

75-2-102 Intestate share of spouse.

- (1) The intestate share of a decedent's surviving spouse is:
 - (a) the entire intestate estate if:
 - (i) no descendant of the decedent survives the decedent; or
 - (ii) all of the decedent's surviving descendants are also descendants of the surviving spouse;
 - (b) the first \$75,000, plus 1/2 of any balance of the intestate estate, if one or more of the decedent's surviving descendants are not descendants of the surviving spouse.
- (2) For purposes of Subsection (1)(b), if the intestate estate passes to both the decedent's surviving spouse and to other heirs, then any nonprobate transfer, as defined in Section 75-2-206, received by the surviving spouse is added to the probate estate in calculating the intestate heirs' shares and is conclusively treated as an advancement under Section 75-2-109 in determining the spouse's share.

Amended by Chapter 93, 2010 General Session