

Effective 7/1/2026

75-2-803 Definitions -- Effect of homicide on intestate succession, wills, trusts, joint assets, life insurance, and beneficiary designations -- Petition -- Forfeiture -- Revocation.

(1) As used in this section:

- (a) "Conviction" means the same as that term is defined in Section 77-38b-102.
- (b) "Decedent" means a deceased individual.
- (c) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.
- (d)
 - (i) Except as provided in Subsection (1)(d)(ii), "disqualifying homicide" means any felony homicide offense described in Title 76, Chapter 5, Offenses Against the Individual, for which the elements are established by a preponderance of the evidence and by applying the same principles of culpability and defenses described in Title 76, Criminal Offenses.
 - (ii) "Disqualifying homicide" does not include an offense for:
 - (A) automobile homicide, as described in Section 76-5-207; and
 - (B) automobile homicide involving using a handheld wireless communication device while driving, as described in Section 76-5-207.5.
- (e) "Governing instrument" means a governing instrument executed by the decedent.
- (f) "Killer" means an individual who commits a disqualifying homicide.
- (g) "Revocable" means a disposition, appointment, provision, or nomination under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the killer regardless of whether at the time or immediately before death:
 - (i) the decedent was empowered to designate the decedent in place of the decedent's killer; or
 - (ii) the decedent had the capacity to exercise the power.

(2)

- (a) An individual who commits a disqualifying homicide of the decedent forfeits all benefits under this chapter with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance.
- (b) If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed the killer's intestate share.

(3) The killing of the decedent by means of a disqualifying homicide:

- (a) revokes any revocable:
 - (i) disposition or appointment of property made by the decedent to the killer in a governing instrument;
 - (ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the killer; and
 - (iii) nomination of the killer in a governing instrument, nominating or appointing the killer to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, or agent; and
- (b) severs the interests of the decedent and killer in property held by them at the time of the killing as joint tenants with the right of survivorship, transforming the interests of the decedent and killer into tenancies in common.

(4) A severance under Subsection (3)(b) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a writing declaring the severance has been noted, registered, filed, or recorded in

records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

- (5) Provisions of a governing instrument are given effect as if the killer disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer predeceased the decedent.
- (6) A wrongful acquisition of property or interest by one who kills another under circumstances not covered by this section shall be treated in accordance with the principle that a killer cannot profit from the killer's wrong.
- (7)
 - (a) An interested person may petition the court to determine whether an individual has committed a disqualifying homicide of the decedent.
 - (b) An individual has committed a disqualifying homicide of the decedent for purposes of this section if:
 - (i) unless the court finds that disinheritance would create a manifest injustice, the court finds that, by a preponderance of the evidence, the individual has committed a disqualifying homicide of the decedent; or
 - (ii) the court finds that a judgment of conviction has been entered against the individual for a disqualifying homicide of the decedent and all direct appeals for the judgment have been exhausted.
- (8)
 - (a) Before a court determines whether an individual committed a disqualifying homicide of the decedent under Subsection (7), the decedent's estate may petition the court to:
 - (i) enter a temporary restraining order, an injunction, or a temporary restraining order and an injunction, to preserve the property or assets of the killer or the killer's estate;
 - (ii) require the execution of a trustee's bond under Section 75B-2-702 for the killer's estate;
 - (iii) establish a constructive trust on any property or assets of the killer or the killer's estate that is effective from the time the killer's act caused the death of the decedent; or
 - (iv) take any other action necessary to preserve the property or assets of the killer or the killer's estate:
 - (A) until a court makes a determination under Subsection (7); or
 - (B) for the payment of all damages and judgments for conduct resulting in the disqualifying homicide of the decedent.
 - (b) Upon a petition for a temporary restraining order or an injunction under Subsection (8)(a)(i), a court may enter a temporary restraining order against an owner's property in accordance with Rule 65A of the Utah Rules of Civil Procedure, without notice or opportunity of a hearing, if the court determines that:
 - (i) there is a substantial likelihood that the property is, or will be, necessary to satisfy a judgment or damages owed by the killer for conduct resulting in the disqualifying homicide of the decedent; and
 - (ii) notice of the hearing would likely result in the property being:
 - (A) sold, distributed, destroyed, or removed; and
 - (B) unavailable to satisfy a judgment or damages owed by the killer for conduct resulting in the disqualifying homicide of the decedent.
- (9)
 - (a)
 - (i) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a disqualifying homicide, or for having taken any other action in good faith reliance on the

validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

- (ii) A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b)

- (i) Written notice of a claimed forfeiture or revocation under Subsection (9)(a) shall be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action.
- (ii) Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by the payor or third party to or with:
 - (A) the court having jurisdiction of the probate proceedings relating to the decedent's estate; or
 - (B) if no proceedings have been commenced, the court having jurisdiction of probate proceedings relating to the decedent's estates located in the county of the decedent's residence.
- (iii) The court shall hold the funds or item of property and, upon the court's determination under this section, shall order disbursement in accordance with the determination.
- (iv) Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(10)

- (a) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is:
 - (i) not obligated under this section to return the payment, item of property, or benefit; and
 - (ii) not liable under this section for the amount of the payment or the value of the item of property or benefit.
- (b) Notwithstanding Subsection (10)(a), a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section is:
 - (i) obligated to return the payment, item of property, or benefit to the person who is entitled to the payment, property, or benefit under this section; and
 - (ii) personally liable for the amount of the payment or the value of the item of property or benefit to the person who is entitled to the payment, property, or benefit under this section.
- (c) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section is:
 - (i) obligated to return the payment, item of property, or benefit to the person who would have been entitled to the payment, property, or benefit if this section or part were not preempted; and
 - (ii) personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to the payment, property, or benefit if this section or part were not preempted.

Amended by Chapter 291, 2026 General Session

