

1993 Assembly Bill 713

Date of enactment: April 14, 1994
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1993 WISCONSIN ACT 304

AN ACT to amend 853.52 (3) (b) 3; and to repeal and recreate 853.56 (Article 2) 2.3 and 853.59 of the statutes, relating to: the Wisconsin basic will with trust.

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

853.52 (3) (b) 3. The property disposition clause under s. 853.59 ~~adopted by the testator.~~

SECTION 1. 853.52 (3) (b) 3. of the statutes is amended to read:

SECTION 2. 853.56 (Article 2) 2.3 of the statutes is repealed and recreated to read:

853.56 (Article 2) 2.3 ALL OTHER ASSETS (MY "RESIDUARY ESTATE"). I adopt only one Property Disposition Clause in this paragraph by writing my signature on the line next to the title of the Property Disposition Clause I wish to adopt. I SIGN ON ONLY ONE LINE. I WRITE THE WORDS "NOT USED" ON THE REMAINING LINES. If I sign on more than one line or if I fail to sign on any line, the property will be distributed as if I did not make a will in accordance with Chapter 852 of the Wisconsin Statutes.

IF YOU HAVE A SUBSTANTIAL ESTATE, CHOOSING CLAUSE (a) OR (b) MIGHT NOT BE THE MOST ADVANTAGEOUS TAX OPTION AVAILABLE TO YOU. If you have questions concerning the tax implications of these clauses, you should consult a competent tax adviser.

PROPERTY DISPOSITION CLAUSES (Select one.)

(a) TO MY SPOUSE IF LIVING;

IF NOT LIVING, THEN IN ONE TRUST TO PROVIDE FOR THE SUPPORT AND EDUCATION OF MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD BY RIGHT OF REPRESENTATION UNTIL I HAVE NO LIVING CHILD UNDER 21 YEARS OF AGE.

(b) TO MY SPOUSE IF LIVING;

IF NOT LIVING, THEN IN ONE TRUST TO PROVIDE FOR THE SUPPORT AND EDUCATION OF MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD BY RIGHT OF

REPRESENTATION UNTIL I
HAVE NO LIVING CHILD
UNDER YEARS OF AGE.
(IF YOU DO NOT WANT 21
YEARS OF AGE TO APPLY,
PRINT A DIFFERENT AGE,
18 OR ABOVE, IN CLAUSE
(b) AND SIGN ON THE
LINE BESIDE THAT
CLAUSE.)

SECTION 3. 853.59 of the statutes is repealed and rec-reated to read:

853.59 Residuary estate; basic will with trust. The following is the full text of the property disposition clause referred to in paragraph 2.3 of the Wisconsin basic will with trust, except that if a different age is specified by the testator in the Wisconsin basic will with trust, that specified age is substituted for 21 years in this section:

TO MY SPOUSE IF LIVING; IF NOT LIVING,
THEN IN ONE TRUST TO PROVIDE FOR THE SUP-
PORT AND EDUCATION OF MY CHILDREN AND
THE DESCENDANTS OF ANY DECEASED CHILD
BY RIGHT OF REPRESENTATION UNTIL I HAVE
NO LIVING CHILD UNDER 21 YEARS OF AGE.

(1) If my spouse survives me, then I give all my resid-uary estate to my spouse.

(2) If my spouse does not survive me and if any child of mine under 21 years of age survives me, then I give all my residuary estate to the trustee, in trust, on the follow-ing terms:

(A) As long as any child of mine under 21 years of age is living, the trustee shall distribute from time to time to or for the benefit of any one or more of my children and the descendants of any deceased child (the beneficiaries) by right of representation of any age as much, or all, of the principal or net income of the trust or both, as the trustee deems necessary for their health, support, mainte-nance and education of my descendants. Any undistrib-uted income shall be accumulated and added to the prin-cipal. "Education" includes, but is not limited to, college, vocational and other studies after high school, and rea-sonably related living expenses. Consistent with the trustee's fiduciary duties, the trustee may distribute trust

income or principal in equal or unequal shares and to any one or more of the beneficiaries to the exclusion of other beneficiaries. In deciding on distributions, the trustee may take into account the beneficiaries' other income, outside resources or sources of support, including the capacity for gainful employment of a beneficiary who has completed his or her education.

(B) The trust shall terminate when there is no living child of mine under 21 years of age. The trustee shall dis-tribute any remaining principal and accumulated net income of the trust to my descendants by right of repre-sentation who are then living. If principal becomes dis-tributable to a person under legal disability, the trustee may postpone the distribution until the disability is removed. In that case, the assets shall be administered as a separate trust under this Wisconsin basic will with trust and the net income and principal shall be applied for the benefit of the beneficiary at such times and in such amounts as the trustee considers appropriate. If the bene-ficiary dies before the removal of the disability, the remaining assets shall be distributed to his or her estate.

(3) If my spouse does not survive me and if no child of mine under 21 years of age survives me, then I give all my residuary estate to my descendants by right of repre-sentation who survive me. If my spouse and descendants do not survive me, the personal representative shall dis-tribute my residuary estate to my heirs at law, their identi-ties and respective shares to be determined according to the laws of the State of Wisconsin in effect on the date of my death.

SECTION 4. Effective date. This act takes effect on the first day of the 4th month beginning after publication.