

## 2001 ASSEMBLY BILL 123

February 14, 2001 – Introduced by Representatives STASKUNAS, DUFF, SHERMAN, LA FAVE, MONTGOMERY, HUEBSCH, RICHARDS, CULLEN, POWERS, J. LEHMAN, RYBA, HUNDERTMARK, JESKEWITZ, ALBERS, GUNDERSON, VRAKAS, TOWNSEND, BERCEAU, KREUSER and McCORMICK, cosponsored by Senators BURKE, FARROW and HUELSMAN. Referred to Committee on Judiciary.

1     **AN ACT to repeal** 865.08 (1) (a) 1., 2. and 3.; and **to renumber and amend** 865.08  
2           (1) (intro.) and 865.08 (1) (a) (intro.) of the statutes; **relating to:** who may be  
3           appointed personal representative in informal administration.

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### ***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, 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, a beneficiary under the will if there is a will, or an heir if there is no will.

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***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:

3           865.08 (1) (ac) Upon receipt of an application and making the determinations  
4 required by s. 865.07, the probate registrar may enter a statement of informal  
5 administration, admit a will to informal probate, and may appoint the personal  
6 representative nominated by the will or requested by the interested parties, subject  
7 to qualification and acceptance.

8           **SECTION 2.** 865.08 (1) (a) (intro.) of the statutes is renumbered 865.08 (1) (am)  
9 (intro.) and amended to read:

10           865.08 (1) (am) (intro.) ~~Where~~ If no personal representative is named or ~~where~~  
11 if the named personal representative fails to qualify, the personal representative  
12 shall be ~~either a~~ any of the following:

13           1. A bank or trust company that is entitled to exercise fiduciary powers in this  
14 state ~~which and that~~ has the consent of all interested persons, other than creditors  
15 of the deceased, ~~or a~~

16           2. A natural person who has the consent of all interested parties, other than  
17 creditors of the deceased, and is: who is not disqualified under s. 856.23.

18           **SECTION 3.** 865.08 (1) (a) 1., 2. and 3. of the statutes are repealed.

19           **SECTION 4. Initial applicability.**

