

75-2-104 Requirement of survival by 120 hours -- Individual in gestation.

- (1) For purposes of intestate succession, homestead allowance, and exempt property, and except as otherwise provided in Subsection (2), the following rules apply:
- (a) An individual born before a decedent's death who fails to survive the decedent by 120 hours is considered to have predeceased the decedent. If it is not established by clear and convincing evidence that an individual born before the decedent's death survived the decedent by 120 hours, it is considered that the individual failed to survive for the required period.
 - (b) An individual in gestation at a decedent's death is considered to be living at the decedent's death if the individual lives 120 hours after birth. If it is not established by clear and convincing evidence that an individual in gestation at the decedent's death lived 120 hours after birth, it is considered that the individual failed to survive for the required period.
- (2) This section does not apply if its application would cause the estate to pass to the state under Section 75-2-105.

Amended by Chapter 93, 2010 General Session