

1975 Senate Bill 193

Date published: June 12, 1976

CHAPTER 329, Laws of 1975

AN ACT to create 851.40 and 865.16 (1m) of the statutes, relating to determining just and reasonable attorney's fees for services performed in connection with formal, informal and summary probate proceedings.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 851.40 of the statutes is created to read:

851.40 Basis for attorney's fees. (1) Any attorney performing services for the estate of a deceased person in any proceeding under chs. 851 to 879, including a proceeding for informal administration under ch. 865, shall be entitled to just and reasonable compensation for such services.

(2) Any personal representative, heir, beneficiary under a will or other interested party may petition the court to review any attorney's fee which is subject to sub. (1). If the decedent died intestate or the testator's will contains no provision concerning attorney fees, the court shall consider the following factors in determining what is a just and reasonable attorney's fee:

- (a) The time and labor required.
- (b) The experience and knowledge of the attorney.
- (c) The complexity and novelty of the problems involved.
- (d) The extent of the responsibilities assumed and the results obtained.
- (e) The sufficiency of assets properly available to pay for the services, except that the value of the estate may not be the controlling factor.

SECTION 2. 865.16 (1m) of the statutes is created to read:

865.16 (1m) The probate registrar may review the statement to determine whether the amount of attorney's fees, if any, are just and reasonable under s. 851.40.

If, in the probate registrar's judgment, the amount of such attorney's fees appear unjust and unreasonable, he shall refer the matter to the court for such proceeding or action as the court deems appropriate.
