

**706.10 History:** 1969 c. 285; Stats. 1969 s. 706.10.

**Committee Note, 1969:** Sub. (1) permits deletion of some 5 pages of "form and effect" material from the conveyancing statute, without apparent change of law or practice.

No change by sub. (4), except that non-warranty is specified. Eliminates archaic reference to "deed of bargain and sale".

Sub. (5) specifies common exceptions to warranty, as practice and case law have developed them.

Sub. (6) equates implied warranties and covenants, rejecting implication in both cases.

Sub. (7) applies implied warranty of fitness to described conveyancing transactions in which covenant is not disclaimed expressly. *Earl Milliken, Inc. v. Allen*, 21 Wis. 2d 497, 124 NW 2d 651 (1963); *Fisher v. Simon*, 15 Wis. 2d 207, 112 NW 2d 705 (1961); *Oremus v. Wynhoff*, 20 Wis. 2d 635, 123 NW 2d 441 (1963). [Bill 655-A]

**706.11 History:** 1969 c. 285; Stats. 1969 s. 706.11.

**706.12 History:** 1969 c. 285; Stats. 1969 s. 706.12.

**706.13 History:** 1969 c. 285; Stats. 1969 s. 706.13.

**706.14 History:** 1969 c. 285; Stats. 1969 s. 706.14.

## CHAPTER 708.

### Mortgages and Land Contracts.

**708.01 History:** 1969 c. 285 s. 24; Stats. 1969 s. 708.01.

**Committee Note, 1969:** New; restates present case law; *M&I Bank v. Greene*, 227 W 155, 278 NW 425 (1938). [Bill 655-A]

**708.02 History:** 1969 c. 285 s. 24; Stats. 1969 s. 708.02.

**Committee Note, 1969:** Present case law; see *Grether v. Nick*, 193 W 503, 213 NW 304 (1927). [Bill 655-A]

**708.03 History:** 1961 c. 224; Stats. 1961 s. 235.088; 1969 c. 285 s. 3; Stats. 1969 s. 708.03.

**708.04 History:** 1917 c. 419; Stats. 1917 s. 2210a; Stats. 1925 s. 235.10; 1969 c. 285 s. 5; Stats. 1969 s. 708.04.

**708.05 History:** R. S. 1849 c. 58 s. 60; R. S. 1858 c. 85 s. 60; R. S. 1878 s. 2156; Stats. 1898 s. 2156; 1925 c. 4; Stats. 1925 s. 232.56; 1965 c. 52; Stats. 1965 s. 235.525; 1969 c. 285 s. 13; Stats. 1969 s. 708.05.

**708.07 History:** 1905 c. 331 s. 1; Supl. 1906 s. 2252a; 1925 c. 4; Stats. 1925 s. 235.61; 1969 c. 285 s. 17; Stats. 1969 s. 708.07.

**708.09 History:** 1969 c. 285 s. 24; Stats. 1969 s. 708.09.

## CHAPTER 710.

### Miscellaneous Property Provisions.

**710.01 History:** R. S. 1849 c. 62 s. 35; R. S. 1858 c. 89 s. 35; R. S. 1878 s. 2200; Stats. 1898

s. 2200; 1925 c. 4; Stats. 1925 s. 234.22; 1969 c. 284 s. 5; Stats. 1969 s. 710.01.

**710.02 History:** 1887 c. 479; Ann. Stats. 1889 s. 2200a; Stats. 1898 s. 2200a; 1925 c. 4; Stats. 1925 s. 234.23; 1951 c. 576; 1953 c. 55; 1955 c. 214; 1969 c. 284 s. 5; Stats. 1969 s. 710.02.

**710.03 History:** R. S. 1849 c. 62 s. 36; R. S. 1858 c. 89 s. 36; R. S. 1878 s. 2201; Stats. 1898 s. 2201; 1925 c. 4; Stats. 1925 s. 234.24; 1969 c. 284 s. 5; Stats. 1969 s. 710.03.

**710.05 History:** 1959 c. 259; Stats. 1959 s. 231.45; 1965 c. 156; 1969 c. 276 s. 598 (1); 1969 c. 283 s. 3; 1969 c. 483; Stats. 1969 s. 710.05.

