

## Appendix A – Lump-Sum Death Benefit Legislative History

Effective Date	LSDP Provision
Employee deaths on or after 1-1-47	<p>LSDP equal to 8 times Basic Amount (BA) payable when no person is eligible for monthly survivor benefits in month of employee's death.</p> <p>Priority of payment: (1) widow(er); (2) children; (3) parents; (4) payers of employee's B/E.</p> <p>Deferred LSDP payable in same priority as LSDP if total insurance annuities paid in first year after employee's death are less than LSDP.</p>
Employee deaths on or after 10-30-51	Maximum LSDP increased to 10 times BA.
Employee Deaths on or after 10-1-58	LSDP priority changed to (1) "living with" widow(er); (2) payers of employee's B/E.
Employee deaths on or after 10-1-65	Deferred LSDP only payable to "living with" widow(er).
10-30-66	<p>FH eligible for LSDP if: (1) person who assumes responsibility for B/E assigns payment to FH; or (2) after 90 days after DOD, no one has assumed responsibility for B/E.</p> <p>LSDP to equitably entitled persons paid in following priority: (1) FH expenses; (2) grave opening and closing expenses; (3) burial plot expenses; (4) any remaining expenses.</p>
Employee deaths on or after 1-1-75	<p>The new law divides employees who die on or after 1-1-75 into two categories for LSDP purposes. The conditions for paying the LSDP (and deferred LSDP) are not changed. However, the employee does not need sufficient quarters of coverage to be insured under the SS act, for an LSDP to be payable.</p> <p>Category 1 - Employees who have at least 120 months of creditable RR service before 1975.</p>

	<p>The maximum LSDP is still equal to 10 times the basic amount. However, in computing the BA, the employee is deemed to have died on 1-1-75 and RR and SS earnings after 1974 are disregarded.</p> <p>Category 2 - Employees who acquire their 120th month of creditable RR service after 1974.</p> <p>The maximum LSDP is three times the PIA or \$255, whichever is less. The LSDP may be less than \$255 if the PIA bend points are reduced to the deceased employee's non-covered service pension.</p> <p>To receive the LSDP, or the deferred LSDP, the widow(er) must have been "living in the same household" as the employee when he died.</p>
Employee deaths after August 1981	If the employee belongs to Category 2 above, the widow(er) living in the same household as the employee is the only beneficiary who can receive the LSDP.
Employee deaths on or after 10-1-81	If employee acquired 120th month of RR service before 1975, an LSDP is payable if a surviving divorced spouse is the only person eligible for monthly benefits in the month of the employee's death.
Employee deaths after December 2001	LSDP payable based on the earnings record of a deceased employee who had less than 120 months of creditable railroad service, but had at least 60 months of creditable RR service after 1995, an SS Act insured status and a current connection with the railroad industry.

## Appendix B - Tax Exempt Organizations

### B1. Organizations Tax Exempt Under Sec. 501(c)(3) Of The IRC

The following organizations are organized and operated exclusively for religious, charitable, or educational purposes (as such, they are considered exempt from income tax under sec. 501(c)(3) of the Internal Revenue Code:

- American Red Cross, local chapters;
- Boy Scouts of America;

- Churches, local, of known and recognized denominations;
- Girl Scouts of America;
- Goodwill Industries;
- Salvation Army;
- Volunteers of America;
- Young Men's Christian Association;
- Young Men's Hebrew Association;
- Young Women's Christian Association;
- Young Women's Hebrew Association.

## **B2. Fraternal Organizations Tax Exempt Under Sec. 501(c)(8) Of The IRC**

The following nationally known and recognized beneficiary societies and their local lodges, chapters, etc., are exempt from income tax under sec. 501(c)(8) of the IRC:

- Artisan's Order of Mutual Protection
- American Slovenian Catholic Union
- B'nai B'rith
- Catholic Daughters of America
- Catholic Workman
- Catholic Association of Foresters
- Daughters of America
- Degree of Honor Protective Association
- Eagles, Fraternal Order of
- Elks, Benevolent Protective Order of
- First Catholic Slovak Union of the USA
- Foresters, Independent Order of
- Greater Beneficial Union of Pittsburgh

- Hibernions of America, Ancient Order of
- Hungarian Reform Federation of America
- Knights of Columbus
- Knights of the Golden Eagle
- Knights of Pythias
- Loyal Christian Benefit Association
- Masonic Order (see below)
- Modern Woodmen of America
- Moose, Loyal Order of
- National Slovak Society of the USA
- Odd Fellows, Independent Order of
- Owls, Order of
- Police and Fireman's Insurance Association
- Polish Falcons of America
- Polish National Alliance of the U.S. of North America
- Polish Roman Catholic Union of America
- Praetorians
- Protected Home Circle
- Redmen, Improved Order of
- Royal Neighbors of America
- Royal Arcanum, Supreme Council of
- Scottish Clans, Order of
- Security Benefit Association
- Slovene National Benefit Society

- Sons of Italy in America
- Standard Life Associations
- Thriven Financial For Lutherans
- Travelers Protective Association of America
- USA Life Insurance
- United American Mechanics, Junior Order of
- United Commercial Travelers of America
- Verhovay Fraternal Insurance Association
- Western Fraternal Life Association
- Woman's Benefit Association
- Woodmen Circle, Supreme Forest of
- Woodmen of the World
- Woodmen of the World Life Insurance Society
- Workman's Benefit Fund of the USA
- Workmen's Circle

The following are some of the many Masonic orders (the rule on tax exemption also applies to any bonafied Masonic order not included in this list):

- Ancient Accepted Scottish Rite of Free Masonry
- Ancient Arabic Order of the Nobles of the Mystic Shrine
- Ancient Egyptian Order of Sciots
- Ancient Free and Accepted Masons
- Ancient and Illustrious Order of Knights of Malta
- Ancient York Masons
- Blue Lodge
- Eastern Star

- Grottoes
- Knights Templar
- Mystic Order of the Veiled Prophets of the Enchanted Realm
- Order of the White Shrine of Jerusalem
- Order of Amaranth
- Order of DeMolay for Boys
- Order of Job's Daughters
- Order of Rainbow for Girls
- Royal Arch Masons
- Royal and Select Masons
- Tall Cedars of Lebanon

## **Appendix C - Dispensing With Formal Administration of Estate**

### **Introduction**

Where the amount of a payment under the RRA due the estate of a deceased person is \$1,000 or over, the appointment of an administrator is ordinarily required. Such an appointment is not required in a case where the statutes of the State are such as to permit the court in its discretion, to release the estate funds if the estate's assets do not total more than a specific dollar amount, pursuant to a duly executed affidavit. If the benefit will be paid under the small estate statutes, only one certified copy need to be submitted, however, each of the distributees named must file an application, AA-21.

The following lists certain States which have a small estate statute and certain other information concerning the requirements that must be met in the case. Even though the case apparently meets all the requirements set forth in the statute, the court in its discretion does not necessarily have to dispense with formal administration. If the affidavit received does not meet the requirements shown in this appendix, refer the case to the Deputy General Counsel.

The States listed in this appendix do not comprise all the States which have a small estate statute. Only those States for which the Social Security Administration has made a favorable ruling in this connection are listed. The RRB Deputy General Counsel has determined that RRB may apply the rules as written in Social Security Program Operations Manual System. When a claimant, attorney or representative of a claimant insists that a payment in excess of \$1,000 may be made under the probate laws of the

State in question without formal administration, and such State is not listed in this appendix, field employees are to refer the inquiry to headquarters. Headquarters (ORSP) employees are to refer the inquiry to the Deputy General Counsel.

