

1969 Senate Bill 789

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**CHAPTER 393, LAWS OF 1969**

AN ACT to amend 851.001, 851.51 (3), 853.13 (2), 861.03 and 861.17 (2) of the statutes and SECTION 28 of chapter 339, laws of 1969, relating to the effective date of the probate code.

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

SECTION 1. 851.001 of the statutes, as created by chapter 339, laws of 1969, is amended to read:

851.001 Chapters 851 (except s. 851.51), 856, 857, 858, 859, 860, 862, 863 (except s. 863.13), 867 (*except s. 867.02*), 868, 878 and 879 are effective as of ~~July~~ April 1, ~~1970~~ 1971. Chapters 852 and 861 and s. 863.13 are effective as to any person dying on or after ~~July~~ April 1, ~~1970~~ 1971. Chapter 853 is effective as to the will of any testator dying on or after ~~July~~ April 1, ~~1970~~ 1971, except that it is inapplicable to a will executed prior to the publication of the chapter if it is proved the testator lacked testamentary capacity at the time of the enactment, unless the testator subsequently regained capacity to make a valid will and had the capacity for a period of 6 months; a will so excepted is governed by the statutes applicable at the time the testator executed his will.

SECTION 2. 851.51 (3) of the statutes, as created by chapter 339, laws of 1969, is amended to read:

851.51 (3) A gift of property by will, deed or other instrument to a class of persons described as issue, lawful issue, children, grandchildren, descendants, heirs, heirs of the body, next of kin, distributees or the like includes a person adopted by a person whose natural child would be a member of the class or issue of the adopted person, if (a) the instrument does not expressly exclude adopted persons, (b) the conditions for membership in the class are otherwise satisfied, and (c) the adopted person was a minor at the time of adoption, or was adopted after having been raised as a member of the household by the adoptive parent from the child's 15th birthday or before. Unless the instrument expressly provides otherwise such a gift excludes a natural child and his issue otherwise within the class if the child has been adopted and would cease to be a child of his natural parents under sub. (2) for purposes of inheritance from the testator. This subsection applies to all wills, deeds, trusts or other instruments executed on or after ~~July~~ April 1, ~~1970~~ 1971.

SECTION 3. 853.13 (2) of the statutes, as created by chapter 339, laws of 1969, is amended to read:

853.13 (2) This section applies to a joint will (except if one of the testators has died prior to ~~July~~ April 1, ~~1970~~ 1971) as well as to any other will; there is no presumption that the testators of a joint will have contracted not to revoke it.

SECTION 4. 861.03 of the statutes, as created by chapter 339, laws of 1969, is amended to read:

861.03 The surviving spouse, whether widow or widower, of any decedent dying after ~~June 30~~ *March 31, 1970* 1971, has dower in any property which the decedent owned at his death. Dower consists of the right to elect a share as provided in this chapter. For dower purposes, decedent is deemed to own property at his death if he has an interest which he can transmit by will and which would pass under the intestate succession laws if he leaves no will, whether the interest is legal or equitable. The inchoate dower right of the wife of any husband dying after ~~June 30~~ *March 31, 1970* 1971, is abolished, and the curtesy right of the husband of any wife dying after that date is replaced by dower as herein provided.

SECTION 5. 861.17 (2) of the statutes, as created by chapter 339, laws of 1969, is amended to read:

861.17 (2) An arrangement made before marriage or within one year after marriage, or prior to ~~July~~ *April 1, 1970* 1971, to provide for issue by a prior marriage is not a fraudulent property arrangement within the meaning of this section.

SECTION 6. SECTION 28 of chapter 339, laws of 1969, is amended to read:

SECTION 28 (chapter 339, laws of 1969). SECTIONS 1 to 14, 17 to 25 and 27 become effective as of ~~July 1, 1970~~ *April 1, 1971*. SECTIONS 15 and 16 become effective upon passage and publication of this act. SECTION 26 becomes effective according to section 851.001 of the statutes.

SECTION 7. Section 867.02 of the statutes, created by chapter 339, laws of 1969, becomes effective on January 1, 1971.

Approved February 3, 1970.

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