**710.07 History:** R. S. 1858 c. 86 s. 4; R. S. 1878 s. 2202; Stats. 1898 s. 2202; 1925 c. 4; Stats. 1925 s. 234.25; 1969 c. 284 s. 6; Stats. 1969 s. 710.07.

**710.10 History:** 1969 c. 284 s. 26; Stats. 1969 s. 710.10.

**Committee Note, 1969:** From ss. 291.01 and 291.02. [Bill 654-A]

## CHAPTERS 816 and 818.

**Revisor's Note, 1969:** During the 1969 session of the Legislature the State Bar sponsored various bills relating to real property. All passed except Assembly Bill 656, which would have created chapters 810 to 815, 816 and 818 of the statutes. These new chapters would have constituted a revision of the real estate procedural law.

In anticipation of the passage of Assembly Bill 656, some of the other bills renumbered some existing statutes to fit into the new procedural chapters. These section histories are printed here.

**816.25 History:** R. S. 1849 c. 59 s. 36; R. S. 1858 c. 86 s. 41; 1863 c. 76 s. 1; 1868 c. 172 s. 1; R. S. 1878 s. 2251; Stats. 1898 s. 2251; 1921 c. 381; 1925 c. 4; Stats. 1925 s. 235.59; 1947 c. 143; 1969 c. 285 s. 15; Stats. 1969 s. 816.25.

**818.05 History:** R. S. 1849 c. 62 s. 38; R. S. 1858 c. 89 s. 38; R. S. 1878 s. 2199; Stats. 1898 s. 2199; 1925 c. 4; Stats. 1925 s. 234.21; 1969 c. 284 s. 4; Stats. 1969 s. 818.05.

**818.07 History:** 1876 c. 199; R. S. 1878 s. 2257; Stats. 1898 s. 2257; 1925 c. 4; Stats. 1925 s. 235.65; 1941 c. 297; 1943 c. 321; 1965 c. 24; 1969 c. 285 s. 19; Stats. 1969 s. 818.07.

**818.09 History:** 1852 c. 233 s. 1; R. S. 1858 c. 86 ss. 44, 45; R. S. 1878 s. 2252; Stats. 1898 s. 2252; 1903 c. 267 s. 1; Supl. 1906 s. 2252; 1925 c. 4; Stats. 1925 s. 235.60; Sup. Ct. Order, 229 W v; 1957 c. 583; 1969 c. 285 s. 16; Stats. 1969 s. 818.09.

## THE PROBATE CODE

**Editor's Note:** The following conversion tables relate to the new probate code enacted by ch. 339, Laws 1969, and effective April 1, 1971. Table I is designed to assist in tracing the antecedent provisions of the statutes relating to probate into the sections of the new probate code. Table II is designed to assist

in tracing the provisions of the new probate code to the antecedent provisions.

**CONVERSION TABLE I**

Stats. 1967	Stats. 1969
230.47 to 48	867.04
233.01	861.03
	852.01 (1)
233.02	861.03
	852.01 (1)
233.03 to 233.08	None
233.09 to 233.12	861.07 (1)
233.13	861.05 (2)
233.14	861.05
	861.11 (1), (3)
233.15 (1)	861.11 (2), (4)
(2)	861.11 (3)
233.16	861.15
233.17 to 233.22	None
233.23	861.03
	852.01 (1)
237.01	852.01
237.02	852.01
	852.09
237.025	861.41
237.03	852.03 (2), (3)
237.04	851.51
237.05	852.05 (1)
237.06	852.05 (2)
237.07	852.03 (1), (4)
237.08	None
237.09	867.05
237.10	851.55
237.11	851.61
238.01	853.01
238.02 (1)	853.31
238.02 (2)	853.15
238.03	853.29
238.04	861.41
238.05	853.01
238.06	853.03
	853.07
238.07	853.05
238.08	853.07
238.09	853.07
238.10	853.25 (1)
238.11	853.25 (2)
238.12	853.25 (4)
238.13	853.27
238.135	853.21
238.136	852.01 (3)
238.14	853.11
238.15	853.09
238.16	None
238.17	None
238.18	856.13
238.19	853.13
238.20	856.19
310.01	856.03
310.02	856.05 (1)
310.03	856.05 (4)
310.031	856.05 (3)
310.04	856.11 (1)
310.045 (1)	879.01
310.05 (1)	879.09
310.05 (2)	879.03 (3)
310.06 (1)	856.15 (1)
310.06 (2)	856.15 (2), (3)
310.06 (3)	856.15 (4)
310.06 (4)	856.15 (3)
310.06 (5)	856.15 (5)
310.07	868.01
310.075	868.05