## **ALASKA**

Alaska Statutes, Title 13, Section 13.16.080 provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt or property to the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if such person dealt with a personal representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

## **ARKANSAS**

Arkansas Statutes Annotated sec. 62-2127 provides that the distributees of an estate shall be entitled thereto without the appointment of a personal representative when (a) no petition for the appointment of a personal representative is pending or has been granted, (b) forty-five (45) days have elapsed since the death of the decedent, (c) the value, less encumbrances, of all property owned by the decedent at the time of death, excluding the homestead and the statutory allowances for the benefit of a spouse or minor children, if any, of the decedent, does not exceed twenty-five thousand dollars (\$25,000); and when there is furnished to any person owing any money, having custody of any property, or acting as registrar of transfer agent of any evidence of interest, indebtedness, property or right, a copy of an affidavit, certified by the clerk of the probate court of the county of proper venue for administration, which states:

- (1) That the decedent left no will or that his will have been admitted to probate, and
- (2) That there are no unpaid claims or demands against the decedent or his estate, and
- (3) An itemized description and valuation of the property of the decedent, including the homestead, and
- (4) The names and addresses of persons having possession of the property, and
- (5) The names, addresses and relationship to the decedent of the persons entitled to and who will receive the property.

Arkansas Statutes Annotated sec. 62-2128 provides that "the person making payment, transfer or delivery pursuant to the affidavit described in Section 66 sec. 62-2127 shall be released to the same extent as if made to a personal representative of the decedent and he shall not be required to see to the application thereof or to inquire into the truth of any statement in the affidavit \*\*\*."

## **ARIZONA**

Ariz. Rev. Stat., Title 14, Section 3971 provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt or property to the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if such person dealt with a personal representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

## **CALIFORNIA**

California Probate Code, Section 13100, provides that if the gross value of the decedent's real and personal property in the state (excluding certain property described in Sections 13050 of the Code) does not exceed \$100,000 and if 40 days have elapsed since the death of the decedent, the successor of the decedent may, without procuring letters of administration or awaiting probate of the will, do any of the following with respect to one or more particular items of property: (a) Collect any particular item of property that is money due the decedent. (b) Receive any particular item of property that is tangible personal property of the decedent. (c) Have any particular item of property that is evidence of a debt, obligation, interest, right, security, or chose in action belonging to the decedent transferred, whether or not secured by a lien on real property.

In order to do this, an affidavit or declaration under penalty of perjury under the laws of the state must be furnished to the holder of the decedent's property. The information that must be included on the affidavit or declaration is described in Section 13101 of the Code.

## **COLORADO**

Colorado Probate Code, Section 15-12-1201, provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt or property to the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if the person dealt with a personal representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

## **DELAWARE**

The Delaware Code Section 2306 provides that the spouse, child, parent, sibling, grandparent, grandchild, aunt or uncle, niece or nephew, or first cousin of a decedent or the trustee of a trust created by the decedent, shall (with preference granted to the first six categories in descending order) be entitled to the decedent's personal estate without formal administration or probate of a will, upon presentation of an affidavit which states:

(1) No petition for formal administration is contemplated;



- (2) 30 days have passed since decedent's death;
- (3) The total value of non-exempt property does not exceed \$12,500.00;
- (4) All known debts are paid or provided for;
- (5) Any amount of estate funds reserved under Delaware Code section 2308 has been paid, provided for, or waived; and
- (6) Decedent was not the sole owner of any real estate.

Section 2307 of the Delaware Code states that a person making a payment in reliance upon such an affidavit is released from further liability to the same extent as if the payment had been made to a personal representative.

## **FLORIDA**

Florida Statutes Annotated Section 735.04 (effective January 1, 1972) provides that the County Judge may dispense with the administration of an estate when the decedent, testate or intestate, died, either a resident or nonresident; and the estate is not in debt and does not exceed \$10,000 and there is a sole heir or surviving spouse, or the surviving spouse, if any, and all heirs agree upon the distribution of the estate.

Florida Probate Code Sections 735.101 through 735.107 provide for family administration of the estate of an individual when it appears:

- (1) In an intestate estate, that the heirs at law of the decedent consist solely of a surviving spouse, lineal descendants, and lineal ascendants, or any of them.
- (2) In a testate estate, that the beneficiaries under the will consist of a surviving spouse, lineal descendants, and lineal ascendants, or any of them, and that any specific or general devise to others constitutes a minor part of the decedent's estate.
- (3) In a testate estate, that the decedent's will does not direct administration as required by chapter 733.
- (4) That the value of the gross estate, as of the date of death, for federal estate tax purposes is less than \$60,000.
- (5) That the entire estate consists of personal property or, if real property forms part of the estate, that administration under chapter 733 has proceeded to the point that all claims of creditors have been processed or barred." (Section 735.101 quoted in part.)

When a petition for family administration is filed, the court issues an order of family administration which gives the distribution of assets. When the order lists the asset and to whom it is to be distributed, the property in question is to be distributed to the name

individual. Therefore, if the benefit due the estate from the Railroad Retirement Board were listed, it would be payable to the person named in the Order of Family Administration.

## **GEORGIA**

Title 113, Section 1232 of the Code of Georgia, Annotated, provides as follows:

"When any person owning real or personal property located in this State has died intestate, and no administration in this State has been had upon the estate, any heir at law of such deceased owner may file a petition in the court of ordinary of the county of the residence of the deceased owner, if such deceased was a resident of this State, or in the county in which such property is located, if the deceased was not a resident of this State, praying for an order that no administration is necessary. The petition shall be sworn to, shall show the names, ages and places of residence of all of the heirs at law of such deceased owner, the amounts and description of the real and personal property in this State owned by the deceased owner, that the estate of decedent owes no debts, and that the heirs at law have agreed upon a division of the estate amicably among themselves."

Subsequent sections of the Code provide that notice of the petition shall be given to persons interested in the estate so that they may file objections to the granting of the order; that is, shall be the duty of the Ordinary to ascertain who are the heirs at law of the decedent; and that the Ordinary is authorized to enter an order finding that administration is not necessary.

## **IDAHO**

Gen'l. Laws of Idaho, Section 15-125-1201 provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt or property to the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if such person dealt with a personal representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

## **ILLINOIS**

Effective 01-01-2015, under Article XXV (Small Estates) of the Probate Act of 1975 (755 ILCS 5/25-1), when the gross value of the decedent's real and personal estate does not exceed \$100,000, any person, corporation, or financial institution indebted to or holding personal estate of the decedent must pay the indebtedness, or deliver the personal estate when another person presents a proper affidavit and a copy of the decedent's death certificate.

A proper affidavit must be notarized and be substantially in the form set forth in 755 ILCS 5/25-1(b) listing all of the decedent's known unpaid debts. Unpaid debts must be paid in

full in the following class order:

1. Class 1: Funeral and burial expenses, which include reasonable amounts paid for burial space, crypt, or niche; a marker on the burial space; and care of the burial space, crypt, or niche; expenses of administration; and statutory custodial claims;
2. Class 2: Surviving spouse or child's award, if applicable;
3. Class 3: Debts due the United States;
4. Class 4: Money due the employees of the decedent of not more than \$800 for each claimant for services rendered within four (4) months prior to the decedent's death and expenses attending the last illness;
5. Class 5: Money or property received or held in trust by the decedent that cannot be identified or traced;
6. Class 6: Debts due the State of Illinois and any county, township, city, town, village, or school district located within Illinois; and
7. Class 7: All other claims.

It is only after the debts listed have been paid in full that distribution of the balance of the estate, if any, can be made to the heirs or legatees shown on the affidavit.

## **INDIANA**

Sections 7.203 to 7.207 inclusive, Title 7, Burns Indiana Statutes Annotated (1953) provided that a petition may be made to the appropriate court for an Order of No Administration for payment of the amounts, less than \$5,000 (\$3,500 before 9-1-71), due the heirs of the estate. Where the total assets of the estate do not exceed \$5,000 (\$3,500 before 9-1-71), payment of the amount due to the heirs of the estate, may be made to those named in the court order as entitled to the estate. The court order should state that all debts have been fully paid and settled and that the RRB shall be released from any and all further liability on said claim to the estate, or heirs or assigns.

