

AMENDED IN ASSEMBLY JULY 3, 2007

AMENDED IN SENATE APRIL 10, 2007

AMENDED IN SENATE MARCH 26, 2007

SENATE BILL

No. 722

Introduced by Senator Correa

(Principal coauthor: Senator Denham)

(Coauthors: Assembly Members Berryhill, Galgiani, Parra, Villines,
and Wolk)

February 23, 2007

An act to amend Section 254 of the Probate Code, relating to decedents' estates.

LEGISLATIVE COUNSEL'S DIGEST

SB 722, as amended, Correa. Decedents' estates: judgments of conviction: felonious and intentional killings.

Existing law generally provides for the distribution of a decedent's estate among his or her heirs and beneficiaries. Notwithstanding that provision, a person who feloniously and intentionally causes the death of a decedent is barred from inheriting from that decedent's estate. Existing law further provides that a final judgment of conviction of a felonious and intentional killing is conclusive for purposes of denying that inheritance. In the absence of that final judgment of conviction, existing law authorizes the court to determine whether the killing was felonious and intentional for purposes of denying that inheritance.

This bill would deem that determination as a final judgment for purposes of denying the inheritance, notwithstanding an appeal of the judgment to a higher court. The bill would also provide that if the judgment is reversed or vacated, the person who received the inheritance

shall be liable for the return or payment of that inheritance to the wrongfully convicted person.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 254 of the Probate Code is amended to
2 read:

3 254. (a) ~~A~~*Notwithstanding any appeal, a final trial court*
4 judgment of conviction of felonious and intentional killing is
5 conclusive for purposes of this part.

6 (b) In the absence of a final *trial court* judgment of conviction
7 of felonious and intentional killing, the court may determine by a
8 preponderance of evidence whether the killing was felonious and
9 intentional for purposes of this part. The burden of proof is on the
10 party seeking to establish that the killing was felonious and
11 intentional for the purposes of this part. The *trial court's*
12 determination under this subdivision shall be deemed a final
13 judgment of a felonious and intentional killing for purposes of this
14 part, regardless of an appeal of the judgment to a higher court.

15 (c) If the *trial court's* judgment of a felonious and intentional
16 killing under subdivision (b) is reversed or vacated, any person
17 who received a distribution from the estate of the decedent or from
18 proceeds of an insurance policy as a result of the trial court's
19 judgment shall be liable for the return of the property or money
20 received, or the payment of the equivalent value of the property
21 or money received, to the person who would have received the
22 property or money if the trial court had not found the killing to be
23 felonious and intentional.