

H.11

An act relating to the disposition of property upon death, transfer of interest in vehicle upon death, and homestead exemption

The Senate proposes to the House to amend the bill as follows:

First: By adding a new Sec. 1a to read as follows:

Sec. 1a. 4 V.S.A. § 278 is added to read:

§ 278. AUTHORIZATION OF ASSISTANT JUDGES TO RUN FOR THE
OFFICE OF PROBATE JUDGE

(a) Notwithstanding any provision of law to the contrary, an assistant judge or a candidate for the office of assistant judge may also seek election to the office of probate judge, and if elected to both offices, may serve both as an assistant judge and as probate judge.

(b) In the event a probate matter arises in the superior court over which an assistant judge is also the probate judge that presides, or has presided, over the same or related probate matter in the probate court, the assistant judge shall be disqualified from hearing and deciding the probate matter in the superior court.

(c) In the event a probate matter arises in the probate court over which a probate judge is also an assistant judge that presides, or has presided, over the same or related probate matter in the superior court, the probate judge shall be disqualified from hearing and deciding the probate matter in the probate court.

Second: In Sec. 2, 14 V.S.A. § 314, in subdivision (b)(2), by striking out the word “or” and inserting in lieu thereof the word and

Third: In Sec. 2, 14 V.S.A. § 322, by striking out § 322 in its entirety and inserting in lieu thereof a new § 322 to read as follows:

§ 322. UNLAWFUL KILLING AFFECTING INHERITANCE

(a) Notwithstanding sections 311 through 314 of this title or provisions otherwise made, in any case in which an individual is entitled to inherit or receive property under the last will of a decedent or otherwise or stands to benefit under the terms of any trust of a decedent, the individual’s share in the decedent’s estate or benefits from any trust shall be forfeited and shall pass to the remaining heirs or beneficiaries of the decedent if the individual intentionally and unlawfully kills the decedent or intentionally and unlawfully kills another person and, by doing so, stands to inherit under the decedent’s will or otherwise or to become a beneficiary under any trust of the decedent. In any proceedings to contest the right of an individual to inherit or receive property under a will or otherwise or to benefit under the terms of any trust, the record of that individual’s conviction of intentionally and unlawfully killing the decedent or other person shall be admissible evidence for purposes of this section.

(b) This section shall apply retroactively to any individual who stands to inherit or receive property under a will or otherwise or benefit under the terms

of any trust as the result of committing an intentional and unlawful killing prior to or after the effective date of this section.

Fourth: In Sec. 2, 14 V.S.A. § 336, by striking out the last sentence in its entirety and inserting in lieu thereof a new sentence to read: Before an order is made for the payment or distribution of any money or estate as authorized in this section, notice shall be given as provided by the Vermont Rules of Probate Procedure.

Fifth: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. EFFECTIVE DATE

(a) Secs. 1, 1a, 2, 4, and 6 of this act shall take effect upon passage. Sec. 2 of this act shall apply only to the estates of persons dying on or after the effective date of Sec. 2 of this act.

(b) Secs. 3 and 5 of this act shall take effect July 1, 2009.

Sixth: By adding a new Sec. 7 to read as follows:

Sec. 7. 27 V.S.A. § 1270 is amended to read:

§ 1270. DECEASED OWNERS; MULTIPLE CLAIMANTS

(a) If the treasurer holds unclaimed property in the name of a deceased owner, the treasurer may deliver the property as follows:

(1) In the case of an open estate, to the administrator or executor.

(2) In the case of a closed estate and the unclaimed property is valued at less than ~~\$2,500.00~~ \$5,000.00, in accordance with the probate court decree of distribution.

(3) In the absence of an open estate or probate court decree of distribution, and the unclaimed property is valued at less than ~~\$2,500.00~~ \$5,000.00 to the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin according to section 551 of Title 14.

(4) In all other cases where the treasurer holds property in the name of a deceased owner, a probate estate shall be opened by the claimant, or other interested party, in order to determine the appropriate distribution of the unclaimed property. Where an estate is opened solely to distribute unclaimed property under this section, the probate court may waive any filing fees.

(b) If the treasurer holds unclaimed property valued at ~~\$100.00~~ \$250.00 or less which more than one person owns, the treasurer may deliver the property as follows:

(1) If the property has been listed on the treasurer's website for less than one year, a proportionate share to each of the persons who owns the property and who files a claim.

(2) If the property has been listed on the treasurer's website for a year or more, to the first person who files a claim and who owns at least a share of the property.

Seventh: By adding a new Sec. 8 to read as follows:

Sec. 8. REPEAL

Sec. 2a of No. 161 of the Acts of the 2005 Adj. Sess. (2006) is repealed.