Stats. 1967	Stats. 1969
310.09	None
310.10	856.17
310.11	863.21
310.12	856.21
310.14	857.03
310.15	856.25
310.16	856.23
	857.13
310.17	856.23
310.18	856.25
	857.23
310.19	857.13
	857.23
310.20 (1)	856.25
	857.13
	857.15
	857.21
310.20 (2)	862.01
	862.03
310.21	879.67
310.25	856.31
310.27	857.27
311.01	856.01
	856.07
311.02	856.07
	856.21
	856.23
311.03	856.11 (1)
311.04	856.25
311.05	867.01
311.06	867.07
311.07	867.11
311.075	867.15
311.08	867.13
311.09 (1) to (6)	867.17
311.09 (7)	867.19
311.10	867.21
311.11	857.23
311.12	857.19
311.13	857.23
311.14	857.19
311.16 (1)	879.57
311.16 (2)	879.57
311.16 (3)	879.21
312.01 (1)	858.01
	858.07
312.01 (2)	858.13
312.01 (3)	858.15
312.01 (4)	None
312.02	858.11
312.03 (1)	858.09
312.03 (2)	858.05
312.04	857.03
312.05	None
312.06	879.61
312.07	879.61
312.08	879.61
312.09	None
312.10	None
312.11	857.09
	857.15
	862.01
312.13	860.01
312.15	None
312.16	859.40
312.17	859.40
313.01	859.01
313.03 (1)	859.05
313.03 (2)	None
313.03 (3)	859.07
313.03 (5)	859.29
	859.35

Stats. 1967	Stats. 1969	Stats. 1967	Stats. 1969
313.03 (6)	859.09	316.23	None
313.03 (7)	859.51	316.235	860.05
313.04	859.07	316.24	860.05
313.05 (1)	859.13	316.25	None
	859.29	316.26	None
313.05 (2)	859.15	316.27	None
	859.33	316.28	None
313.05 (3)	859.33	316.29	None
313.05 (4)	859.29	316.30	None
	859.35	316.31	None
313.06	859.37	316.32	None
	879.43	316.33	None
313.07	859.17	316.39	None
313.08	859.01	316.40	None
313.09	860.01	316.41	860.13
313.093	860.13	316.43	None
313.095	860.01	316.45	None
313.10	859.01	316.46	None
	859.03	316.47	859.43
313.12	None	316.48	None
313.13	863.33	316.49	None
313.14	859.39	316.50	None
	863.33	316.51	None
	863.35	316.52	860.09
313.15 (1)	861.33	316.53	860.09
313.15 (2)	861.31	316.54	860.09
313.15 (3)	861.35	316.55	860.09
313.15 (4)	None	317.01 (1)	862.05
313.16	859.25	317.01 (2)	862.07
313.17	859.37		862.09
	859.39	317.02	862.07
313.18	859.39	317.03	None
313.19	859.39	317.04	857.03
313.20	859.39		857.25
313.21	859.39	317.05	862.01
313.22	859.21		862.15
313.23	859.21	317.06	Renumber
313.25	859.23	317.07	None
313.26	863.11	317.08	857.05
313.27	863.11	317.09	857.07
313.28	863.11	317.10	859.47
313.29	None	317.105	857.03
313.30	None	317.11	862.09
313.31	None	317.13	862.03
313.32	None	317.14	862.03
314.05	None	317.15	862.13
314.06	879.65	318.01 (1)	852.01 (1)
314.07	None	318.01 (3)	863.09 (2)
315.02	867.05	318.01 (4)	863.09 (1)
315.03	867.05	318.02	879.03 (2) (c)
315.04	867.05	318.03	863.39
315.05	867.05	318.04	None
315.06	867.05	318.06 (1)	863.25
316.01	None	318.06 (2)	863.25
316.02	None		863.27
316.03	None	318.06 (3)	863.31
316.07	None	318.06 (4)	863.27
316.09	None		863.29
316.10	857.29	318.06 (5)	863.47
316.105	None	318.06 (7)	863.23
316.11	None	318.06 (8)	863.37
316.12	None	318.06 (9)	863.17
316.13	None	318.06 (10)	863.07
316.14	None	318.065	863.29 (2)
316.15	None	318.07	863.43
316.16	None	318.075	863.45
316.17	None	318.08	None
316.18	None	318.10	None
316.19	None	318.12	None
316.20	None	318.15	863.19
316.21	None	318.24	852.11
316.22	None	318.25	852.11