## **IOWA**

Section 633.356 of the Iowa Probate Code provides that when the value of an estate is less than \$25,000.00 and 40 days have passed since the death of the decedent, the person or persons who are entitled to certain property may obtain that property by submitting an affidavit attesting to the following items listed in subsection 3 of the provision: the decedent's name and the date and place of his or her death; that at least 40 days have elapsed since the decedent's death; that the gross value of the estate does not exceed \$25,000.00; a description of the property concerned; the name, address and social security number of the successor(s) to the property and whether the successor(s) is under a legal disability; if applicable, that an attached copy of the decedent's will is the last will of the decedent and has been admitted to probate or

otherwise filed in the office of a clerk of the district court; that no one other than those listed is entitled to the property; that the affiant requests that the property be transferred to the successor(s); and that the affiant affirms under penalty of perjury that the affidavit is true and correct.

## **KANSAS**

Sections 59-2239, 59-2250 and 59-2251 of the General Statutes of Kansas provide that whenever any person has been dead for more than 9 months and has left property, or any interest therein, and no will has been admitted to probate, or there has been no formal administration, and no demands or liens against the estate of the said decedent has been filed or remain unsatisfied, a petition may be made to the probate court for a determination of descent and for issuance of a decree of descent. Where formal administration is not made within 9 months from the date of death, the rights of creditors

in personal property of the estate are determined in such a proceeding and payment of the residue may be made on the basis of the court order.

## **LOUISIANA**

The courts have issued "Judgement of Possession" in certain cases where the estate is over \$1,000 directing that a certain person or persons are placed in possession of all of the property of the deceased, and ordering all banks, corporations, agencies or person in possession or control of any property, rights, or credits of the succession, to deliver and transfer such property to such person or persons. The requirements that must be met before the court will consider "Judgement of Possession," are not specifically set out in the State statute.

The statutory provision dealing with (a) simple acceptance of a succession by an heir, (b) his personal liability under such acceptance and (c) the conditions under which he may revoke his acceptance, are Articles 947, 1013, and 1009, respectively, of the Louisiana Civil Code.

Article 3431 of L.S.A. Code of Civil Procedure states that it is unnecessary to formally administer a "small succession" of an intestate decedent leaving no immovable property, and whose sole heirs are his descendants, ascendants, or surviving spouse. Article 3421 L.S.A. Code of Civil Procedure defines a "small succession" as property in Louisiana having a gross value of \$50,000 or less. Article 3432 reads in full:

"When it is not necessary under the provisions of Article 3431 to open judicially a small succession, the competent major heirs of the deceased, and the surviving spouse thereof, if any, may submit to the inheritance tax collector one or more multiple originals of their affidavit setting forth:

- (1) The date of death of the deceased, and his domicile at the time thereof;
- (2) The fact that the deceased died intestate and left no immovable property;
- (3) The marital status of the deceased, and the names and addresses of the surviving spouse, if any, and of the heirs and their relationship to the deceased; and
- (4) A brief description of the movable property left by the deceased, and a showing of the value of each item thereof, and the aggregate value of all such property, at the time of the death of the deceased."

Article 3434 L.S.A. Code of Civil Procedure provides that presentation of a multiple original of an affidavit executed pursuant to article 3432, bearing the endorsement of the inheritance tax collector that no inheritance taxes are due, constitutes proper authority to deliver property or made any payment described in the affidavit.

**MAINE**

18A Maine Revised Statutes Annotated section 3-1201 essentially adopts the small estates provision of the Uniform Probate Code which provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt or property to the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if such person dealt with a personal representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

**MASSACHUSETTS**

Massachusetts has two statutes dealing with residents' estates comprised entirely of personal property not exceeding \$5,000. Chapter 195, section 16, Annotated Laws of Massachusetts, General Laws, provides for informal administration by the decedent's surviving spouse, child, grandchild, brother, sister, parent, niece, nephew, aunt, or uncle, providing that they are of legal capacity and themselves state residents. Informal administration may also be undertaken by guardians of institutionalized decedents. Chapter 195 16A provides for voluntary administration by the individual named as executor by the decedent's will.

Under both section, the appropriate individual may, thirty days after decedent's death, and provided that no petition for letters testamentary or letters of administration has been filed, file with the probate court a sworn statement containing:

"(a) the name and residential address of the affiant, (b) the name, residence and date of death of the deceased, (c) the relationship of the affiant to the deceased, (d) a schedule showing every asset of the estate know to the affiant and the estimated value of each such asset, (e) a statement that the affiant has undertaken to act as voluntary administrator of the state of the deceased and will administer the same according to law, and apply the proceeds thereof in conformity with this section, (f) the names and addresses of surviving joint owners of property with the deceased, know to the affiant, and (g) the names and addresses know to the affiant of the persons who would take ... in the case of intestacy."

In addition, where the decedent has left a will, section 16A requires the affiant to list the names and addresses of persons who would take property under the will. In either case, the delivery of an asset listed in the statement upon presentation of the affidavit, discharges the deliverer in the same respect as if he had dealt with a duly appointed personal representative. Therefore, in order to pay a railroad retirement benefit under these statutes, the benefit must be listed as an asset of the estate in the affidavit.

**MICHIGAN**

Section 700.102 of the Michigan Compiled Laws Annotated (1980) provides that if the estate of a deceased person consists of property of the value of \$2,500 or less, the

court may issue an order that the property be turned over to the surviving spouse, if any, or to the payer of burial expenses, and if there is not a spouse or such other payee, to the heirs of the decedent.

## **MINNESOTA**

M.S.A. Section 524.3 - 1201 provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt or property to the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if such person dealt with a personal representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

## **MISSISSIPPI**

The Mississippi code Section 91-7-322 states:

- "(1) Except as may be otherwise provided by section 81-5-63, 81-12-135, 81-12-137 and 91-7-323, at any time after 30 days from the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall make payment when due of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action to a person claiming to be the successor of the decedent, as defined herein, upon being presented an affidavit made by the successor stating:
- (a) That the value of the entire estate of the decedent, wherever located, excluding all liens and encumbrances thereon, does not exceed (\$5,000.00);
  - (b) That at least (30) days have elapsed since the death of the decedent,
  - (c) That no application or petition for the appointment of a personal representative of the decedent is pending, nor has a personal representative of the decedent been appointed in any jurisdiction; and
  - (d) The facts of relationship establishing the affiant as a successor of the decedent.
- (2) For the purpose of this section, "successor" means the decedent's spouse; or, if there is no surviving spouse of the decedent, then the adult with whom any minor children of the decedent are residing; or, if there is no surviving spouse or minor children of the decedent, then any adult child of the decedent; or, if there is no surviving spouse or children of the decedent, then either parent of the decedent.

- (3) Any person who is the successor of the decedent, because the person in an adult with whom the minor children of the decedent are living, shall receive any property or payments of or for the decedent for the use and benefit of said children.
- (4) The successor of a decedent, upon complying with the provisions of subsection (1) of this section, shall be empowered to negotiate, transfer ownership and exercise all other incidents of ownership with respect to the personal property and instruments described in subsection (1) of this section.
- (5) Any person paying, delivering, transferring or issuing personal property or the evidence thereof pursuant to the provisions of subsection (1) of this section shall be discharged and released to the same extent as if such person had dealt with a personal representative of the decedent. Such person shall not be required to see to the proper application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered, in accordance with the provisions of subsection (1) of this section, refuses to pay, deliver, transfer or issue any personal property or evidence thereof to the successor, such property or evidence thereof may be recovered or its payment, delivery, transfer or issuance compelled upon proof of the successor's right in a proceeding brought in chancery court for such purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made shall be answerable and accountable to the personal representative of the estate, if any, or to any other person having a superior right."

