

SENATE BILL NO. 1690

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (15).

6868S.011

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 474, RSMo, by adding thereto one new section relating to the effect of homicide on benefits received from a decedent.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 474, RSMo, is amended by adding thereto
2 one new section, to be known as section 474.145, to read as
3 follows:

**474.145. 1. As used in this section, the following
2 terms mean:**

3 (1) "Disposition or appointment of property", includes
4 a transfer of an item of property or any other benefit to a
5 beneficiary designated in a governing instrument;

6 (2) "Governing instrument", a governing instrument
7 executed by the decedent;

8 (3) "Revocable", with respect to a disposition,
9 appointment, provision, or nomination, one under which the
10 decedent, at the time of or immediately before death, was
11 alone empowered, by law or under the governing instrument,
12 to cancel the designation in favor of the killer, whether or
13 not the decedent was then empowered to designate the
14 decedent in place of the killer and whether or not the
15 decedent then had capacity to exercise the power.

16 2. An individual who feloniously and intentionally
17 kills the decedent forfeits all benefits with respect to the

18 decedent's estate, including an intestate share, an elective
19 share, an omitted spouse's or child's share, a homestead
20 allowance, exempt property, and a family allowance. If the
21 decedent died intestate, the decedent's intestate estate
22 passes as if the killer disclaimed the intestate share.

23 3. The felonious and intentional killing of the
24 decedent:

25 (1) Revokes any revocable:

26 (a) Disposition or appointment of property made by the
27 decedent to the killer in a governing instrument;

28 (b) Provision in a governing instrument conferring a
29 general or nongeneral power of appointment on the killer; and

30 (c) Nomination of the killer in a governing
31 instrument, nominating or appointing the killer to serve in
32 any fiduciary or representative capacity, including a
33 personal representative, executor, trustee, or agent; and

34 (2) Severs the interests of the decedent and killer in
35 property held by them at the time of the killing as joint
36 tenants with the right of survivorship, transforming the
37 interests of the decedent and killer into equal tenancies in
38 common.

39 4. A severance under subdivision (2) of subsection 3
40 of this section does not affect any third-party interest in
41 property acquired for value and in good faith reliance on an
42 apparent title by survivorship in the killer unless a
43 writing declaring the severance has been noted, registered,
44 filed, or recorded in records appropriate to the kind and
45 location of the property which are relied upon, in the
46 ordinary course of transactions involving such property, as
47 evidence of ownership.

48 5. Provisions of a governing instrument are given
49 effect as if the killer disclaimed all provisions revoked by

50 this section or, in the case of a revoked nomination in a
51 fiduciary or representative capacity, as if the killer
52 predeceased the decedent.

53 6. A wrongful acquisition of property or interest by a
54 killer not covered by this section shall be treated in
55 accordance with the principle that a killer cannot profit
56 from the killer's wrong.

57 7. After all right to appeal has been exhausted, a
58 judgment of conviction establishing criminal accountability
59 for the felonious and intentional killing of the decedent
60 conclusively establishes the convicted individual as the
61 decedent's killer for purposes of this section. In the
62 absence of a conviction, the court, upon the petition of an
63 interested person, shall determine whether, under the
64 preponderance of evidence standard, the individual would be
65 found criminally accountable for the felonious and
66 intentional killing of the decedent. If the court
67 determines that, under that standard, the individual would
68 be found criminally accountable for the felonious and
69 intentional killing of the decedent, the determination
70 conclusively establishes that individual as the decedent's
71 killer for purposes of this section.

72 8. (1) A payor or other third-party is not liable for
73 having made a payment or transferred an item of property or
74 any other benefit to a beneficiary designated in a governing
75 instrument affected by an intentional and felonious killing,
76 or for having taken any other action in good faith reliance
77 on the validity of the governing instrument, upon request
78 and satisfactory proof of the decedent's death, before the
79 payor or other third-party received written notice of a
80 claimed forfeiture or revocation under this section. A
81 payor or other third-party is liable for a payment made or

82 other action taken after the payor or other third-party
83 received written notice of a claimed forfeiture or
84 revocation under this section.

85 (2) Written notice of a claimed forfeiture or
86 revocation under subdivision (1) of this subsection shall be
87 mailed to the payor's or other third-party's main office or
88 home by registered or certified mail, return receipt
89 requested, or served upon the payor or other third-party in
90 the same manner as a summons in a civil action. Upon
91 receipt of written notice of a claimed forfeiture or
92 revocation under this section, a payor or other third-party
93 may pay any amount owed or transfer or deposit any item of
94 property held by it to or with the court having jurisdiction
95 of the probate proceedings relating to the decedent's
96 estate, or if no proceedings have been commenced, to or with
97 the court having jurisdiction of probate proceedings
98 relating to decedents' estates located in the county of the
99 decedent's residence. The court shall hold the funds or
100 item of property and, upon its determination under this
101 section, shall order disbursement in accordance with the
102 determination. Payments, transfers, or deposits made to or
103 with the court discharge the payor or other third-party from
104 all claims for the value of amounts paid to or items of
105 property transferred to or deposited with the court.

106 9. (1) A person who purchases property for value and
107 without notice, or who receives a payment or other item of
108 property in partial or full satisfaction of a legally
109 enforceable obligation, is neither obligated under this
110 section to return the payment, item of property, or benefit
111 nor is liable under this section for the amount of the
112 payment or the value of the item of property or benefit.
113 But a person who, not for value, receives a payment, item of

114 property, or any other benefit to which the person is not
115 entitled under this section is obligated to return the
116 payment, item of property, or benefit, or is personally
117 liable for the amount of the payment or the value of the
118 item of property or benefit, to the person who is entitled
119 to it under this section.

120 (2) If this section or any part of this section is
121 preempted by federal law with respect to a payment, an item
122 of property, or any other benefit covered by this section, a
123 person who, not for value, receives the payment, item of
124 property, or any other benefit to which the person is not
125 entitled under this section is obligated to return the
126 payment, item of property, or benefit, or is personally
127 liable for the amount of the payment or the value of the
128 item of property or benefit, to the person who would have
129 been entitled to it were this section or part of this
130 section not preempted.

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