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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

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DIGEST

SB 126 Original

2021 Regular Session

Mizell

Present law provides that an heir or legatee to a succession may be declared an unworthy successor of a succession if he is convicted of a crime involving the intentional killing, or attempted killing, of the deceased victim, or is judicially determined to have participated in the intentional, unjustified killing, or attempted killing, of the deceased victim.

Proposed law provides that it is against the public policy of the state for an heir or legatee who is declared an unworthy successor to benefit from the succession of his deceased victim either directly or indirectly through his heirs or legatees.

Present law provides that a petition to declare an heir or legatee an unworthy successor must be brought as part of the succession case and may only be brought by a person who would replace the unworthy successor in the line of succession.

Present law provides that an action for wrongful death may be brought regardless of the fact that a criminal trial has not issued a final conviction in a criminal case against the same defendant, with the civil and criminal cases each having different requirements as to the burdens of proof.

Proposed law retains present law and provides that in an action to declare a successor unworthy, the court may proceed with a judicial determination and declaration that a successor is unworthy whether or not a criminal trial of the successor is pending at the time of action.

Present law provides that, if the deceased victim died without a last will and testament and a successor is declared unworthy, then his succession rights will be treated in a manner as if he had predeceased the deceased victim. If the deceased victim died with a last will and testament, then the succession rights are controlled by the provisions of the last will and testament as if the unworthy successor had predeceased the testator. Present law further provides that, when the succession rights are bestowed upon a child of the unworthy successor, then the child's parents cannot claim a legal usufruct upon the property inherited by their child.

Proposed law retains present law as it relates to an unworthy successor who murders his father, grandfather, or family member other than his wife and child. Proposed law retains present law which provides that the unworthy successor's child inherits from the child's grandfather or great-grandfather or other relative of his father as is provided under present law if the decedent dies without a last will and testament.

Proposed law creates an exception that if the successor is declared unworthy pursuant to present law and the deceased victim was the spouse or the child of the unworthy successor then the unworthy successor's succession rights are not transferred to any of his relatives and are treated as if it had

never existed; thereby, putting the deceased victim's children and relatives by blood or adoption next in line to inherit from the deceased victim's succession, unless a last will and testament exists.

Present law relative to life insurance policies provides that proceeds are normally paid directly to the beneficiaries that the insured designated under the policy and are not normally part of the beneficiary's succession, unless the insured names the succession as the beneficiary under the policy.

Present law provides that no beneficiary, assignee, or other payee under any personal or life insurance policy will receive any benefits from the insurance policy if he is found criminally responsible for the death, disablement, or injury of the individual insured or participated in the intentional, unjustified killing of the individual insured. Present law further provides that where such a disqualification exists, the policy proceeds shall be payable as follows:

- (1) When two or more beneficiaries exist who are each entitled to receive a percentage of the proceeds of the personal or life insurance policy, then the other secondary beneficiaries, unless similarly disqualified, will divide the portion of the life insurance proceeds that would have otherwise been paid to the person who was disqualified because of the criminal act.
- (2) If no second beneficiary exists, then the personal or life insurance policy proceeds would be paid to the contingent beneficiary.
- (3) If no secondary or contingent beneficiary exists, then the personal or life insurance policy proceeds are to be paid to the succession of the insured victim.

Proposed law retains present law and provides that beginning on January 1, 2022, upon the issuance or renewal of a life insurance policy, the policy shall contain a provision that provides that an insured under the policy shall be deemed to have predeceased the beneficiary, assignee, or other payee if all of the following occur:

- (1) The insured is determined to have been criminally responsible for the death of the beneficiary, assignee, or other payee under the policy.
- (2) The beneficiary, assignee, or other payee is the spouse or child of the insured or was a victim who obtained an order of protection against domestic abuse and that order was violated pursuant to present law by the insured who criminally caused the death of the beneficiary, assignee, or other payee.
- (3) The insured is determined to have been responsible for his own death by suicide on the same day after criminally causing the death of the beneficiary, assignee, or other payee.
- (4) The policy is payable under the terms of the contract regardless of the cause of death of the insured.

Proposed law provides that the proceeds or portion of the proceeds of the life insurance policy which are deemed owed to the beneficiary, assignee, or other payee shall be paid into the succession of the

beneficiary, assignee, or other payee in the same manner as if their death had occurred after the insured's death.

Proposed law provides that nothing in proposed law is intended to alter the terms of the life insurance policy or any coverage exclusion for certain causes of death.

Proposed law provides that the Act shall be known and may be cited as "Melissa's Law" in memory of Melissa Gail Roy who lost her life and the lives of her children in the ultimate acts of domestic violence.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends C.C. Arts. 941, 944, and 946, and R.S. 22:901(D)(2); adds C.E. Art. 412.6 and R.S. 22:902.1)