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State of Misconsin 1999 - 2000 LEGISLATURE

## **1999 ASSEMBLY BILL 750**

February 15, 2000 – Introduced by Representatives STASKUNAS, BOCK, STONE, SHERMAN, SYKORA, LADWIG, SPILLNER, LA FAVE, MUSSER, GUNDERSON, RYBA, PETTIS, KREUSER, JESKEWITZ, CULLEN and HUBER, cosponsored by Senators GEORGE, RISSER, HUELSMAN, BURKE, ROESSLER and FARROW. Referred to Committee on Judiciary and Personal Privacy.

1 AN ACT to repeal 865.08 (1) (a) 1., 2. and 3.; and to renumber and amend 865.08

(1) (intro.) and 865.08 (1) (a) (intro.) of the statutes; relating to: who may be

appointed personal representative in informal administration.

### Analysis by the Legislative Reference Bureau

Under current law, in the informal administration of an estate, the probate registrar may appoint a personal representative. If there is a will, the personal representative appointed by the probate registrar must be the person nominated in the will or a person requested by the parties interested in the estate, subject to qualification and acceptance. If no person is nominated in the will, if the person nominated in the will fails to qualify or if there is no will, the personal representative appointed by the probate registrar must be either a bank or trust company that is entitled to exercise fiduciary powers in this state or a natural person. In either case, the personal representative must have the consent of all of the parties interested in the estate. In addition, if the personal representative is a natural person, he or she must be an attorney admitted to practice law in this state or someone who takes under the will if there is a will or an heir of the decedent if there is no will.

This bill changes the natural persons who may be appointed personal representative in informal administration if no person is nominated in the will, if the person nominated in the will fails to qualify or if there is no will. Under the bill, any person who has the consent of all interested parties and who qualifies may be

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appointed. The person does not have to be an attorney or a beneficiary under the will if there is a will or an heir if there is no will.

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

1 SECTION 1. 865.08 (1) (intro.) of the statutes is renumbered 865.08 (1) (ac) and 2 amended to read:

865.08 (1) (ac) Upon receipt of an application and making the determinations
required by s. 865.07, the probate registrar may enter a statement of informal
administration, admit a will to informal probate and may appoint the personal
representative nominated by the will or requested by the interested parties, subject
to qualification and acceptance.

### **SECTION 2.** 865.08 (1) (a) (intro.) of the statutes is renumbered 865.08 (1) (am)

### 9 and amended to read:

10 865.08 (1) (am) Where If no personal representative is named or where if the 11 named personal representative fails to qualify, the personal representative shall be 12 either a bank or trust company <u>that is</u> entitled to exercise fiduciary powers in this 13 state which <u>and that</u> has the consent of all interested persons, other than creditors 14 of the deceased, or, <u>subject to s. 856.23</u>, a natural person who has the consent of all 15 interested parties, other than creditors of the deceased, <u>and is:</u>.

- 16 **SECTION 3.** 865.08 (1) (a) 1., 2. and 3. of the statutes are repealed.
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### **SECTION 4. Initial applicability.**

- 18 (1) This act first applies to informal administrations commenced as a result of19 deaths occurring on the effective date of this subsection.
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(END)