



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2516

by Rep. Steven A. Andersson

SYNOPSIS AS INTRODUCED:

755 ILCS 5/15-1
755 ILCS 5/15-2

from Ch. 110 1/2, par. 15-1
from Ch. 110 1/2, par. 15-2

Amends the Spouse and Child Awards Article of the Probate Act of 1975. Provides that a surviving spouse is allowed as the surviving spouse's own property, for each adult child of the decedent who is likely to become a public charge and was financially dependent on the decedent and resided with the surviving spouse at the time of the decedent's death, a sum of at least \$5,000 that the court deems reasonable, or to which the parties agree, for the proper support of the adult child for the period of 9 months after the death of the decedent in a manner suited to the condition in life of the adult child of the decedent and to the condition of the estate. Provides that, if an adult child of the decedent likely to become a public charge who was financially dependent on the decedent did not reside with the surviving spouse at the time of the decedent's death, the adult child is allowed a sum of at least \$5,000 that the court deems reasonable or to which the parties agree. Contains provisions regarding: distribution; the death of the surviving spouse; abandonment of an adult child; notice requirements and time limits; applicability; and other matters.

LRB100 05668 HEP 15685 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Probate Act of 1975 is amended by changing
5 Sections 15-1 and 15-2 as follows:

6 (755 ILCS 5/15-1) (from Ch. 110 1/2, par. 15-1)
7 Sec. 15-1. Spouse's award.

8 (a) The surviving spouse of a deceased resident of this
9 State whose estate, whether testate or intestate, is
10 administered in this State, shall be allowed as the surviving
11 spouse's own property, exempt from the enforcement of a
12 judgment, garnishment or attachment in the possession of the
13 representative, a sum of money that the court deems reasonable
14 for the proper support of the surviving spouse for the period
15 of 9 months after the death of the decedent in a manner suited
16 to the condition in life of the surviving spouse and to the
17 condition of the estate and an additional sum of money that the
18 court deems reasonable for the proper support, during that
19 period, of minor ~~and adult dependent~~ children of the decedent
20 who resided ~~reside~~ with the surviving spouse at the time of the
21 decedent's death. The award may in no case be less than
22 \$20,000, together with an additional sum not less than \$10,000
23 for each such child. The award shall be paid to the surviving

1 spouse at such time or times, not exceeding 3 installments, as
2 the court directs. If the surviving spouse dies before the
3 award for his support is paid in full, the amount unpaid shall
4 be paid to his estate. If the surviving spouse dies or abandons
5 a child before the award for the support of a child is paid in
6 full, the amount unpaid shall be paid for the benefit of the
7 child to such person as the court directs.

8 (a-5) The surviving spouse of a deceased resident of this
9 State whose estate, whether testate or intestate, is
10 administered in this State, shall be allowed as the surviving
11 spouse's own property, exempt from the enforcement of a
12 judgment, garnishment, or attachment in the possession of the
13 representative, for each adult child of the decedent who is
14 likely to become a public charge and was financially dependent
15 on the decedent and resided with the surviving spouse at the
16 time of the decedent's death, a sum of money that the court
17 deems reasonable, or agreed upon by the surviving spouse and
18 representative of the decedent's estate or affiant under a
19 small estate affidavit pursuant to Section 25-1, for the proper
20 support of the adult child for the period of 9 months after the
21 death of the decedent in a manner suited to the condition in
22 life of the adult child of the decedent and to the condition of
23 the estate. The award shall be at least \$5,000 for each such
24 adult child and shall otherwise be consistent with the
25 financial support that the decedent was providing the adult
26 child immediately prior to the decedent's death. The award

1 shall be paid to the surviving spouse at such time or times,
2 not exceeding 3 installments, as the court directs. If the
3 surviving spouse dies before the award for support of the adult
4 child is paid in full, the amount unpaid shall be paid to the
5 estate of the surviving spouse. If the surviving spouse dies or
6 abandons an adult child before the award for the support of an
7 adult child is paid in full, the amount unpaid shall be paid
8 for the benefit of the adult child to such person as the court
9 directs. Within 30 days of the surviving spouse or adult child
10 receiving written notice of this potential award from the
11 representative of the decedent's estate or from the affiant
12 under a small estate affidavit pursuant to Section 25-1, the
13 surviving spouse or the adult child, or the adult child's agent
14 or guardian or other adult on behalf of the adult child, shall
15 provide written notice to the representative or affiant
16 asserting that the adult child was financially dependent on the
17 decedent at the time of the decedent's death. Failure to
18 provide written notice to the representative or affiant within
19 30 days after receiving notice from the representative or
20 affiant shall be a bar to the right to receive the award. The
21 notice by the representative may be combined with the notices
22 given pursuant to Sections 6-21 and 8-1.

