

1987 Assembly Bill 737

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## 1987 Wisconsin Act 222

AN ACT to renumber and amend 895.43; to amend 632.485, 700.17 (2) (b), 852.01 (2m) (a), 852.01 (2m) (b), 853.11 (3m), 861.13 (2) and 895.435; and to create 48.35 (1) (b) 4, 632.485 (1m), 852.01 (2m) (bg), 853.11 (3m) (am) and 895.43 (2) of the statutes, relating to receipt of property by an individual from a person killed by that individual.

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

SECTION 1. 48.35 (1) (b) 4 of the statutes is created to read:

48.35 (1) (b) 4. The fact that a child has been adjudged delinquent on the basis of unlawfully and intentionally killing a person is admissible for the purpose of s. 852.01 (2m) (bg).

SECTION 2. 632.485 of the statutes is amended to read:

**632.485 Requirement that beneficiary not have intentionally killed the insured.** (1) Except as provided in sub. (1m), a beneficiary of a life insurance policy who intentionally and feloniously unlawfully kills the person on whose life the policy is issued may not receive any benefit under the policy. The policy is payable as if the killer had predeceased the decedent.

(2) Section 852.01 (2m) (b) ~~and~~ to (c) applies to this section.

SECTION 2m. 632.485 (1m) of the statutes is created to read:

632.485 (1m) A policyholder may provide in a life insurance policy issued on the policyholder's life, by a specific provision which includes reference to sub. (1), that sub. (1) does not apply with respect to a beneficiary of the policy.

SECTION 3. 700.17 (2) (b) of the statutes is amended to read:

700.17 (2) (b) 1. If a joint tenant ~~feloniously unlawfully~~ and intentionally kills another joint tenant of the same property, the joint tenancy is severed so that the interest of the decedent passes as the decedent's property and the killer has no right of survivorship as to that property.

2. Section 852.01 (2m) (b) ~~and~~ to (c) applies to this paragraph.

SECTION 3m. 852.01 (2m) (a) of the statutes is amended to read:

852.01 (2m) (a) If any person who would otherwise be an heir under sub. (1) has ~~feloniously unlawfully~~

and intentionally killed the decedent, the net estate not disposed of by will passes as if the killer had predeceased the decedent.

SECTION 4. 852.01 (2m) (b) of the statutes is amended to read:

852.01 (2m) (b) A final judgment of conviction of ~~felonious unlawful~~ and intentional killing is conclusive for purposes of this subsection.

(~~br~~) In the absence of ~~such~~ a conviction under par. (b) or an adjudication under par. (bg), the court, on the basis of clear and convincing evidence, may determine whether the killing was ~~felonious unlawful~~ and intentional for purposes of this subsection.

SECTION 5. 852.01 (2m) (bg) of the statutes is created to read:

852.01 (2m) (bg) A final adjudication of delinquency on the basis of unlawfully and intentionally killing the decedent is conclusive for purposes of this subsection.

SECTION 6. 853.11 (3m) of the statutes is amended to read:

853.11 (3m) INTENTIONAL KILLING OF DECEDENT BY BENEFICIARY. (a) If Except as provided under par. (am), if any beneficiary under a will has feloniously unlawfully and intentionally killed the decedent, the property that the killer would have taken passes as if the killer had predeceased the decedent unless a court decides that, under the factual situation created by the killing, the decedent's wishes would best be carried out by means of another disposition of the decedent's property.

(b) Section 852.01 (2m) (b) ~~and~~ to (c) applies to this subsection.

SECTION 6m. 853.11 (3m) (am) of the statutes is created to read:

853.11 (3m) (am) A testator may provide in the will, by a specific provision which includes reference to par. (a), that par. (a) does not apply with respect to a beneficiary of the will.

SECTION 7. 861.13 (2) of the statutes is amended to read:

861.13 (2) A surviving spouse who ~~feloniously~~ unlawfully and intentionally killed the decedent spouse may not elect under s. 861.02 or 861.03. Section 852.01 (2m) (b) ~~and~~ to (c) applies to this subsection.

SECTION 8. 895.43 of the statutes is renumbered 895.43 (1) and amended to read:

895.43 (1) A Except as provided under sub. (2), a named beneficiary of a contractual arrangement who ~~feloniously~~ unlawfully and intentionally kills the principal obligee may not receive any benefit under the contractual arrangement. The benefit is payable as though the beneficiary had predeceased the decedent. Section 852.01 (2m) (b) ~~and~~ to (c) applies to this ~~section~~ subsection.

SECTION 8m. 895.43 (2) of the statutes is created to read:

895.43 (2) The principal obligee of a contractual arrangement may provide in the contract, by a specific

provision which includes reference to sub. (1), that sub. (1) does not apply with respect to a beneficiary of the contractual arrangement.

SECTION 9. 895.435 of the statutes is amended to read:

**895.435 Intentional killing by beneficiary of certain death benefits.** (1) A beneficiary who ~~feloniously~~ unlawfully and intentionally kills an individual may not receive any benefit payable by reason of the death of that individual. The benefit is payable as though the beneficiary had predeceased the decedent.

(2) Section 852.01 (2m) (b) ~~and~~ to (c) applies to this section.

SECTION 10. **Initial applicability.** This act first applies to property transferred because of deaths occurring on the effective date of this SECTION.