

59-618. Liability and effect of withholding will. Any person who has possession of the will of a testator dying a resident of this state, or has knowledge of such will and access to it for the purpose of probate, and knowingly withholds it from the district court having jurisdiction to probate it for more than six months after the death of the testator shall be liable for reasonable attorney fees, costs and all damages sustained by beneficiaries under the will who do not have possession of the will and are without knowledge of it and access to it. Such will may be admitted to probate as to any innocent beneficiary on petition for probate by any such beneficiary, if such petition is filed within 90 days after such beneficiary has knowledge of such will and access to it, except that the title of any purchaser in good faith, without knowledge of such will, to any property derived from the fiduciary, heirs, devisees or legatees of the decedent, shall not be defeated by the production of the will of such decedent and the petition for probate of the will after the expiration of six months from the death of the decedent.

The provisions of this section as amended by this act shall apply retroactively to the withholding of a will of a testator.

History: L. 1939, ch. 180, § 54; L. 1943, ch. 213, § 2; L. 1972, ch. 215, § 2; L. 1976, ch. 242, § 6; L. 1985, ch. 191, § 9; July 1.