23 (b) The surviving spouse is entitled to the award unless
24 the will of the decedent expressly provides that the provisions
25 thereof for the surviving spouse are in lieu of the award and
26 the surviving spouse does not renounce the will.

1 (c) The changes made by Public Act 96-968 ~~this amendatory~~
2 ~~Act of the 96th General Assembly~~ apply to a decedent whose date
3 of death is on or after July 2, 2010 (the effective date of
4 Public Act 96-968). The changes to this Section made by this
5 amendatory Act of the 100th General Assembly apply to a
6 decedent whose date of death is on or after the effective date
7 of this amendatory Act of the 100th General Assembly ~~this~~
8 ~~amendatory Act of the 96th General Assembly.~~

9 (Source: P.A. 96-968, eff. 7-2-10.)

10 (755 ILCS 5/15-2) (from Ch. 110 1/2, par. 15-2)

11 Sec. 15-2. Child's award.

12 (a) If a minor ~~or adult dependent~~ child of the decedent
13 does not reside with the surviving spouse of the decedent at
14 the time of the decedent's death, there shall be allowed to
15 that child, exempt from the enforcement of a judgment,
16 garnishment or attachment in the possession of the
17 representative, a sum of money that the court deems reasonable
18 for the proper support of the child for the period of 9 months
19 after the death of the decedent, in a manner suited to the
20 condition in life of the minor child and to the condition of
21 the estate. The award may in no case be less than \$10,000 and
22 shall be paid for the benefit of the child to such person as
23 the court directs.

24 (b) If a deceased resident of this State leaves no
25 surviving spouse, there shall be allowed to all children of the

1 decedent who were minors at the date of death ~~and all adult~~
2 ~~dependent children~~, exempt from the enforcement of a judgment,
3 garnishment or attachment in the possession of the
4 representative, a sum of money that the court deems reasonable
5 for the proper support of those children for the period of 9
6 months after the death of the decedent in a manner suited to
7 the condition in life of those children and to the condition of
8 the estate. The award may in no case be less than \$10,000 for
9 each of those children, together with an additional sum not
10 less than \$20,000 that shall be divided equally among those
11 children or apportioned as the court directs and that shall be
12 paid for the benefit of any of those children to any person
13 that the court directs.

14 (b-5) If an adult child of the decedent is likely to become
15 a public charge and was financially dependent on the decedent
16 at the time of the decedent's death, and if the adult child of
17 the decedent did not reside with the surviving spouse of the
18 decedent at the time of the decedent's death, there shall be
19 allowed to that adult child, exempt from the enforcement of a
20 judgment, garnishment, or attachment in the possession of the
21 representative, a sum of money that the court deems reasonable,
22 or agreed upon by the surviving spouse and representative of
23 the decedent's estate or affiant under a small estate affidavit
24 pursuant to Section 25-1, for the proper support of the adult
25 child for the period of 9 months after the death of the
26 decedent, in a manner suited to the condition of life of the

1 adult child and to the condition of the estate. The award shall
2 be at least \$5,000 and shall otherwise be consistent with the
3 financial support that the decedent was providing the adult
4 child immediately prior to the decedent's death. The award
5 shall be paid for the benefit of the adult child to such person
6 as the court or affiant under a small estate affidavit pursuant
7 to Section 25-1 directs. Within 30 days after receiving written
8 notice of this potential award from the representative of the
9 decedent's estate or from the affiant under a small estate
10 affidavit pursuant to Section 25-1, the adult child, or the
11 adult child's agent or guardian or other adult on behalf of the
12 adult child, shall provide written notice to the representative
13 or affiant, asserting that the adult child was financially
14 dependent on the decedent at the time of the decedent's death
15 and that the adult child did not reside with the surviving
16 spouse at the time of the decedent's death. Failure to provide
17 such written notice to the representative or affiant within 30
18 days after receiving notice from the representative or affiant
19 shall be a bar to the right to receive the award. The notice by
20 the representative may be combined with the notices given
21 pursuant to Sections 6-21 and 8-1.

22 (c) The changes made by Public Act 96-968 ~~this amendatory~~
23 ~~Act of the 96th General Assembly~~ apply to a decedent whose date
24 of death is on or after July 2, 2010 (the effective date of
25 Public Act 96-968). The changes to this Section made by this
26 amendatory Act of the 100th General Assembly apply to a

1 decendent whose date of death is on or after the effective date
2 of this amendatory Act of the 100th General Assembly ~~this~~
3 ~~amendatory Act of the 96th General Assembly.~~

4 (Source: P.A. 96-968, eff. 7-2-10.)