

1993 Assembly Bill 600

Date of enactment: **March 17, 1994**
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1993 WISCONSIN ACT 160

AN ACT *to repeal* 701.20 (13); *to renumber* 701.20 (12) (a) 1 and 701.20 (12) (d) 1; *to amend* 701.10 (2) (c), 701.19 (4) (title), 766.31 (3), 766.58 (7) (a), 766.588 (1) (b) 1 and 814.66 (1) (a) 3; *to repeal and recreate* 766.62 (5); and *to create* 701.19 (4m), 701.20 (12) (dm) (intro.) and 814.66 (1) (a) 2m of the statutes, **relating to:** termination of trusts, calculation of probate filing fees, apportionment of trustees' fees, retention of business by trustees and marital property interest in individual retirement accounts.

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

SECTION 1. 701.10 (2) (c) of the statutes is amended to read:

701.10 (2) (c) If a charitable trust is or becomes uneconomic when principal and probable income, cost of administration and other relevant factors are considered, or in any event if the trust property is valued at less than \$5,000 ~~\$50,000~~, the court may terminate the trust and order outright distribution to an established charitable entity in the general field of charity within which the charitable purpose falls.

SECTION 3. 701.19 (4) (title) of the statutes is amended to read:

701.19 (4) (title) CONTINUATION OF BUSINESS BY COURT ORDER.

SECTION 4. 701.19 (4m) of the statutes is created to read:

701.19 (4m) CONTINUATION OF BUSINESS BY DIRECTION OF SETTLOR. If the settlor directs retention of a business that is among the trust's assets in the trust document or by other written means, a trustee may retain that business during the settlor's lifetime without liability.

SECTION 5. 701.20 (12) (a) 1. of the statutes is renumbered 701.20 (12) (dm) 1.

SECTION 6. 701.20 (12) (d) 1. of the statutes is renumbered 701.20 (12) (dm) 2.

SECTION 7. 701.20 (12) (dm) (intro.) of the statutes is created to read:

701.20 (12) (dm) (intro.) The following charges shall be made in equal portions against income and principal:

SECTION 8. 701.20 (13) of the statutes is repealed.

SECTION 8m. 766.31 (3) of the statutes is amended to read:

766.31 (3) Each spouse has a present undivided one-half interest in each item of marital property, but the marital property interest of the nonemploye spouse in a deferred employment benefit plan or in assets in an individual retirement account that are traceable to the rollover of a deferred employment benefit plan terminates at the death of the nonemploye spouse if he or she predeceases the employe spouse.

SECTION 9. 766.58 (7) (a) of the statutes is amended to read:

766.58 (7) (a) Unless the marital property agreement expressly provides otherwise, a marital property agreement that classifies a deferred employment benefit plan or an individual retirement account as marital property does not affect the operation of s. 766.62 (5).

SECTION 9m. 766.588 (1) (b) 1. of the statutes is amended to read:

766.588 (1) (b) 1. The marital property interest of the nonemploye spouse in a deferred employment benefit plan or in assets in an individual retirement account that are traceable to the rollover of a deferred employment

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benefit plan terminates at the death of the nonemploye spouse if he or she predeceases the employe spouse; and

SECTION 10. 766.62 (5) of the statutes is repealed and recreated to read:

766.62 (5) If the nonemploye spouse predeceases the employe spouse, the marital property interest of the nonemploye spouse in all of the following terminates at the death of the nonemploye spouse:

(a) A deferred employment benefit plan.

(b) Assets in an individual retirement account that are traceable to the rollover of a deferred employment benefit plan.

SECTION 11. 814.66 (1) (a) 2m of the statutes is created to read:

814.66 (1) (a) 2m. In determining the value of the gross estate or the value of the property under subd. 2, the value of property that passes under a revocable inter vivos trust is excluded.

SECTION 12. 814.66 (1) (a) 3. of the statutes is amended to read:

814.66 (1) (a) 3. The fees shall be paid at the time of the filing of the inventory or other documents setting forth the ~~value of the estate~~ net value of the property subject to administration in the proceedings, and shall apply to inventories filed in testamentary trusts ~~and to the proceeds passing by virtue of revocable inter vivos trusts.~~ The fees fixed in this paragraph shall also be paid in survivorship proceedings, and in the survivorship proceedings the value shall be based on the value of the property passing to the survivors.

SECTION 13. Effective dates. This act takes effect on the day after publication, except as follows:

(1) CHARGES AGAINST TRUSTS. The treatment of sections 701.20 (12) (a) 1., (d) 1. and (dm) (intro.) and (13) of the statutes takes effect on the January 1 after publication.