

### **394.295 Vacation or modification of judgment upon discovery of later will.**

The court in which a judgment has been rendered shall have power to vacate or modify it when any paper purporting to be the last will of any person has been, or may be hereafter admitted to probate, and a later will has been discovered. A judgment on this ground, however, shall not be vacated or modified, unless proceedings to that end shall be instituted within ten (10) years after the death of the testator. If the earlier will shall have been established by judgment of the Circuit Court, the proceedings to vacate shall be instituted in the Circuit Court. The proceedings to vacate shall be by petition to which all persons interested in the earlier will shall be made defendants. Otherwise, the proceedings to vacate shall be instituted in the District Court. Provided, however, that a judgment on the ground herein named shall not be vacated or modified until the validity of such later will has been determined in such proceedings. When such former judgment has been vacated or modified such later will shall be admitted to probate in the manner and under the laws governing the probate of wills before the expiration of five (5) years. The judgment establishing such later will and vacating the judgment establishing the former will shall be without prejudice to the vested rights of innocent third parties. The court in which relief is sought for the reasons herein set out, may enter such orders as may be necessary to protect the rights of the parties during the pendency of the proceedings.

**Effective:** July 15, 1980

**History:** Amended 1980 Ky. Acts ch. 259, sec. 14, effective July 15, 1980. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 364, effective January 2, 1978. -- Transferred 1952 Ky. Acts ch. 84, secs. 1 and 20, effective July 1, 1953, from C.C. sec. 518(9). -- C.C. sec. 518 amended and reenacted 1926 Ky. Acts ch. 27, sec. 1.