incurred, shall be surrendered and delivered to said claimant.

**§ 290. Death of missing person; petitioner; petition; service; hearing; security; order**

In case any other person shall within said period of three years appear and file a verified petition, claiming in such petition that the missing person died subsequently to the commencement of said seven year period, and the petitioner is entitled to the property or any portion thereof, as successor in interest to the rights of the absent person because of his death; and if the claimant shall also cause a copy of the petition to be served either personally or by registered mail upon the legal representative of the estate and upon each of the heirs, legatees and devisees, an issue shall thereupon be tried and determined by the court as to the truth of the petition. The court may upon application or on its own motion require the claimant to give security to be approved by the court for all costs and expenses involved in the hearing and ultimate determination thereof, in case the issue be decided against the claimant.

In case the issue last aforesaid be determined in favor of the claimant, the court shall make and enter such order as the circumstances require.

**§ 291. Presumption of death; final distribution; closing estate; discharge of security**

In case no person makes claim during said period of three years, either to be the missing person, or to have succeeded to the rights of the missing person since the commencement of said seven year period by reason of the death of the missing person, a conclusive presumption shall arise that the missing person died prior to the filing of the petition for administration or the probate of his will; and the estate shall be finally distributed accordingly, so far as the same has not already been accomplished; and by order of the court the estate shall be closed and the liability of the representative and his sureties to claimants ended, and the liability of distributees ended, and all bonds given by them canceled. If in any case such period of absence as set forth in section 280 shall have exceeded 10 years at the time of filing the petition for the appointment of an administrator or probate of the will, then said estate may be finally distributed and closed, at the end of one year, without a bond being given, with like effect as hereinbefore provided for at the expiration of the three year period.

**§ 292. Limitation of actions**

After the expiration of the periods of time provided for the final distribution of said estate, and after said missing person shall have been absent and missing for the period of 10 years as aforesaid, the statute of limitations shall be deemed to have run against all claimants; and no action, suit, petition or proceeding in any form shall be brought by said missing person or persons claiming under him or otherwise claiming any interest in said estate, against the administrator or executor or against any surety on any bond or against any of the distributees, to recover any part or portion of said estate.

**§ 293. Property and estates governed by chapter**

The provisions of this chapter shall apply to the property and estates of all missing persons as herein defined, who have been missing and absent from their last known place of residence for the continuous period of seven years, whether such absence commenced heretofore and has been completed, or is still running, or shall hereafter commence to run.

**§ 294. Manner of administration and distribution of estate**

The administrator or executor to whom letters shall have been issued as provided in this chapter, shall administer and distribute the estate of such missing person in the same general manner, method of procedure and with the same force and effect as provided by this code for the administration and settlement of the estates of deceased persons, except as otherwise modified, limited or directed by the provisions of this act.

## EXHIBIT 3

Staff Draft of Comments to Probate Code §§ 280-294  
(to be repealed)

40321

§ 280. Administration of estates of persons missing seven years

Comment. Former Section 280 is superseded by Sections 1300 (presumption of death for purposes of administration) and 1301 (administration of estate of person presumed dead).

§ 281. Jurisdiction

Comment. The substance of the first sentence of former Section 281 is continued in Section 1301(b) (jurisdiction determined on basis of residence at time of disappearance). The second sentence is not continued; the titling of proceedings is left to court rule.

§ 282. Petition for hearing

Comment. The first sentence and part of the second sentence of former Section 282 are superseded by the general provisions relating to administration of estates. See Section 1301(a) (general provisions applicable). The portion of the second sentence relating to the contents of the petition is superseded by Section 1302.

§ 283. Notice of hearing

Comment. The portions of former Section 283 relating to publication, notice to heirs, devisees, and next of kin, and proof of publication and mailing notice are superseded by the general provisions relating to administration of estates. See Section 1301(a) (general provisions applicable). The provision for mailing notice to the last known address of the missing person is continued in Section 1303.

§ 284. Hearing on petition

Comment. The first and third sentences of former Section 284 are superseded by the general provisions relating to administration of estates. See Section 1301(a) (general provisions applicable). The substance of the second sentence is continued in Section 1305 (determination of date of disappearance).

§ 285. Disposition of estate within one year after appointment of representative

Comment. Former Section 285 is not continued. The management and disposition of property in the missing person's estate are governed by the general provisions relating to administration of estates. See Section 1301(a) (general provisions applicable).

§ 286. Distribution of estate; bond of distributee

Comment. Former Section 286 is not continued. The distribution of property in the missing person's estate is governed by the general provisions relating to administration of estates. See Section 1301(a) (general provisions applicable).



§ 287. Petition of person claiming to be missing person

Comment. Former Section 287 is superseded by Section 1306 (rights of missing person upon reappearance).

§ 288. Contents of petition

Comment. Former Section 288 is superseded by Section 1306 (rights of missing person upon reappearance).

§ 289. Vacation of proceedings; disposition of property

Comment. Former Section 289 is superseded by Section 1306 (rights of missing person upon reappearance).

§ 290. Death of missing person; petition of claimant

Comment. Former Section 290 is not continued. See Section 1300 (person presumed to have died at end of five-year period in absence of sufficient evidence of earlier death).

§ 291. Presumption of death; final distribution

Comment. Former Section 291 is not continued. See Sections 1300 (presumption of death), 1301(a) (general provisions applicable).

§ 292. Limitation of actions

Comment. Former Section 292 is not continued. See Sections 1300 (presumption of death), 1301(a) (general provisions applicable), 1306 (rights of missing person upon reappearance).

§ 293. Application of chapter

Comment. Former Section 293 is superseded by Section \_\_\_\_\_ (transitional provision).

§ 294. Manner of administration

Comment. The substance of former Section 294 is continued in Section 1301(a).