

Conference Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 277

HOUSE BILL 2742

AN ACT

AMENDING SECTION 14-2803, ARIZONA REVISED STATUTES; RELATING TO INTESTATE SUCCESSION AND WILLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 14-2803, Arizona Revised Statutes, is amended to
3 read:

4 14-2803. Murder of decedent; effect; federal law; definitions

5 A. A person who feloniously and intentionally kills the decedent
6 forfeits all benefits under this chapter with respect to the decedent's
7 estate, including an intestate share, an elective share, an omitted spouse's
8 or child's share, a homestead allowance, exempt property and a family
9 allowance. If the decedent died intestate, the decedent's intestate estate
10 passes as if the killer disclaimed that person's intestate share.

11 B. The felonious and intentional killing of the decedent:

12 1. Revokes any revocable:

13 (a) Disposition or appointment of property made by the decedent to the
14 killer in a governing instrument.

15 (b) Provision in a governing instrument conferring a general or
16 nongeneral power of appointment on the killer.

17 (c) Nomination of the killer in a governing instrument, nominating or
18 appointing the killer to serve in any fiduciary or representative capacity,
19 including a personal representative, executor, trustee or agent.

20 2. Severs the interests of the decedent and killer in property held by
21 them at the time of the killing as joint tenants with the right of
22 survivorship or as community property with the right of survivorship,
23 transforming the interests of the decedent and killer into tenancies in
24 common.

25 C. A severance under subsection B, paragraph 2 does not affect any
26 third party interest in property acquired for value and in good faith
27 reliance on an apparent title by survivorship in the killer unless a writing
28 declaring the severance has been noted, registered, filed or recorded in
29 records appropriate to the kind and location of the property that is relied
30 on as evidence of ownership in the ordinary course of transactions involving
31 that property.

32 D. Provisions of a governing instrument are given effect as if the
33 killer disclaimed all provisions revoked by this section or, in the case of a
34 revoked nomination in a fiduciary or representative capacity, as if the
35 killer predeceased the decedent.

36 E. A wrongful acquisition of property or interest by a killer not
37 covered by this section shall be treated in accordance with the principle
38 that a killer cannot profit from that person's wrong.

39 F. After all right to appeal has been exhausted, a judgment of
40 conviction establishing criminal accountability for the felonious and
41 intentional killing of the decedent conclusively establishes the convicted
42 person as the decedent's killer for purposes of this section. In the absence
43 of a conviction, the court, on the petition of an interested person, shall
44 determine whether, under the preponderance of evidence standard, the person
45 would be found criminally accountable for the felonious and intentional

1 killing of the decedent. If the court determines under that standard that
2 the person would be found criminally accountable for the felonious and
3 intentional killing of the decedent, the determination conclusively
4 establishes that person as the decedent's killer for purposes of this
5 section.

6 G. A payor or other third party is not liable for having made a
7 payment or transferred an item of property or any other benefit to a
8 beneficiary designated in a governing instrument affected by an intentional
9 and felonious killing or for having taken any other action in good faith
10 reliance on the validity of the governing instrument on request and
11 satisfactory proof of the decedent's death and before the payor or other
12 third party received written notice of a claimed forfeiture or revocation
13 under this section. Any payor or other third party is liable for a payment
14 made or any other action taken after the payor or other third party received
15 written notice of a claimed forfeiture or revocation under this section.

16 H. Written notice of a claimed forfeiture or revocation under
17 subsection G OF THIS SECTION must be mailed to the payor's or other third
18 party's main office or home by certified mail, return receipt requested, or
19 served on the payor or other third party in the same manner as a summons in a
20 civil action. On receipt of written notice of a claimed forfeiture or
21 revocation under this section, a payor or any other third party may pay any
22 amount owed or transfer or deposit any item of property held by it to or with
23 the court having jurisdiction of the probate proceedings relating to the
24 decedent's estate, or if no proceedings have been commenced, to or with the
25 court having jurisdiction of probate proceedings relating to decedents'
26 estates located in the county of the decedent's residence. The court shall
27 hold the monies or item of property and, on its determination under this
28 section, shall order disbursement in accordance with the determination.
29 Payments, transfers or deposits made to or with the court discharge the payor
30 or other third party from all claims for the value of amounts paid to or
31 items of property transferred to or deposited with the court.

