



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0912/1
SWB:amn

2021 SENATE BILL 249

March 25, 2021 - Introduced by Senators LARSON and L. TAYLOR, cosponsored by Representatives ROZAR, ANDERSON, SINICKI and BOWEN. Referred to Committee on Financial Institutions and Revenue.

1 **AN ACT** *to renumber* 852.14 (1) (a), (b) and (c); *to amend* 852.14 (1) (intro.),
2 852.14 (2) and 852.14 (3); and *to create* 852.14 (1) (bm) of the statutes; **relating**
3 **to:** intestate inheritance by a parent who abandons a child.

Analysis by the Legislative Reference Bureau

This bill expands a current prohibition on inheritance by a parent who abandons a child who dies intestate. Current law prohibits a parent who abandons a child from inheriting from that child's estate in the event the child does not leave a will and if the child dies while still a minor. Under the bill, if a child dies without will, a parent who has abandoned that child is prohibited from inheriting from the child's estate regardless of whether the child is a minor or an adult at the time of death.

Under current law, if a child dies intestate, the parents of the deceased child inherit the child's estate if the child was not married and did not have any children of his or her own. Under current law, a parent who abandons a minor child, as determined by a court, is prohibited from inheriting from the child's estate by intestate succession, but only if the child dies while still a minor. Under current law, a parent has abandoned a deceased child if, for at least one year before the minor child's death and without cause, the parent failed to communicate with the child, care for the child as required by law or court order, and provide for the child's maintenance and support as required by law or court order. If a parent is prohibited from inheriting from a deceased child due to abandonment, the child's intestate estate passes as if the parent predeceased the child.

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This bill extends the prohibition to include all children who die without leaving a will, regardless of age. Under the bill, a parent has abandoned a deceased adult child if 1) for at least one year before the child's death and without cause, the parent failed to communicate with the child; *and* 2) for at least one year before the child reached the age of majority and without cause, the parent failed to communicate with the child, care for the child as required by law or court order, and provide for the child's maintenance and support as required by law or court order. As under current law, if a parent is prohibited from inheriting from a deceased child due to abandonment, the child's intestate estate passes as if the parent predeceased the child.

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

1 **SECTION 1.** 852.14 (1) (intro.) of the statutes is amended to read:

2 852.14 (1) (intro.) In this section, "abandoned" means failed any of the
3 following:

4 (am) Failed without cause to do all of the following for at least one year
5 immediately before the death of a minor child:

6 **SECTION 2.** 852.14 (1) (a), (b) and (c) of the statutes are renumbered 852.14 (1)
7 (am) 1., 2. and 3.

8 **SECTION 3.** 852.14 (1) (bm) of the statutes is created to read:

9 852.14 (1) (bm) With respect to a child who passed away as an adult, failed
10 without cause to do all of the following:

11 1. For at least one year before the death of the child, communicate with the
12 child.

13 2. For at least one year before the child reached the age of majority, do all of the
14 activities described under par. (am).

15 **SECTION 4.** 852.14 (2) of the statutes is amended to read:

16 852.14 (2) (a) A personal representative of ~~a~~ an adult or minor child who died
17 intestate who has actual knowledge or reasonable cause to believe that the ~~minor~~

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1 child was abandoned by a parent shall file a petition with the probate court with
2 jurisdiction for a determination that the parent abandoned the child.

3 (b) Any interested person may file a petition with a probate court with
4 jurisdiction for a determination that a parent of a ~~minor~~ child who died intestate
5 abandoned the ~~minor~~ child.

6 **SECTION 5.** 852.14 (3) of the statutes is amended to read:

7 852.14 (3) Notwithstanding s. 852.01 (1), if a court determines that a parent
8 abandoned his or her ~~minor~~ child and the child died intestate ~~while a minor,~~
9 regardless of the child's age at the time of death, the parent may not inherit from the
10 child's estate under s. 852.01. If a parent is barred from inheriting from a child's
11 estate under this section, the child's estate passes under s. 852.01 as if the parent
12 predeceased the child.

13 **SECTION 6. Initial applicability.**

14 (1) This act first applies to the estate of a person who has died intestate and
15 for which either a transfer of nonprobate property has not yet been completed or
16 probate proceedings are not closed on the effective date of this subsection.

17 (END)