## **MISSOURI**

The probate Code of Missouri permits direct payment to the distributees of an estate not exceeding \$5,000 (\$3,500 before 9-30-71) in value (when no spouse or unmarried children survive, the decedent left no will, no unpaid debts or claims exist, and no formal administration is pending or in effect) on the filing, with the probate court of the county of decedent's residence, of an affidavit setting forth certain facts in connection with the decedent and his property (Vernon's Annotated Missouri Statutes (1955 Missouri Probate Code Sec. 473.097)). In view of this, and since by Section 473.100 of the Code a person making payment pursuant to the affidavit prescribed in Section 473.097 "is discharged and released to the same extent as if payment were made to an executor or administrator of the decedent," payment of the amount due under the RR Act to the estate may safely be made, without formal administration of the estate, to the distributees of the estate under the procedure set forth in section 473.097 of the Missouri Probate Code as amended in 1955.

## **MONTANA**

Rev. Code of Mont. Section 91A-3-1201 provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt or property to the successor of the decedent upon being presented an



affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if such person dealt with a personal representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

## **NORTH CAROLINA**

North Carolina General Statutes Section 28A-25-6 provides that if no administrator has been appointed, the Clerk of the Superior Court has authority to receive and disburse any amounts less than \$2,000 due the estate. The Clerk of the Superior Court only has this authority when the employee dies intestate.

In addition, North Carolina General Statutes section 28A-25-1 provides that any person indebted to the decedent may make payment to a person claiming to be an heir of the decedent not otherwise disqualified, upon presentation of a certified copy of an affidavit properly filed in the office of the clerk of the superior court. The affidavit must state:

- "(1) The name and address of the affiant and the fact that he or she is an heir of the decedent;
- (2) The name of the decedent and his residence at the time of death;
- (3) The date and place of death of the decedent;
- (4) That 30 days have elapsed since the death of the decedent;
- (5) That the value of all the personal property owned by the estate of the decedent, less liens and encumbrances thereon, does not exceed five thousand dollars (\$5,000);
- (6) That no application or petition for appointment of a personal representative is pending or has been granted in any jurisdiction;
- (7) The names and addresses of those persons who are entitled, under the provisions of the Intestate Succession Act, to the personal property of the decedent and their relationship, if any, to the decedent; and
- (8) A description sufficient to identify each tract of real property owned by the decedent at the time of his death."

Section 28A-25-2 provides that a "person" who delivers property pursuant to an affidavit meeting the requirements of section 28A-25-1 is discharged to the same extent as if he had dealt with the personal representative of the decedent.

## **NORTH DAKOTA**

N.D.C.C., Ch. 30.1 Section 23-01 provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt

or

property to the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if such person dealt with a person representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

## **NEBRASKA**

N.R.R.S. 1943, Section 30-24, 125 provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt or property to the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if such person dealt with a personal representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

## **NEVADA**

Section 146.080 of the Nevada Revised Statutes (Nev. Rev. Stat. 146.080 (1979)) provides for the transfer of personal property of a decedent not exceeding \$5,000 in value, without letters of administration or awaiting the probate of a will. The beneficiary may, 40 days after the death of the decedent, collect any money due the decedent by furnishing an affidavit which should provide as follows:

- (a) The affiant's name and address, and that the affiant is entitled by law to succeed to the property claimed;
- (b) That the decedent was a resident of Nevada at the time of his death;
- (c) That the gross value of the decedent's property in this state, except amounts due to the decedent for services in the Armed Forces of the United States, does not exceed \$5,000, and that the property does not include any real property nor interest therein nor lien thereon;
- (d) That at least 40 days have elapsed since the death of the decedent;
- (e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;
- (f) That all debts of the decedent, including funeral and burial expenses, have been paid or provided for;
- (g) A description of the personal property and the portion claimed;
- (h) That the affiant has given written notice, by personal service or by certified mail, identifying his claim and describing the property claimed to every person whose right to succeed to the decedent's property is equal or superior to that of the

affiant, and that at least 10 days have elapsed since the notice was served or mailed; and

- (i) That the affiant is personally entitled to full payment or delivery of the property claimed or is entitled to payment or delivery on behalf of and with the written authority of all other successors who have an interest in the property.

### **NEW HAMPSHIRE**

Effective 7-3-61, section 553.31 provides that 30 days after death, where an estate consists entirely of personal property not exceeding \$2,000, the decedent's spouse, parent, lineal descendant, brother or sister of legal age domiciled in New Hampshire, may file an affidavit as voluntary administrator in the probate court of the county where the deceased was domiciled. The court clerk will then issue a certified copy of the affidavit to be used to collect assets of the estate. The voluntary administrator shall pay the debts and distribute the balance in accordance with the law of descent and distribution, and is personally liable for his actions.

### **NEW JERSEY**

Section 3A:6-6 of the New Jersey Statutes provides that, effective January 18, 1980, where an individual dies without a will and leave no surviving spouse, one who is next of kin, after obtaining written consent from any other next of kin, may execute an affidavit before the surrogate of the county where the decedent died which will entitle the affiant to receive the personal assets of the decedent for the benefit of all next of kin and creditor. Such summary administration is limited to estates where the value of real estate and personal property do not exceed \$5,000. Furthermore, section 3A:6-6 shall fully discharge any person making payment pursuant to its provisions from any liability with regard to the administration of the decedent's estate.

### **NEW MEXICO**

N.M.S.A. Section 45-3-1201 provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt or property to the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if such person dealt with a personal representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

### **NEW YORK**

The Surrogate Court Act, Article 8 B, effective 3-1-64, provides for the settlement of small estates without court administration. A small estate is defined as the estate of a resident who dies intestate leaving personal property of a gross value of \$3,000 or less, without regard to his real property, and provides for a voluntary administrator who may be the spouse, child, grandchild, parent, brother or sister of the decedent, and a

resident of New York. The administrator is required to file an affidavit with the Clerk of the Surrogate Court, who sends notice to each distributee name in the affidavit. A certified copy of the affidavit is delivered to anyone holding personal property of the decedent and constitutes a release for delivery of estate assets pursuant to the affidavit. An accounting must be made by the voluntary administrator to the Clerk of the Court.

Effective 9-1-65, in cases where the assets of an estate do not exceed \$3,000, payments may be made to the surviving spouse, or an adult child, or a parent, or a brother or sister of the deceased, in the order named, upon receipt of an acceptable affidavit.

## **OHIO**

Under certain circumstances the formal administration of an estate can be dispensed under a provision of the Ohio statutes. Section 2113.03 of the Ohio Revised Code provides, in part, as follows:

"(A) Upon the application of any interested party, ... the court, when satisfied that the assets of an estate are fifteen thousand dollars or less in value, and that creditors will not be prejudiced, may make an order relieving the estate from administration and directing delivery of personal property and transfer of real estate to the persons entitled to them".

"When a delivery, sale, or transfer of personal property has been ordered from an estate that has been relieved from administration, the court may appoint a commissioner to execute all necessary instruments of conveyance. The commissioner shall receipt for the property, distribute the proceeds of the conveyance upon court order, and report to the court after distribution."

"When the decedent died testate the will shall be presented for probate, and if admitted to probate, the court may relieve the estate from administration, and order distribution of the estate under the will."

## **OKLAHOMA**

Section 58-393 of the Oklahoma Statutes provides that payments to a party may be made in connection with the death of an annuitant where an affidavit is submitted attesting that the estate concerned is less than \$10,000.00; that no application or petition for the appointment of a personal representative is pending or has been granted; that each claiming successor is entitled to payment or delivery of the property in the proportions set forth in the affidavit; and that all taxes and debts of the estate have been paid or otherwise provided for or are barred.

## **OREGON**

Sections 114.505 through 114.555 of the Oregon Revised Statutes deal with small estates. Section 114.535 provides authorization by the probate court for payment,

transfer or delivery of personal property to the person filing an "Affidavit of Claiming Successor Intestate Estate." A "Claiming Successor" is defined as an heir or devisee of the decedent. The Affiant" is, generally, the claiming successor. Such affidavit is allowed when the estate consists of personal property having a fair market value of \$10,000.00 or less, or real property having a fair market value of \$20,000.00 or less, or a combination of personal real property worth \$10,000 or less or \$20,000.00 or less respectively.