<i>Stats. 1967</i>	<i>Stats. 1969</i>	<i>Stats. 1969</i>	<i>Stats. 1967</i>
318.26	852.11		233.02
318.27	852.11		233.23
318.28	852.11		318.01 (1)
318.29	852.11	852.01 (2)	New
318.30	None	852.01 (3)	237.01 (7)
318.31	879.59		238.136
321.01	878.01	852.01 (4)	New
321.015	878.05	852.03 (1)	237.07
321.02	878.07	(2)	237.03
321.03	878.09	(3)	237.03
321.04	None	(4)	237.07
321.05	None	852.05	237.05
321.06	878.11		237.06
321.07	None	852.09	237.02
321.08	878.13	852.11	318.24 to
324.001	851.23		318.29
324.01	879.27	852.13	237.01 (8)
324.04	879.27	853.01	238.01
324.05	879.31		238.05
324.11	879.33	853.03	238.06
324.12	879.35	853.05	238.07
324.13 (1)	879.37	853.07	238.06
324.13 (2)	879.23		238.08
324.14	879.39		238.09
324.15	879.43	853.09	238.15
324.16	879.27	853.11	238.14
324.17	879.45	853.13	238.19
324.18 (1)(a)	879.03	853.15	238.02 (2)
	879.05	853.17	New
324.18 (1)(b)	879.03 (2)(c)	853.19	New
324.18 (2)	879.09	853.21	238.135
324.18 (3)	879.11	853.23	New
324.18 (4)	879.05 (3)	853.25	238.10 to
324.18 (5)(a)	879.07 (2)		238.12
324.18 (5)(b)	879.07 (2)	853.27	238.13
324.18 (5)(c)	879.07 (3)	853.29	238.03
324.18 (5)(d)	879.07 (1)	853.31	238.02 (1)
324.19	879.03 (1)	853.33	New
324.20 (1)	879.05 (4)	853.35	New
324.20 (2)	None	856.01	311.01
324.21	879.55	856.03	310.01
324.22	879.55	856.05 (1)	310.02 (1), (2)
324.23	879.55	856.05 (2)	New
324.24	879.53	856.05 (3)	310.031
324.25	None	856.05 (4)	310.03
324.26	None	856.07	311.01
324.27	879.41		311.02
324.29 (1)	879.15	856.09	New
324.29 (2)	879.23	856.11	310.04
324.29 (3)	879.17		311.03
	879.23		238.18
324.29 (4)	879.25	856.13	
324.30	879.47	856.15 (1)	310.06 (1)
	879.49	856.15 (2)	310.06 (2)
324.31	868.03	856.15 (3)	310.06 (2), (4)
324.35	857.15	856.15 (4)	310.06 (3)
324.351	862.17	856.15 (5)	310.06 (5)
324.355	857.09	856.17	310.10
	863.35	856.19	238.20
324.356	None	856.21	310.12
324.36	879.13		311.02
		856.23	310.16
			310.17
			311.02
			324.35
		856.25	310.15
			310.18
			310.20 (1)
			311.04
		856.27	New
		856.29	New
		856.31	310.25
		857.01	New