32 I. A person who purchases property for value and without notice or who
33 receives a payment or any other item of property in partial or full
34 satisfaction of a legally enforceable obligation is neither obligated under
35 this section to return the payment, item of property or benefit nor is liable
36 under this section for the amount of the payment or the value of the item of
37 property or benefit. However, a person who, not for value, receives a
38 payment, an item of property or any other benefit to which the person is not
39 entitled under this section is obligated to return the payment, item of
40 property or benefit, or is personally liable for the amount of the payment or
41 the value of the item of property or benefit, to the person who is entitled
42 to it under this section.

43 J. If this section or any part of this section is preempted by federal
44 law with respect to a payment, an item of property or any other benefit
45 covered by this section, a person who, not for value, receives the payment,

1 item of property or any other benefit to which the person is not entitled
2 under this section is obligated to return it to the person who would have
3 been entitled to it if this section or part of this section were not
4 preempted or is personally liable for the amount of the payment or the value
5 of the item of property or benefit.

6 K. THE DECEDENT'S ESTATE MAY PETITION THE COURT TO ESTABLISH A
7 CONSTRUCTIVE TRUST ON THE PROPERTY OR THE ESTATE OF THE KILLER, EFFECTIVE
8 FROM THE TIME OF THE KILLER'S ACT THAT CAUSED THE DEATH, IN ORDER TO SECURE
9 THE PAYMENT OF ALL DAMAGES AND JUDGMENTS FROM CONDUCT THAT, PURSUANT TO
10 SUBSECTION F OF THIS SECTION, RESULTED IN CRIMINAL CONVICTION OF EITHER
11 SPOUSE IN WHICH THE OTHER SPOUSE OR A CHILD WAS THE VICTIM.

12 ~~K~~ L. For the purposes of this section:

13 1. "Disposition or appointment of property" includes a transfer of an
14 item of property or any other benefit to a beneficiary designated in a
15 governing instrument.

16 2. "FELONIOUS AND INTENTIONAL" MEANS A CONVICTION OR A FINDING OF
17 GUILTY EXCEPT INSANE FOR A HOMICIDE PURSUANT TO SECTION 13-1103, 13-1104 OR
18 13-1105.

19 ~~2~~ 3. "Governing instrument" means a governing instrument executed by
20 the decedent.

21 ~~3~~ 4. "Revocable", with respect to a disposition, appointment,
22 provision or nomination, means one under which the decedent, at the time of
23 or immediately before death, was alone empowered, by law or under the
24 governing instrument, to cancel the designation in favor of the killer,
25 whether or not the decedent was then empowered to designate the decedent in
26 place of the decedent's killer or the decedent then had capacity to exercise
27 the power.

28 Sec. 2. Applicability

29 Section 14-2803, Arizona Revised Statutes, as amended by this act, also
30 applies to crimes committed before the effective date of this act.

APPROVED BY THE GOVERNOR APRIL 17, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2012.

Passed the House February 23, 20 12

Passed the Senate March 20, 20 12

by the following vote: 56 Ayes,

by the following vote: 29 Ayes,

0 Nays, 3 Not Voting
1 vacant

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2742

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 4, 2012

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting



Speaker of the House



Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 10, 2012

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

11th day of April, 2012

at 9:48 o'clock A M.



Secretary to the Governor

Approved this 17th day of



at 11:13 o'clock P. M.



Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 17th day of April, 2012

at 3:36 o'clock P. M.



Secretary of State