

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.3407 Formal testacy proceedings; burdens in contested cases.

Sec. 3407.

(1) All of the following apply in a contested case:

(a) A petitioner who seeks to establish intestacy has the burden of establishing prima facie proof of death, venue, and heirship.

(b) A proponent of a will has the burden of establishing prima facie proof of due execution in all cases and, if the proponent is also a petitioner, prima facie proof of death and venue.

(c) A contestant of a will has the burden of establishing lack of testamentary intent or capacity, undue influence, fraud, duress, mistake, or revocation.

(d) A party has the ultimate burden of persuasion as to a matter with respect to which the party has the initial burden of proof.

(2) If a will is opposed by a petition for probate of a later will revoking the former, the court shall first determine whether the later will is entitled to probate. If a will is opposed by a petition for a declaration of intestacy, the court shall first determine whether the will is entitled to probate.

History: 1998, Act 386, Eff. Apr. 1, 2000

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