CONVERSION TABLE II

<i>Stats. 1969</i>	<i>Stats. 1967</i>
851.01 to 851.29	New
851.51	237.04
851.55	237.10
851.61	237.11
852.01 (1)	237.01 (1)
	to 237.02
	233.01

<i>Stats. 1969</i>	<i>Stats. 1967</i>	<i>Stats. 1969</i>	<i>Stats. 1967</i>
857.03	310.14	860.01	312.13
	312.04		313.09
	317.04		313.095
	317.105	860.05	316.235
857.05	317.08		316.24
857.07	317.09	860.07	New
857.09	312.11	860.09	316.52 to
	324.355		316.55
857.10	New	860.11	New
857.11	New	860.13	313.093
857.13	310.16		316.41
	310.19	861.03	233.01
	310.20 (1)		233.02
857.15	310.20 (1)		233.23
	312.11	861.05	233.13
	324.35		233.14
857.17	New	861.07 (1)	233.09 to
857.19	311.12 to		233.12
	311.14	(2)	New
857.21	310.20 (1)	861.11 (1)	233.14
857.23	310.18	(2)	233.15 (1)
	310.19	(3)	233.14
	311.11		233.15 (2)
	311.13	(4)	233.151 (1)
857.25	New	861.13	New
857.27	310.27	861.15	233.16
857.29	316.10	861.17	New
858.01	312.01 (1)	861.31	313.15 (2)
858.03	New	861.33	313.15 (1)
858.05	312.03 (2)	861.35	313.15 (3)
858.07	312.01 (1)	861.41	237.025
858.09	312.03 (1)		238.04
858.11	312.02	862.01	310.20 (2)
858.13	312.01 (2)		312.11
858.15	312.01 (3)		317.05
858.17	New	862.03	310.20 (2)
859.01	313.08		317.13
	313.10		317.14
859.03	313.10	862.05	317.01 (1)
859.05	313.03 (1)	862.07	317.01 (2)
859.07	313.03 (3)		317.02
	313.04	862.09	317.01 (2)
859.09	313.03 (6)		317.11
859.13	313.05 (1)	862.11	New
859.15	313.05 (2)	862.13	317.15
859.17	313.07	862.15	317.05
859.19	New	862.17	324.351
859.21	313.22		324.35
	313.23	863.01	New
859.23	313.25	863.05	New
859.25	313.16	863.07	318.06 (10)
859.27	New	863.09 (1)	318.01 (4)
859.29	313.03 (5)	863.09 (2)	318.01 (3)
	313.05 (1), (4)	863.11	313.26
859.31	New		313.27
859.33	313.05 (2), (3)		313.28
859.35	313.03 (5)	863.13	New
	313.05 (4)	863.15	New
859.37	313.06	863.16	New
	313.17	863.17	318.06 (9)
859.39	313.14	863.19	318.15
	313.17 to	863.21	310.11
	313.21	863.23	318.06 (7)
859.40	312.16	863.25	318.06 (1), (2)
	312.17	863.27	230.47 (3)
859.41	287.43		318.06
	287.44	863.29 (1)	318.06 (4)
859.43	New	863.29 (2)	318.06 (4)
859.45	New		318.065
859.47	317.10	863.31 (1)	318.06 (3)
859.49	New	863.31 (2)	New
859.51	313.03 (7)	863.33	313.13

