

ACT 38

H.B. NO. 336

A Bill for an Act Relating to Probate.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The current probate code, section 560:2-803, Hawaii Revised Statutes, prohibits a beneficiary who feloniously and intentionally or knowingly kills a person in violation of sections 707-701 (murder) and 707-702(1)(b) (manslaughter) from inheriting any property of the decedent. Since the time this section was enacted, the crime of murder, formerly contained in section 707-701, has been expanded to include two degrees. The first degree remains defined under section 707-701, but the second degree is now defined under 707-701.5. This bill makes a technical amendment by specifically including the crime of second degree murder in the probate statute, so that the original intent of the legislature that murderers are not to profit by their victims' deaths is not unintentionally limited to a narrower range of homicide.

This bill makes an additional technical amendment by changing the violation from "707-701 and 707-702(1)(b)" to "707-701 or 707-702(1)(b)", to clarify that the killer should be prohibited from profiting by either murder or manslaughter and is not required to accomplish both.

SECTION 2. Section 560:2-803, Hawaii Revised Statutes, is amended by amending subsections (a), (b), (c) to read as follows:

"(a) A surviving spouse, heir or devisee who feloniously and intentionally or knowingly kills the decedent in violation of [sections] section 707-701 [and], 707-701.5, or 707-702(1)(b) is not entitled to any benefits under the will or under this Article, and the estate of decedent passes as if the killer had predeceased the decedent. Property appointed by the will of the decedent to or for the benefit of the killer passes as if the killer had predeceased the decedent.

(b) Any joint tenant who feloniously and intentionally or knowingly kills another joint tenant in violation of [sections] section 707-701 [and], 707-701.5, or 707-702(1)(b) thereby effects a severance of the interest of the decedent so that the share of the decedent passes as the decedent's property and the killer has no rights by survivorship. This provision applies to joint tenancies and tenancies by the entirety in real and personal property, joint accounts in banks, savings and loan associations, credit unions and other institutions, and any other form of coownership with survivorship incidents.

(c) A named beneficiary of a bond, life insurance policy, or other contractual arrangement who feloniously and intentionally or knowingly kills the principal

obligee or the person upon whose life the policy is issued in violation of [sections] section 707-701 [and], 707-701.5, or 707-702(1)(b) is not entitled to any benefit under the bond, policy or other contractual arrangement, and it becomes payable as though the killer had predeceased the decedent.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 24, 1989.)