

**75-2-802 Effect of divorce, annulment, and decree of separation.**

- (1) An individual who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.
- (2) For purposes of Part 1, Intestate Succession, Part 2, Elective Share of Surviving Spouse, Part 3, Spouse and Children Unprovided for in Wills, and Part 4, Exempt Property and Allowances, and Section 75-3-203, a surviving spouse does not include:
  - (a) an individual who obtains or consents to a final decree or judgment of divorce from the decedent or an annulment of their marriage, which decree or judgment is not recognized as valid in this state, unless subsequently they participate in a marriage ceremony purporting to marry each to the other or live together as husband and wife;
  - (b) an individual who, following an invalid decree or judgment of divorce or annulment obtained by the decedent, participates in a marriage ceremony with a third individual; or
  - (c) an individual who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights.

Repealed and Re-enacted by Chapter 39, 1998 General Session