Stats. 1969	Stats. 1967
863.35	313.14
	313.14
	324.355
863.37	318.06 (8)
863.39	318.03
863.41	New
863.43	318.07
863.45	318.075
863.47	318.06 (5)
863.49	New
867.01	311.05
867.02	New
867.03	New
867.04	230.47
	230.48
867.05	237.09, ch. 315
867.07	311.06
867.09	New
867.11	311.07
867.13	311.08
867.15	311.075
867.17	311.09 (1) to (6)
867.19	311.09 (7)
867.21	311.10
868.01	310.07
868.03	324.31
868.05	310.075
878.01	321.01
878.03	New
878.05	321.015
878.07	321.02
878.09	321.03
878.11	321.06
878.13	321.08
879.01	310.045 (1)
879.03 (1)	324.18 (1) (a)
	324.19
879.03 (2) (a)	324.18 (1) (a)
879.03 (2) (b)	New
879.03 (2) (c)	318.02
	324.18 (1) (b)
879.03 (3)	310.05 (2)
879.03 (4)	324.18 (1) (a)
879.05 (1)	324.18 (1) (a)
879.05 (2)	324.18 (1) (a)
879.05 (3)	324.18 (1) (a), (4)
879.05 (4)	324.18 (1) (a)
	324.20
879.07 (1)	324.18 (5) (d)
879.07 (2)	324.18 (5) (a), (b)
879.07 (3)	324.18 (5) (c)
879.09	310.05 (1)
	324.18 (2)
879.11	324.18 (3)
879.13	324.36
879.15	324.29 (1)
879.17	324.29 (3)
879.19	New
879.21	311.16 (3)
879.23	324.13 (2)
	324.29 (2), (3)
879.25	324.29 (4)
879.26	New
879.27	324.01
	324.16
	324.04
879.31	324.05
879.33	324.11
879.35	324.12
879.37	324.13 (1)

Stats. 1969	Stats. 1967
879.39	324.14
879.41	324.27
879.43	313.06
	324.15
879.45	324.17
879.47	324.30
879.49	324.30
879.51	New
879.53	324.24
879.55	324.21 to 324.23
879.57	311.16 (1), (2)
879.59	318.31
879.61	312.06
	312.07
	312.08
879.63	New
879.65	314.06
879.67	310.21
879.69	New

CHAPTER 851.

Definitions and General Provisions.

- 851.001 History: 1969 c. 339, 393; Stats. 1969 s. 851.001.
- 851.002 History: 1969 c. 339, 392; Stats. 1969 s. 851.002.
- 851.01 History: 1969 c. 339; Stats. 1969 s. 851.01.
- 851.03 History: 1969 c. 339; Stats. 1969 s. 851.03.
- 851.05 History: 1969 c. 339; Stats. 1969 s. 851.05.
- 851.07 History: 1969 c. 339; Stats. 1969 s. 851.07.
- 851.09 History: 1969 c. 339; Stats. 1969 s. 851.09.
- 851.11 History: 1969 c. 339; Stats. 1969 s. 851.11.
- 851.13 History: 1969 c. 339; Stats. 1969 s. 851.13.
- 851.15 History: 1969 c. 339; Stats. 1969 s. 851.15.
- 851.17 History: 1969 c. 339; Stats. 1969 s. 851.17.
- 851.19 History: 1969 c. 339; Stats. 1969 s. 851.19.
- 851.21 History: 1969 c. 339; Stats. 1969 s. 851.21.
- 851.23 History: 1969 c. 339; Stats. 1969 s. 851.23.
- 851.25 History: 1969 c. 339; Stats. 1969 s. 851.25.
- 851.27 History: 1969 c. 339; Stats. 1969 s. 851.27.
- 851.29 History: 1969 c. 339; Stats. 1969 s. 851.29.

**851.51 History:** 1969 c. 339, 393; Stats. 1969 s. 851.51.

**Legislative Council Note, 1969:** This section governs the effect of adoption on inheritance and related matters. It makes certain changes in existing law: (1) it expressly provides for the effect of adoption on inheritance and wills as part of the probate statutes, rather than relying on 48.92 in the Children's Code; (2) it closes a gap in the law, under which a collateral relative may apparently not inherit through the adoptive parents; (3) it permits an adopted child to inherit from natural relatives in one special situation, as where a father dies and the wife remarries and the child is adopted by the stepfather (the changed law would enable the child to inherit from the natural paternal grandparents); and (4) it codifies the law regarding inclusion of adopted persons in class gifts under a will or other dispositive instrument.

