

## **INDIANA DEAD MAN'S STATUTES**

### **§ 34-45-2-4. When executor or administrator is party**

(a) This section applies to suits or proceedings:

- (1) in which an executor or administrator is a party;
- (2) involving matters that occurred during the lifetime of the decedent; and
- (3) where a judgment or allowance may be made or rendered for or against the estate represented by the executor or administrator.

(b) This section does not apply in a proceeding to contest the validity of a will or a proceeding to contest the validity of a trust.

(c) This section does not apply to a custodian or other qualified witness to the extent the witness seeks to introduce evidence that is otherwise admissible under Indiana Rule of Evidence 803(6).

(d) Except as provided in subsection (e), a person:

- (1) who is a necessary party to the issue or record; and
  - (2) whose interest is adverse to the estate;
- is not a competent witness as to matters against the estate.

(e) In cases where:

- (1) a deposition of the decedent was taken; or
  - (2) the decedent has previously testified as to the matter;
- and the decedent's testimony or deposition can be used as evidence for the executor or administrator, the adverse party is a competent witness as to any matters embraced in the deposition or testimony.

### **§ 34-45-2-5. Suits by or against heirs to affect property of ancestor**

(a) This section applies to suits by or against heirs or devisees founded on a contract with or demand against an ancestor:

- (1) to obtain title to or possession of property, real or personal, of, or in right of, the ancestor; or
- (2) to affect property described in subdivision (1) in any manner.

(b) Neither party to a suit described in subsection (a) is a competent witness as to any matter that occurred before the death of the ancestor.

### **§ 34-45-2-6. Agent of decedent**

(a) This section applies:

- (1) when an agent of a decedent testifies on behalf of an executor, administrator, or heirs concerning any transaction the agent had with a party to the suit, or the party's assignor or grantor; and in the absence of the decedent; or
- (2) if any witness testifies on behalf of the executor, administrator, or heirs, to any conversation

or admission of a party to the suit, or the party's assignor or grantor, made in the absence of the deceased.

(b) The party against whom the evidence is adduced, or the party's assignor or grantor, is competent to testify concerning the matters described in subsection (a).

#### **§ 34-45-2-7. Contracts with person who has died**

(a) Except as provided in subsection (b), a person who acted as an agent in the making or continuing of a contract with any person who has died, is not a competent witness, in any suit upon or involving the contract, as to matters occurring before the death of the decedent, on behalf of the principal to the contract, against the legal representatives or heirs of the decedent.

(b) If the person is called by the decedent's heirs or legal representatives, the person is a competent witness, as to matters about which the person is interrogated by the heirs or representatives.

#### **§ 34-45-2-8. Defendant who claims to act as executor, administrator, guardian, or heir**

If the defendant in a case:

(1) is charged with unlawfully taking or detaining personal property or having done damage to personal property; and

(2) defends the charge in the defendant's pleading by asserting that the defendant is the executor, administrator, guardian, or heir, and, as such, has taken or detained the property or has done the acts charged;

a person is not competent to testify who would not be competent if the defendant were the complainant. However, when the person complaining cannot testify, the defendant shall also be excluded.

#### **§ 34-45-2-9. Spouse of party**

When the husband or wife is a party, and not a competent witness in his or her own behalf, the other shall also be excluded.

#### **§ 34-45-2-10. Assignor as party adverse to executor, administrator, heir, or devisee**

(a) In all cases in which:

(1) executors, administrators, heirs, or devisees are parties; and

(2) one of the parties to the suit is incompetent under this chapter to testify against the parties

described in subdivision (1);  
the assignor or grantor of a party making the assignment or grant voluntarily shall be considered a party adverse to the executor or administrator, heir, or devisee.

(b) However, in all cases referred to in sections 4 through 9 [IC 34-45-2-4 through IC 34-45-2-9] of this chapter, any party to the suit has the right to call and examine any adverse party as a witness.

(c) The court may require any party to a suit or other person to testify. Any abuse of the court's discretion under this subsection is reviewable on appeal.

#### **§ 34-45-2-11. Contracts assigned to decedent**

In all actions by an executor or administrator, on contracts assigned to the decedent, when the assignor is alive and a competent witness in the cause:

(1) the executor or administrator; and

(2) the defendant or defendants;

are competent witnesses as to all matters that occurred between the assignors and the defendant or defendants before notice of the assignment.