## **PENNSYLVANIA**

Section 3102 of the Pennsylvania Probate, Estate and Fiduciary Code provides that when a Pennsylvania domiciliary dies leaving a gross estate not exceeding \$10,000 (exclusive of any real estate or any wages, employee benefits, deposit accounts or life insurance payable pursuant to section 3101), any party in interest may petition for an order directing distribution of the property to the parties entitled thereto. Delivery of the property enumerated in the decree to the designated person has the same effect as decree of distribution after an accounting by a personal representative, with the exception that any party in interest may petition to revoke the decree within one year if an improper distribution is ordered.

A lump-sum death benefit may be paid pursuant to an order of distribution issued under section 3102 if that order directs that the benefit be paid to an individual as executor of the employee's estate. The lump sum may be paid regardless of whether the amount of the benefit is listed in the order, provided the assets of the estate and the amount of the lump sum combined do not exceed \$10,000. The individual named as distribution agent in order of disbursement properly entered under section 3102 may be recognized as the personal representative of the employee.

Section 3101 of the Code provides, in pertinent part, that:

"(a) Wages, salary or employee benefits.--Any employer of a person dying domiciled in this Commonwealth at any time after the death of the employee, whether or not a personal representative has been appointed, may pay ... any employee benefits due to the deceased in an amount not exceeding \$3,500 to the spouse, any child, the father or mother, or any sister or brother (preference being given in the order named) of the deceased employee. Any employer making such a payment shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and he shall not be required to see the application thereof. Any person to whom payment is made shall be answerable thereof to anyone prejudiced by improper distribution."

Lump-sum benefits up to \$3,500 may be paid to the relatives of a deceased employee pursuant to section 3101 in the order of preference specified therein if the benefits would otherwise be payable to the employee's personal representative.

## **SOUTH DAKOTA**

In accordance with Section 29A-3-1201 of the South Dakota Codified Laws (SDCL), a lump-sum death payment is payable to the estate of the deceased employee without formal administration if an affidavit is submitted, signed by or on behalf of the applicant, that states the following:

- at least 30 days have elapsed since the employee's death;
- the value of the entire estate does not exceed \$50,000.00;
- the deceased employee is not in debt to the Department of Social Services for medical assistance for nursing home or other medical institutional care;
- the applicant is entitled to the payment.

SDCL Section 29A-3-1202 further states that the statements in the affidavit do not need to be verified, and that any payment made in accordance with the affidavit is as if it were made to the personal representative of the deceased employee.

## **TENNESSEE**

Section 30-2002 of Tennessee Statutes annotated defines a small estate as one which contains personal property not exceeding \$10,000 in value. Section 30-2003 states that 45 days after the death of the decedent, one or more of the decedent's heirs, next of kin, or, in the case of a will, the decedent's legatees or devisee may file an affidavit with the clerk of the court, provided that the court may reduce the 45-day period at its discretion. The affidavit must state (1) whether decedent left a will, (2) the creditors of the decedent and the amount due each, (3) a description of all property, and (4) the name, age, relationship and address of each heir, legatee or devisee, or next of kin. Payments owed the decedent's estate must be made to the affiant upon presentation of the affidavit, and payment so made discharge the person making the payment from further liability without the necessity of inquiry into the regularity of the document (section 30- 2004).

## **TEXAS**

Article 180 of the Texas Probate Code provides as follows:

"Effect of Finding That No Necessity for Administration Exists. When application is filed for letters of administration and the court finds that there exists no necessity for administration of the estate, the court shall recite in its order refusing the application that no necessity for administration exists. An order of the court containing such recital shall constitute sufficient legal authority to all person owing money, having custody of any property or acting as registrar or transfer agent of any evidence of interest, indebtedness, property or right belonging to the estate, and to person purchasing or otherwise dealing with the estate for payment or transfer to the distributees of the

decedent, and such distributees shall be entitled to enforce their right to such payment or transfer by suit. Acts 1955, 54 Leg. Page 88, Chapter 55."

The effective date is established under a general provision of the Texas Probate Code which provides:

"Section 2, Effective Date and Application. (a) Effective Date. This Code shall take effect on and after January 1, 1956. The procedure herein prescribed shall govern all probate proceeding in county and probate courts brought after the effective date of this Act, and also all further procedure in proceedings in probate then pending, except to the extent that in the opinion of the court, with respect to proceedings or part thereof would not be feasible or would work injustice, in which event the former procedure shall apply.

Per section 89 of the Texas Probate Code, a Court order admitting a will to probate as a "Muniment of Title" constitutes sufficient legal authority to all persons owing payment to the state for payment of the estate to person named in the will without administration. The "Muniment of Title" is a means by which the Court allows informal administration of a small estate. Once the "Muniment of Title" is in effect, it serves the same purpose and has the same legal authority as if the Court had ordered letters testamentary.

## **UTAH**

U.C.A., Title 75, Section 3-1201 provides that any person indebted to the decedent or having possession of tangible personal property of the decedent deliver such debt or property to the successor of the decedent upon being presented an affidavit made by or on behalf of the successor. The effect of payment by such person in accordance with the affidavit is the same as if such person dealt with a personal representative of the decedent's estate. Such person is thereby discharged and released of any further liability to the estate.

## **WISCONSIN**

Wisconsin Statutes Annotated, sections 867.03, provides the following:

- "(1) When a decedent leaves solely-owned property in this state which does not exceed \$5,000 in value, any heir of the decedent may collect any money due the decedent, receive the property of the decedent if it is not an interest in or lien on real property and have any evidence of interest, obligation to or right of the decedent transferred to the affiant upon furnishing the person owing the money, having custody of the property or acting as registrar or transfer agent of the evidence of interest, obligation to or right, with an affidavit in duplicate showing:
- (a) A description of and the value of the property to be transferred, and
  - (b) The total value of the decedent's property in this state at the date of decedent's death.



- (2) Upon the transfer to the heir furnishing the affidavit, and mailing a copy of the affidavit to the Department of Revenue, the transferor is released to the same extent as if the transfer had been made to the personal representative of the estate of the decedent.
- (3) This section is additional to the provisions of S. 103.39 for payment of decedent's wages by an employer directly to the decedent's dependents."

## **WYOMING**

Section 2-1-201(a) of the Wyoming Statutes states that not earlier than 30 days after the death of the decedent, "any person indebted to the decedent" may make payment to a person or persons claiming to be the distributees of the property upon being presented with a certified copy of an affidavit which has been filed with the county clerk and states (1) the value of the estate does not exceed \$150,000; (2) thirty days have elapsed since the death of the decedent; (3) no personal representative is or will be appointed in any jurisdiction; (4) the claiming distributee(s) relationship to the decedent; and (5) no other distributee(s) exist(s) with a right to succeed to the property under probate proceedings.

If payment is made pursuant to a properly executed affidavit, the person making payment is discharged to the same extent as if he had dealt with a formally appointed personal representative (Section 2-1-202).

## **Appendix D - Order of Descent and Distribution**

The following is a summary of the laws of descent and distribution of intestate personal property of each State and the District of Columbia for use in cases where inheritance rights under state intestacy laws may determine eligibility.

Field office should use this appendix for information only. It should not be used as adjudicative material. Examiners will make all decisions regarding eligibility, with the aid of the General Counsel when necessary.

In determining inheritance rights to personal property in the various States, it should be understood that the property passes to the persons or classes named, and in such portions as are described.

Where none of the person named in the nearest (first) class of heirs of an intestate survive him, the persons named in the next succeeding class will, except as otherwise specified, take equally, if equal in degree of relationship, and by representation (per stirpes), if not equal degree.

## **ALABAMA**

1. If a widow and no children or descendants of a deceased child survive, all to the widow. If there is one child or descendants of a deceased child, the widow gets

one-half; of more than one child, children, or descendants of deceased children are not more than four survive, the widow gets a child's share; and if there are more than four, as above, she gets one-fifth. An adopted child will inherit from adopting parents as though he were their natural child or issue, and the adopted child's surviving spouse and descendants will inherit through him from his adopting parents as though he were their natural child or issue.

