578.12 HEARING BY COURT; DETERMINATION OF RIGHT TO ADVANCE LIFE INSURANCE PAYMENTS.

Subdivision 1. **Petition for hearing.** A petition may be filed requesting a hearing to determine entitlement to advance payment under an insurance policy on the life of an absentee. The petition shall contain the beneficiary's name, address, relationship to absentee, and the grounds justifying advance payment.

Subd. 2. **Notification of hearing.** Upon the filing of the petition, the court by certified mail shall notify the insurer who issued the policy of the date, time and place of the hearing. The insurer may appear at the hearing as a party in interest.

Subd. 3. **Evidentiary burden.** The petitioner has the burden to show by a fair preponderance of the evidence that:

(1) the absentee is missing, and there is reason to believe, dead;

(2) the beneficiary is a spouse, child, or other person dependent upon the absentee for support and maintenance; and

(3) the beneficiary has no source of income sufficient for support and maintenance at an adequate level.

Subd. 4. **Advance payments.** The court shall order periodic advance payments in appropriate amounts taking into consideration the needs of the beneficiary, the likelihood of the absentee's death, the amount payable under the policy, the possibility of the beneficiary providing the insurer with security for any reimbursement that may be required under section 578.13, subdivision 2, and any other relevant factors.

Payment made by the insurer under a court order shall discharge it from any liability to any party for the amounts paid.

History: *1979 c 54 s 2; 1986 c 444; 2012 c 143 art 3 s 38*