The section adopts the basic principles underlying Wisconsin statutes, 237.04 and 48.92. However, it is an improvement upon those statutes, eliminating certain gaps in the law. Sections 237.04 and 48.92 have been criticized because they removed the inheritance subject-matter from its logical place and included it in a comprehensive Children's Code and also because they failed to provide expressly for inheritance by adoptive relatives other than adoptive parents. In fact the present statute suffers from attempting to combine both a general conceptual approach in 48.92 (1) and (2) and a specific but only partly inclusive approach in subsection (1) of that section. In this respect it is not as complete as the prior adoption statutes.

The first subsection deals with the status of an adopted person for purposes of inheritance by such person from his adoptive relatives, by adoptive relatives from the adopted person and by persons claiming through the adopted person (such as his children). It also broadens the coverage to secure to the adopted child and others claiming through him full rights under any other statutes such as the antilapse statute (853.27 replacing 238.13). In this respect it codifies the present case law illustrated by such cases as *Sandon v. Sandon*, 123 Wis. 603, 101 N.W. 1089 (1905) (pretermitted heir statute) and *Estate of Holcombe*, 259 Wis. 642, 49 N.W. 2d 914 (1951) (anti-lapse statute).

Sub. (2) generally terminates the relationship between an adopted person and his natural parents for the same purposes. The closing of adoption records in order to protect the child makes it desirable as a practical matter to limit inheritance in the statutory manner, to avoid complications of title in tracing natural relatives. This statute would preserve rights in 2 limited situations, only one of which is covered by the present law: where a natural parent marries or remarries and the child is adopted by the stepfather or stepmother. In the other situation, covered by sub. (2) (b), where a parent dies and the other natural parent remarries, and the child is adopted by the stepfather or stepmother, the present law would prevent the child from inheriting from his natural grandparents through the deceased parent. In such a situation, preserving inheritance rights by the

adopted child is not likely to present any difficulties either in proving heirship or in embarrassment to the adoptive parents.

The Code is accompanied by an amendment to 48.92 eliminating the last sentence of sub. (1) and providing for cross reference to this Code.

Sub. (3) is new. It does not, however, involve any substantial change in existing law. The Wisconsin Supreme Court has reached the same result as a matter of judicial construction in *Estate of Adler*, 30 Wis. 2d 250, 140 NW 2d 219 (1966). The statute gives definitive shape to the construction. It also prevents a deliberate adoption of an adult to qualify the latter as a member of a class. In some states it has been possible to adopt one's own wife in order to make the latter a child within a class gift; the statute avoids such an absurd result. [Bill 5-S]

**851.55 History:** 1969 c. 339; Stats. 1969 s. 851.55.

**Legislative Council Note, 1969:** This is the Uniform Simultaneous Death Act as adopted in Wisconsin; it is the same as 237.10. [Bill 5-S]

**851.61 History:** 1969 c. 339; Stats. 1969 s. 851.61.

**Legislative Council Note, 1969:** This is 237.11 unchanged. [Bill 5-S]

## CHAPTER 852.

### Intestate Succession.

**Legislative Council Note, 1969:** (1) This chapter replaces chapter 237 on descent and 318.01 on distribution, with a single law governing the transfer of both real and personal property. Although the general pattern of 237.01 is retained, some changes are involved. This chapter is designed primarily for the small estate with normal family relationships; persons in the middle and upper wealth brackets are increasingly aware of the need for wills and estate planning. In most small estates the decedent wishes his spouse to have the bulk of the estate. Accordingly, unless there is issue by a prior marriage, the surviving spouse will receive the first \$25,000 plus a share of any excess; this is an expansion of the concept in existing 318.01. This provision also saves the cost of guardianship if minor children are involved, unless the estate exceeds \$25,000 after allowances.

(2) This chapter requires that an heir survive the intestate decedent by 72 hours in order to take. This prevents double probate in the common accident situation and in some cases serves to keep the property in the family. The provision is in line with the common practice of testators to require beneficiaries to survive a stated period to take, and is patterned on a proposal under study by the National Conference of Commissioners on Uniform State Laws.

(3) Instead of the existing law which gives the homestead to the surviving spouse for life or until remarriage, the surviving spouse has a right to the home in fee by applying the value of the home against the spouse's share in the total estate. The spouse thus has a