2. If a woman is survived by a widower, he takes one-half of the personalty.
3. Subject to the widow's or widower's share, to the children or their descendants, in equal parts, with children of a deceased child taking by representation.
4. To the father and mother in equal parts.
5. If only one parent survives, one-half to the parent and one-half to the brothers and sisters or their descendants by representation.
6. If one parent and no spouse, child, descendant of a child, brothers and sisters or their descendants survive, all to the parent.
7. To the brothers and sisters of the intestate, with children of a deceased brother or sister taking their parents' share by right of representation.
8. If no child, descendant of a child, parent, brother, sister or descendant of a brother or sister survive, all to spouse.
9. To the next of kin of the intestate in equal degree, in equal parts.

Those of half blood inherit equally with those of whole blood.

No Small Estates Statute.

## **ALASKA**

1. All to the spouse, if there is no issue; if issue survives, one-half to the widow and one-half to child, children, and issue of a deceased child, by representation. An adopted child becomes the child, legal heir, and lawful issue of the adopting parents.
2. If no spouse, to children equally, with issue of a deceased child taking by representation.
3. To mother and father equally, or the survivor.
4. To the brothers and sisters of the intestate in equal shares and to the issue of any deceased brother or sister by representation.

5. To next of kin in equal degree, except where there are two or more related in equal degree but claiming through different ancestors, those claiming through nearest ancestor are preferred.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estates of \$2,000 or less.

### **ARIZONA**

1. If a husband or wife and a child, children or descendant of children survive, one-third to the husband or wife, with the remainder to the child, children and descendants. When a part of one class is dead and a part living, the issue of those dead take share of their deceased parent by representation.
2. If no child, children or descendants of children survive, all to the husband or wife.
3. If no husband or wife survives, all to the children and their descendants. An adopted child becomes entitled to full rights of a child of full blood and heir at law, as if born to adopting parents.
4. To the mother and father equally.
5. If only one parent survives, one-half to the parent and one-half to brothers and sisters, and to their descendants.
6. If only one parent and no brothers and sisters or their descendants survive, all to the parent.
7. To brothers and sisters and to their descendants.
8. The estate is divided into moieties (halves) one of which shall go to the paternal grandparents and their descendants and the other to the maternal grandparents and their descendants, to be divided one-half to grandparents and one-half to descendants.

Where the entitled collateral kindred consists of persons of whole blood and also persons of half blood, those of half blood inherit only half as much as those of whole blood. If all are half blood, they inherit whole portions.

Small Estates Statute - Estate of \$500 or less. Effective 6-20-68, Estate of \$1500 or less. Effective 1-1-74 the amount is increased to \$5,000 or less.

### **ARKANSAS**

1. Spouse is entitled to one-third of personalty.

2. Children or their descendants are entitled to two-thirds if spouse survives, or to all if no spouse survives with descendants of a deceased child taking by representation. If spouse and no child or descendant of a child survives, one-half to spouse and one-half to those next in line. An adopted child may inherit from but not through adoptive parent.
3. To the mother and father equally, with all to the surviving parent.
4. To the brothers and sisters of deceased, with the children of a deceased brother and sister taking their parents' share by representative.
5. To grandfather, grandmother, uncles, aunts in equal parts, with descendants taking by representation.
6. One-half to brothers and sisters, and their descendants of the father, and one-half to brothers and sisters, and their descendants, of the mother of deceased, i.e., uncles and aunts of deceased. If all those in a class survive the intestate, they take per capita or equal shares. If part are dead, their descendants take by representation.
7. If no children or their descendants, father, mother or their descendants or paternal or maternal kin capable of inheriting survive, all to the spouse, and if in addition no spouse survives, to the heirs of the spouse.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estate of \$3000 or less.

## **CALIFORNIA**

1. If a spouse and one child, or the issue of a deceased child survive, one-half to the spouse and one-half to the child or issue, with the issue of a deceased child taking by representation.
2. If a spouse and more than one child, or a child and issue of a deceased child or issue of deceased children survive, one-third to the spouse and remainder in equal shares to the children, with issue of a deceased child taking by representation. If all descendants are of the same degree, they share equally, otherwise they take by representation.
3. If no spouse survives, all to issue, and if all descendants are of equal degree, they share equally, otherwise they take by representation. An adopted child may inherit as if a natural child or issue from or through the adopting parent.
4. If no issue, the spouse takes one-half and one-half to the parents, with the full one-half to the surviving parent, if one is dead. If both parents are dead, one-half to their issue and the issue of either, by representation.

5. If a spouse, but no issue, parent, brother, sister or issue of brother or sister survives, all to the spouse.
6. To mother and father equally with all to the survivor.
7. To the brothers and sisters, with the descendants of deceased brothers and sisters taking by representation.
8. To the next of kin in equal degree, but if there are claimants in equal degree of kin to the deceased and claiming through different ancestors, those claiming through the nearest ancestor must be preferred.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estate of \$2000 on affidavits filed before 11-8-67. Estate of \$3000 on affidavit filed on or after March 7, 1974. The affidavit must be a surviving relative (or his conservator or guardian).

### **COLORADO**

1. If a spouse and child, children or descendants of children survive, one-half to the spouse, and one-half to the child, children with descendants of a deceased child taking by representation.
2. If no child, children or descendants of a deceased child survive, all to the spouse.
3. If no spouse survives, to the child or children, with descendants of a deceased taking by representation. An adopted child and his descendants shall be entitled to inherit from the adoptive parents as if born in lawful wedlock to them, but may not inherit through an adoptive parent.
4. To parents equally, with all to survivor.
5. To the brothers and sisters of intestate with descendants of the deceased brothers and sisters taking by representation.
6. To the grandchildren, uncles and aunts in equal shares, with the descendants of the deceased uncles and aunts taking their parents' share by representation.
7. To the nearest lineal ancestors and their descendants, with the descendants taking by representation.

If any collateral relatives of the whole blood survive, relatives of the half blood take only a half share.

Small Estates Statute - Before June 8, 1967 estate of \$1,000 or less; effective June 8, 1967 estate of \$5,000 or less.

## **CONNECTICUT**

1. If a spouse and no children or descendant of deceased children survive, the spouse takes all of the estate up to \$5,000 and one-half of the remainder of the estate.
2. If no child, descendant of a deceased child, or parent survives, the spouse takes all the estate.
3. If a spouse and a child or descendant of a deceased child survives, the spouse takes one-third of the estate, and the remainder is divided among the children, with descendants of a deceased child taking by representation. An adopted child inherits from or through his adoptive parents as though he were the natural child or issue of such parents.
4. The residue of (1) or all to mother and father equally or to the survivor of them.
5. To the brothers and sisters of whole blood of the intestate with descendants of deceased brothers and sisters taking by representation.
6. To the brothers and sisters of half blood of the intestate with descendants of deceased half brothers and sisters taking by representation.
7. To the next of kin in equal degree, those of whole blood taking in preference to those of half blood in equal degree.

Small Estates Statute - Effective 10-1-67, amounts not exceeding \$1000 may be paid to a surviving spouse, next of kin or funeral director under a simplified procedure.

## **DELAWARE**

1. If a spouse and a child, or children, or issue of a deceased child survive, the spouse takes one-third, and two-thirds to the child or children, with issue of a deceased child taking by representation.
2. If a spouse and no child or descendant of a deceased child survive, the spouse takes all the personal estate.
3. If no spouse survives, all to the child or children, with lawful issue of a deceased child taking by representation. An adopted child shall inherit from adoptive parents and from collateral or lineal relatives of adoptive parents.
4. To the parents equally or the survivor.
5. To the brothers and sisters of whole blood, with the lawful issue of deceased brothers and sisters taking by representation.

6. To the brothers and sisters of half blood of the intestate and the lawful issue of those deceased taking by representation.
7. To the next of kin of the intestate in equal degree, and the lawful issue of such kin of equal degree who are deceased, taking by representation.

