

2021 Regular Session

SENATE BILL NO. 126

BY SENATORS MIZELL AND PEACOCK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SUCCESSIONS. Prohibits an unworthy successor from directly or indirectly benefiting from the death of his spouse or his child. (gov sig)

AN ACT

To amend and reenact Civil Code Arts. 941, 944, and 946 and R.S. 22:901(D)(2), and to enact Code of Evidence Art. 412.6 and R.S. 22:902.1, relative to the devolution of assets of certain crime victims; to provide for public policy; to provide relative to actions to declare a successor unworthy; to provide relative to testimony and evidence in succession proceedings; to provide for devolution of the succession rights; to provide relative to life insurance policies and certain victims of domestic violence resulting in death; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Arts. 941, 944, and 946 are hereby amended and reenacted to read as follows:

Art. 941. Declaration of unworthiness; public policy

A. It is against the public policy of the state of Louisiana for a successor who is declared unworthy to benefit from the succession of his victim, either directly or indirectly through his heirs or legatees.

B. A successor shall be declared unworthy if he is convicted of a crime involving the intentional killing, or attempted killing, of the decedent or is judicially

1 determined to have participated in the intentional, unjustified killing, or attempted
 2 killing, of the decedent. An action to declare a successor unworthy shall be brought
 3 in the succession proceedings of the decedent.

4 C. An executive pardon or pardon by operation of law does not affect the
 5 unworthiness of a successor.

6 * * *

7 Art. 944. Prescription; **actions and determinations**

8 A. An action to declare a successor unworthy is subject to a liberative
 9 prescription of five years from the death of the decedent as to intestate successors
 10 and five years from the probate of the will as to testate successors.

11 **B. The court in the action may proceed with a judicial determination and**
 12 **declaration that a successor is unworthy whether or not a criminal trial of the**
 13 **successor is pending at the time of the action.**

14 * * *

15 Art. 946. Devolution of succession rights of successor declared unworthy

16 A. If **Except as provided in Subsection B of this Section, if** the decedent
 17 died intestate, when a successor is declared unworthy his succession rights devolve
 18 as if he had predeceased the decedent but if the decedent died testate, then the
 19 succession rights devolve in accordance with the provisions for testamentary
 20 accretion as if the unworthy successor had predeceased the testator.

21 **B. Notwithstanding any provision of law to the contrary, if the successor**
 22 **is declared unworthy and the decedent was the spouse or child of the unworthy**
 23 **successor, the unworthy successor's succession rights shall not devolve and the**
 24 **unworthy successor's rights shall be treated as if the provisions of Article 939**
 25 **were to apply.**

26 ~~B.C.~~ When the succession rights devolve upon a child of the successor who
 27 is declared unworthy, the unworthy successor and the other parent of the child cannot
 28 claim a legal usufruct upon the property inherited by their child.

29 Section 2. Code of Evidence Art. 412.6 is hereby enacted to read as follows:

Art. 412.6. Proceedings to declare a successor unworthy; certain testimony inadmissible

In an action to declare a successor unworthy brought pursuant to Civil Code Art. 941, when it is alleged that the successor participated in acts on the same day resulting in multiple killings of persons including the decedent, no testimony or confession of the successor or his legatees or heirs shall be admissible to show the order of death of the decedent.

Section 3. R.S. 22:901(D)(2) is hereby amended and reenacted and R.S. 22:902.1 is hereby enacted to read as follows:

§901. Insurable interest required; personal insurance; intentional acts exclusion

* * *

D. * * *

(2) Where such a disqualification exists, the policy proceeds shall be payable to the secondary or contingent beneficiary, unless similarly disqualified, or, if no secondary or contingent beneficiary exists, to the ~~estate~~ **succession** of the insured. Nothing contained in this Section shall prohibit payment pursuant to an assignment of the policy proceeds where such payment defrays the cost and expenses of the insured's funeral or expense incurred in connection with medical treatment of the insured. Nothing contained in this Section shall prohibit payment of insurance proceeds pursuant to a facility of payment clause, so long as such payment is not made to a beneficiary, assignee, or other payee disqualified by this Section.

* * *

§902.1. Life insurance beneficiaries; victims of domestic violence

A. Beginning on January 1, 2022, and thereafter, upon the issuance or renewal of a life insurance policy, the policy shall contain a provision 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) A court of competent jurisdiction finds that the insured is criminally responsible for the death of a beneficiary, assignee, or other payee.

1 **(2) The beneficiary, assignee, or other payee is the insured's spouse or**
 2 **child or was a victim of a domestic violence offence, as provided in Subpart C**
 3 **of Part IV of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950,**
 4 **committed by the insured and the insured criminally caused the death of the**
 5 **beneficiary, assignee, or other payee.**

6 **(3) The insured committed acts that led to his death by suicide on the**
 7 **same day as he committed criminal acts which led to the death of the**
 8 **beneficiary, assignee, or other payee.**

9 **(4) The policy is payable under the terms of the contract, regardless of**
 10 **the cause of death of the insured.**

11 **B. The proceeds or portion of the proceeds of the life insurance policy**
 12 **which are deemed owed to the beneficiary, assignee, or other payee pursuant to**
 13 **this Section shall be paid into the succession of the beneficiary, assignee, or**
 14 **other payee in the same manner as if the death of the beneficiary, assignee, or**
 15 **other payee had occurred after the insured's death.**

16 **C. Nothing in this Section is intended to alter the terms of the policy or**
 17 **any coverage exclusion related to certain causes of death of the insured.**

18 Section 4. This Act shall become effective upon signature by the governor or, if not
 19 signed by the governor, upon expiration of the time for bills to become law without signature
 20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 22 effective on the day following such approval.

23 Section 5. This Act shall be known and may be cited as "Melissa's Law" in memory
 24 of Melissa Gail Roy who lost her life and the lives of her children in the ultimate acts of
 25 domestic violence.

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

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)