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To: The Senate Committee on Judiciary and Public Safety  
From: Sen. Dan Feyen  
Re: Senate Bill 101

Mr. Chairman, members of the committee, thank you for holding this hearing today.

The idea for Senate Bill 101, relating to the transfer by affidavit option for small estates, was brought to my office by a constituent who resides in Fond du Lac. You will hear his story later in today's hearing. Unfortunately, he recently lost an aunt and then faced unnecessary burdens in the court system when trying to settle her estate. My bill would help him and many other Wisconsinites access assets that are rightfully theirs without excessive lawyers' fees and wait times.

Currently, there is a provision in statute that allows for a small estate, defined as under \$50,000, to be transferred by an affidavit. Under the provision, a spouse, relative by blood/adoption, a trustee of a living trust, or the person's guardian at the time of death can complete a form, have it notarized, and present it along with a death certificate to a financial institution in order to close an account and have the contents dispensed.

However, there are many persons who are named in wills as either personal representatives or beneficiaries who are not related by blood to the deceased. These individuals may be related by marriage or have a widely varying range of other ties to the deceased. The option to complete a transfer by affidavit is not available to these persons. Therefore, they have to hire an attorney to settle the estate. This requires these individuals to spend money on lawyer's fees, wait months instead of days to settle estates, and either take out a personal loan or leave creditors without payment in the meantime.

This legislation proposes that the option to complete a transfer by affidavit also be available to the individual(s) named as a personal representative in the will. A personal representative is, "the name that is given to the executor or administrator of an estate, a trustee or a receiver." The primary duty is to protect the estate in a manner consistent with the deceased's wishes. Generally speaking, a personal representative is responsible for collecting the assets of the estate, protecting the estate property, preparing an inventory of the property, paying valid claims (including debts and taxes) against the estate, representing the estate in claims against others and distributing the estate property to the beneficiaries.

If an individual believes the person they picked for these duties is trustworthy to fulfill them, the state should not hinder their ability to use a transfer by affidavit in order to save time and money in what can already be a stressful time in their lives after losing a loved one.

Thank you for your time and consideration. I greatly appreciate it.

To: The Senate Committee on Judiciary and Public Safety  
From: Ronald Schwalbach  
Re: Senate Bill 101

Marie, I am sorry that I cannot attend this Wednesday's hearing on SB 101. I am committed to take a grandson to a medical appointment that morning so his parents don't miss work. Here are my comments to be read at the hearing. Thank you.

Dear Honored Senators,

I am writing in support of SB 101. The restrictions in current law as to whom can use the Transfer by Affidavit option to settle a small estate has adversely affected my brothers and me. It has added costs, resulted in lost time, and required much added work. You see our aunt (father's brother's wife) died in April 2016 at age 93, leaving no spouse, no children, and no sibs. She had a Will which left the probate property to her nephews (us four brothers). The Will named me as a personal representative. I understand that the Transfer by Affidavit method was placed into law to allow a swift and inexpensive way to settle small estates (under \$50,000). However, the statute allows just three entities to use this option: an heir, trustee, or guardian. "Heir" is defined in Wis. Stat. 851.09 which refers to 852.01 (intestate succession) as one who is "a spouse or relative by blood or adoption". Therefore my use of the Transfer by Affidavit was not available to me. This is in part because I am a nephew of our deceased aunt "by marriage" rather than "by blood" and in part because I had no standing as the **named** personal representative.

The Outagamie County probate office said my next option for a small estate was to use Summary Assignment (867.02) but also said I would need to hire an attorney for this purpose. It is much more complex. Therein lays the expenses for attorney and probate fees and much added work and elapsed time. Attorney fees alone were quoted at \$1500. Be aware that the probate estate was valued at only \$6649, consisting of a checking account and small savings account.

It will be helpful, logical, and I believe consistent with the intent of the Transfer by Affidavit statute to add the "personal representative named in the Will" as a party who can use this method of administration. A change in statute will not help our family at this point but will help others in the future. Thank you for your kind attention to this matter.

Forward,

Ronald Schwalbach

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