Small Estates Statute - Before May 14, 1962 estate of \$500 or less; effective May 14, 1962 estate of \$1,500 or less.

### **DISTRICT OF COLUMBIA**

1. If a spouse and no child, parent, grandchild, brother or sister, or child of a brother or sister survives, all to the spouse.
2. If a spouse and child, children or descendant of a deceased child survive, one-third to the spouse and the balance to be divided among the children, with descendants of deceased children taking by representation.
3. If a spouse, and father, mother, brother, sister, or child of a brother or sister survives, but not child or descendant of a child survives, the spouse takes one-half and the other one-half passes to the person below in groups (5), (6), (7), and (8).
4. If no spouse survives, all to the children, with descendants of deceased children taking by representation.

An adopted child shall take from, through, and as a representative of adoptive parents as if their child by birth.

5. To the parents equally or to the survivor.
6. To brothers and sisters of the intestate, each entitled to an equal share, with the child, children or descendants of a deceased brother or sister of intestate taking by representation.
7. To all collateral relations in equal degree with no representation among such collaterals.
8. To grandparents or such of them that survive.

Relatives of half blood inherit equally with those of whole blood.

Small Estates Statute - Estate of \$500 or less before August 11, 1971. Effective August 11, 1971, estate of \$2,500 or less.

**FLORIDA**

1. To the spouse and lineal descendants, in equal shares, and descendants of a deceased child taking by representation.
2. If there are no lineal descendants, all to the surviving spouse.
3. If there is no spouse, all to the lineal descendants, with descendants of a deceased child taking by representation. An adopted child shall be regarded as a lineal descendant or issue of his adopting parent.
4. To the parents equally or to the survivor.
5. To the brothers and sisters, with the descendants of deceased brothers and sisters, taking by representation.
6. The estate is divided into moieties (halves) one of which goes to the paternal and the other to the maternal kindred in the following way:
  - a. To the grandfather and grandmother equally or to the survivor.
  - b. To the aunts and uncles with the descendants of deceased aunts and uncles taking by representation.
  - c. To the great grandparents equally or to the survivor.
  - d. To the brothers and sisters of the grandparents, with the descendants of them taking by representation.
  - e. To the next of kin.
7. Where no one survives on either the paternal or maternal side, the other side is entitled to the whole estate.
8. If no kindred of deceased survives, the whole estate will go to the kindred of the deceased spouse of the intestate as if deceased spouse had survived intestate and then died entitled to the estate.

Where deceased is survived by collateral kin of both half and whole blood, those of half blood inherit only half as much as those of whole blood and if all are half blood, they shall have whole portions.

Small Estates Statute - Estate of \$5,000 or less before January 1, 1972. Effective January 1, 1972, estate of \$10,000 or less.



## **GEORGIA**

1. IF a spouse and no child or descendant of a deceased child survives, all to the spouse.
2. If a widower and child, children, or descendants of a deceased child survive, the estate is divided in equal shares between the widower and children (including deceased children) with descendants of children taking by representation.
3. If a widow and child, children, or descendants of a deceased child survive, the estate is divided in equal shares between widow and children (including deceased children) with descendants of children taking by representation, except that when the share exceed five, the widow gets one-fifty.

An adopted child shall be considered as if a child of natural "issue" of adoptive parents and shall take under laws of descent (or under any testamentary provision unless expressly excluded therefrom).

4. To the parents and brothers and sisters of the intestate equally, with the children or grandchildren of a deceased brother or sister taking by representation.
5. If all the brothers and sisters are dead, distribution is between the nephews and nieces per capita, with children of a deceased nephew or niece taking by representation.
6. To cousins, aunts and uncles inheriting equally.
7. To the next of kin.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Where estate of deceased owes no debts and heirs have agreed on a division of the estate.

## **HAWAII**

1. If deceased is survived by issue, all to the child or children, with issue of a deceased child taking by representation. If all descendants are of the same degree, they share equally.
2. If no descendants survive, one-half to the spouse and one-half to:
  - a. The father and mother, or survivor.  
  
To the brothers and sisters, with issue of deceased brothers or sisters taking by representation.

3. If no issue, parents, brothers and sisters, or descendants of brothers and sisters survive, all to the spouse.
4. If no spouse, issue, or parents survive, to the brothers and sisters, with descendants of deceased brothers and sisters taking by representation.
5. To the next of kin in equal degree with no representation.

Small Estates Statute - Estate of \$1,500 or less.

### **IDAHO**

1. All to spouse, if no issue, father or mother survives.
2. If a spouse and only one child, or the lawful issue of one deceased child survive, one-half to the spouse and one-half to child, or to issue of the child if deceased.
3. If a spouse and more than one child, or one child and lawful issue of a deceased child survives, one-third to the spouse and the remainder in equal shares to children and lawful issue of the deceased child, by representation. An adopted child's right to inherit as "issue" not decided.
4. If no child survives, all to deceased's lineal descendants, and if all descendants are of same degree, they share equally.
5. If no issue survives, one-half to the spouse and one-half to the parents or survivor of them.
6. To parents equally, or the survivor.
7. In equal shares to the brothers and sisters, with children of a deceased brother or sister taking by representation.
8. To the next of kin in equal degree, with those claiming through the nearest ancestor preferred.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estates of \$2,500 or less.

### **ILLINOIS**

1. If a spouse and a descendant survive, one-third to the spouse and two-thirds to children, with descendants of a deceased child taking by representation.
2. If no spouse, but a child, children or issue of a deceased child survives, to the child, children or issue of the deceased child, taking by representation.

3. If a spouse and no descendant survives, all to the spouse, even though a parent, brother, sister, or descendant of a brother or sister survives.
4. An adopted child is deemed a descendant or issue of the adopting parent for purposes of inheritance from the adopting parent and lineal and collateral kindred of the adopting parent.
5. To the parents, brothers and sisters in equal parts, allowing to the surviving parent, if one is dead, a double portion, with descendants of deceased brothers and sisters taking by representation.
6. If there is no surviving spouse, descendant, parent, brother, sister, or descendant of a brother and sister, but a grandparent or descendant of a grandparent:
  - a. One-half to the maternal grandparents in equal parts or the survivors of them, or if none survives to their descendants by representation, and
  - b. One-half to the paternal grandparents in equal parts, or to the survivors of them, or if none survives, to their descendants by representation.
7. If there is no surviving paternal or descendant of a paternal grandparent, all to the maternal side as above and if none on maternal side survives, all to paternal side.
8. If no grandparent, or descendant of a grandparent survives, as in (6) and (7) above, through great grandparents.
9. To next of kin of equal degree, without representation.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estate of \$7,500 or less.

## **INDIANA**

1. The spouse shall receive:
  - a. One-third, if 2 or more children or a child and issue of a deceased child, or issue of 2 or more deceased children survive.
  - b. One-half, if only one child or issue of one deceased child survives.
  - c. Three-fourths, if there are no surviving issue but one or both parents survive.
  - d. All, if no issue or parent survives.
2. The estate other than the spouse's share descends:

- a. To the issue, with children of a deceased child taking by representation.
  - b. If no issue survives, to the surviving parents.
  - c. An adopted child shall inherit as issue from or through adoptive parents. Effective 7-6-61, if a natural parent of a child born in wedlock shall have married the adopting parent, the adopted person in addition shall be entitled to inherit as a child from and through both of his natural parents.
3. If no spouse or issue survives, to the parents, brothers, sisters, and issue of deceased brothers and sisters taking by representation, with parents taking a share equal to a brother or sister, but not less than one-fourth of the estate so divided.
  4. To the descendants of brothers and sisters. IF all of same degree of kinship they take equally; if of unequal degree those more remote take by representation.
  5. Equally to the surviving grandparents.
  6. The estate shall be divided into the number of shares equal to the sum of the number of brothers and sisters of the decedent's parents surviving decedent, plus the number of deceased brothers and sisters of the decedent's parent who have living issue surviving both them and the decedent, and one share goes to each brother and sister of decedent's parents, or to their issue, taking by representation.

