

75-2-103 Share of heirs other than surviving spouse.

- (1) Any part of the intestate estate not passing to a decedent's surviving spouse under Section 75-2-102, or the entire intestate estate if there is no surviving spouse, passes in the following order to the individuals who survive the decedent:
 - (a) to the decedent's descendants per capita at each generation as defined in Subsection 75-2-106(2);
 - (b) if there is no surviving descendant, to the decedent's parents equally if both survive, or to the surviving parent if only one survives;
 - (c) if there is no surviving descendant or parent, to the descendants of the decedent's parents or either of them per capita at each generation as defined in Subsection 75-2-106(3);
 - (d) if there is no surviving descendant, parent, or descendant of a parent, but the decedent is survived on both the paternal and maternal sides by one or more grandparents or descendants of grandparents:
 - (i) half to the decedent's paternal grandparents equally if both survive, or to the surviving paternal grandparent if only one survives, or to the descendants of the decedent's paternal grandparents or either of them if both are deceased, the descendants taking per capita at each generation as defined in Subsection 75-2-106(3); and
 - (ii) half to the decedent's maternal grandparents equally if both survive, to the surviving maternal grandparent if only one survives, or to the descendants of the decedent's maternal grandparents or either of them if both are deceased, the descendants taking per capita at each generation as defined in Subsection 75-2-106(3);
 - (e) if there is no surviving descendant, parent, or descendant of a parent, but the decedent is survived by one or more grandparents or descendants of grandparents on the paternal but not the maternal side, or on the maternal but not the paternal side, to the decedent's relatives on the side with one or more surviving members in the same manner as the half described in Subsection (1)(d);
 - (f) if there is no taker under Subsection (1)(a), (b), (c), (d), or (e), but the decedent has:
 - (i) one deceased spouse who has one or more descendants who survive the decedent, the estate or part of the estate passes to that spouse's descendants who survive the decedent, the descendants taking per capita at each generation as defined in Subsection 75-2-106(4); or
 - (ii) more than one deceased spouse who has one or more descendants who survive the decedent, an equal share of the estate or part of the estate passes to each set of descendants, the descendants taking per capita at each generation as defined in Subsection 75-2-106(4).
- (2) For purposes of Subsections (1)(a), (b), (c), (d), (e), and (f) any nonprobate transfer, as defined in Section 75-2-205, received by an heir is added to the probate estate in calculating the intestate heirs' shares and is conclusively treated as an advancement under Section 75-2-109 to the heir in determining the heir's share.

Amended by Chapter 93, 2010 General Session
Amended by Chapter 324, 2010 General Session