

No. 372.

AN ACT

To amend section eight, as amended in part, of an act, approved the seventh day of June, one thousand nine hundred and seventeen (Pamphlet Laws, four hundred and three), entitled "An act relating to the form, execution, revocation, and interpretation of wills; to nuncupative wills; to the appointment of testamentary guardians; to spendthrift trusts; to forfeiture of devise or legacy in case of murder of testator; to elections to take under or against wills, and to the recording and registering of such elections and of decrees relative thereto, and to the fees therefor," by giving to the sole surviving parent the right to appoint a testamentary guardian for his or her minor child.

Section 1. Be it enacted, &c., That section eight of an act, approved the seventh day of June, one thousand nine hundred and seventeen (Pamphlet Laws, four hundred and three), entitled "An act relating to the form, execution, revocation, and interpretation of wills; to nuncupative wills; to the appointment of testamentary guardians; to spendthrift trusts; to forfeiture of devise or legacy in case of murder of testator; to elections to take under or against wills and to the recording and registering of such elections and of decrees relative thereto, and to the fees therefor," which was amended in part by the act, approved the twelfth day of June, one thousand nine hundred and nineteen (Pamphlet Laws, four hundred and forty-three), entitled "An act to amend section eight, clause (b) of an act, approved June seventh, one thousand nine hundred and seventeen (Pamphlet Laws, four hundred and three), entitled 'An act relating to the form, execution, revocation, and interpretation of wills; to nuncupative wills; to the appointment of testamentary guardians; to spendthrift trusts; to forfeiture of devise or legacy in case of murder of testator; to elections to take under or against wills, and to the recording and registering of such elections and of decrees relative thereto, and to the fees therefor,' by giving to any mother or adopting mother the right to appoint a testamentary guardian for her minor child, when the father or adopting father of such child has, for one year or upwards immediately preceding the death of the mother or adopting mother, wilfully neglected or refused to provide for such child, and when the said mother or adopting mother has left an estate, real or personal, to such child; the said amendment to apply to the wills of all persons dying on or after the thirty-first day of December, one thousand nine hundred and seventeen," is hereby further amended to read as follows:

Wills.

Section 8 of act of June 7, 1917 (P. L. 403), as amended by act of June 12, 1919 (P. L. 443), further amended.

Appointment of
testamentary
guardian for un-
married minor
child.

(a) Every person competent to make a will, being the [father] *sole surviving parent* or adopting [father] *parent* of any minor child unmarried, may appoint a testamentary guardian [for] *of the person or property or both* of such child during his or her minority, or for any shorter period: Provided, That [such testamentary guardian shall not be entitled to the custody of the person of such child unless the mother or adopting mother, if surviving, shall relinquish such custody, or unless the best interests of the child shall require that such surviving mother or adopting mother should not retain the custody of the person of such child], *either parent may by will appoint a testamentary guardian for the estate, either real or personal, which he or she shall leave to such child, whether the other shall be living or dead.*

[(b) Every person competent to make a will, being the mother or adopting mother of any minor child unmarried, may appoint a testamentary guardian for such child during his or her minority or for any shorter period, whenever the father or adopting father of such child shall be deceased and has not appointed such a guardian. Whenever the father or adopting father of such child has for one year or upwards, immediately preceding the death of the mother or adopting mother, wilfully neglected or refused to provide for such child, such mother or adopting mother, who shall leave to such child an estate, either real or personal, may appoint a testamentary guardian for such child. Such mother or adopting mother, who shall leave to such child an estate, either real or personal, may appoint a testamentary guardian for such estate of the child, whether the father or adopting father of such child shall be living or dead, and whether he shall or shall not have appointed a testamentary guardian for such child.]

Deserting parent
not to have right.

[c] (b) No father who shall have, for one year or upwards previous to his death, wilfully neglected or refused to provide for his child or children, and no mother who shall have for a like period deserted her child or children or failed to perform her parental duties, shall have the right to appoint any testamentary guardian for such child or children.

APPROVED—The 13th day of May, A. D. 1925.

GIFFORD PINCHOT.