Small estates statute under \$2,000 before September 1, 1971. Effective September 1, 1971, estate under \$5,000.

1. Where decedent died before January 1, 1964:
  - a. If a spouse and issue survive, spouse takes one-third; two-thirds of intestate personal property or all, if no spouse survives, descends in equal shares to his children and if one or more is dead, the heirs of such (interpreted by Iowa courts as children, not husband or wife) shall inherit his share as if such child had outlived its parent.
  - b. If a spouse and no issue survives, all of the estate up to \$15,000 and one-half of the excess to the spouse; the other one-half of the excess to the parents.
  - c. If one parent is dead, that parent's share and, if the spouse is dead, the share which would have gone to the spouse, shall go to the remaining parent.
  - d. If both parents are dead, the heirs of the father and mother inherit as they would have done if both parents had survived the intestate and each had

died in possession of one-half of the estate, and so on, through ascending ancestors, and their issue.

- e. If there are no heirs as above, see (3) below.
2. Where decedent died after December 31, 1963:
- a. If a spouse and issue survive, spouse is entitled to \$15,000, which includes one-third of the real estate and all personal property exempt from execution, plus one-third of all personal property, with the remainder of the personal property in equal shares to the children, with issue of a deceased child taking by representation.
  - b. If a spouse and no issue survives, spouse receives property, including one-third of real estate, to the value of \$15,000, plus one-half of the remainder of the estate, and one-half of the remainder to the parents or surviving parent.
  - c. If there is no surviving spouse, the estate shall go in equal shares to the children, with issue of deceased child taking by representation.
  - d. If no spouse, children, or issue of deceased children survive, to the surviving parents in equal shares, or to the surviving parent.
  - e. If no spouse, children, issue of a deceased child or parents survive, to such persons as would be entitled to take, if the parents of the decedent had outlived him and died in possession of the estate, and to their ascending ancestors and heirs.
  - f. If there are no heirs as above, see (3) below.
3. If there are no heirs as above, all to the spouse, or heirs of such spouse if dead. If intestate had more than one spouse, and one survived, the estate shall be divided between the one who is living and the heirs of those who are dead, or between the heirs of all, if all are dead; the heirs taking by representation.
4. An adopted child may inherit as issue of adoptive parents. Parents by adoption inherit as if natural parents.

No Small Estate Statute.

## **KANSAS**

- 1. If a spouse and issue survive, one-half to the spouse and one-half to the child or children, with issue of deceased child taking by representation.
- 2. If spouse and no child of a child survives, all to the spouse.

3. If no spouse but children and/or issue of a deceased child survive, to them in equal shares, with issue of a deceased child taking by representation. "Issue includes adopted children of deceased children or issue."
4. If no spouse or issue survives, to surviving parent or parents, including adoptive parents.
5. To the heirs of the parents (excluding their respective spouses) the same as it would have passed had such parents owned it in equal shares and died intestate at the time of his death, but if either of said parents left no heirs, then his property shall pass to the living heirs of the other parent.
6. To the children of the parents (i.e., brothers and sisters of the deceased) with children of a deceased child taking by representation.

No property shall pass except by lineal descent, to a person further removed from the decedent than the sixth degree.

7. Effective 6-30-63, to the living heirs of the intestate's last spouse, dying prior to the death of the intestate.

No Small Estates Statute.

### **KENTUCKY**

1. Spouse is entitled to one-half of personal property as well as \$1,500 widow's exemption, if widow.
2. The other one-half or all if no spouse survives, to children, with descendants of a deceased child taking by representation. An adopted child is regarded as issue of adoptive parents.
3. To the parents equally, or to the survivor.
4. To the brothers and sisters, with the descendants of deceased brothers and sister taking by representation.
5. The estate is divided into half; one-half to the paternal kin and one-half to the maternal kin, each half to go:
  - a. To the grandparents equally, or to survivor.
  - b. To the aunts and uncles, with descendants of a deceased uncle or aunt taking by representation.
  - c. To the great grandparents.

- d. To the brothers and sisters of the grandparents, with the descendants of those deceased taking by representation.
6. If there are no kin on either the maternal or paternal side, and if there are no heirs on either side, the estate goes to the kin of the husband or wife.

Those of half blood inherit only half as much as those of whole blood.

Small Estates Statute - Where no debts owed by estate.

## **LOUISIANA**

1. A surviving spouse is entitled only to deceased's share of the community property not disposed of by will, when deceased is not survived by descendants or parents.
2. Legitimate children or their descendants. An adopted child for all purposes is considered the legitimate child and the forced heir of the adoptive parents and may inherit through, from, or to the adoptive parents.
3. One-half to father and mother, one-half to brothers and sisters, with children and grandchildren of a deceased brother or sister taking by representation.
4. If only one parent survives, one-fourth to such parent, and three-fourths to the brothers and sisters, with the children and grandchildren of a deceased brother or sister taking by representation.
5. If no parents survive, all to brothers and sisters, with the descendants of a deceased brother or sister taking by representation.
6. If the brothers and sisters are of two or more marriages, the estate is divided equally between the paternal and maternal lines.
7. To next of kin.
8. Natural children inherit from their mother, when acknowledged and if she left no lawful children or descendants, to the exclusion of her father, mother or other lawful kindred.
9. If deceased left no lawful descendants, ascendants or collateral relations, his estate passes to his surviving spouse.
10. If deceased left no lawful descendants, ascendants, collateral relations or widow, to his acknowledged natural children.

Small Estates Statute - Not over \$500 on simple court procedure.

## **MAINE**

1. If a spouse living with deceased survives, and no issue, after payment of debts the residue of the estate through \$10,000 to the spouse, plus one-half of the amount over \$10,000, and one-half balance to the next kin of equal degree through kin in the second degree. If no kin through the second degree survives, all to the spouse.
2. If no spouse survives, to the child or children, with issue of a deceased child taking by representation. If all the issue are of the same degree, they share equally. An adopted child shall inherit as issue of adoptive parents, but not from their collateral kin, by right of representation.
3. To the father and mother equally.
4. If either parent is dead, one-half to the surviving parent and one-half in equal shares to the brothers and sisters, with children or grandchildren of a deceased brother or sister taking by right of representation.
5. If either parent is dead and there are no brothers and sisters living, all to the surviving parent, to the exclusion of issue of deceased brothers and sisters.
6. To the next of kin in equal degree. Those of half blood inherit equally with those of whole blood.

No Small Estates Statute.

## **MARYLAND**

1. If a spouse and no child, grandchild, parent, brother, sister or child of a brother or sister survives, the entire estate to the spouse.
2. If a spouse and a child or descendant of a deceased child survives, one-third to the spouse and two-thirds to the child or children, with descendants of a deceased child taking by representation.
3. If a spouse and father or mother, but no children or descendants of a deceased child survives, one-half to the spouse and one-half to the parents or surviving parent.
4. If a spouse and brother, sister or descendant of a deceased brother or sister, and no child, descendant of a deceased child or parent, survive, \$4,000 to the spouse, and one-half of the residue to the spouse, with the other one-half to brother, sister, with descendants of deceased brother or sisters taking by representation.



5. To the children, with descendants of a deceased child taking by representation. An adopted child shall take from, through and as a representative of its adopting parents as if a child by birth or issue.
6. To the parents equally or to the survivor.
7. To the brothers and sisters equally, with children and grandchildren of a deceased brother and sister taking by representation.
8. To the collateral relatives in equal degree with no representation and no distinction between half or whole blood.
9. To surviving grandparents.

Small Estates Statute - Estate of \$1,000 or less.

### **MASSACHUSETTS**

1. If a spouse and no issue survive, the spouse shall take the whole estate up to \$25,000 and one-half of the remaining personalty. If no issue or kindred survives, all the estate to the spouse.
2. If a spouse and issue survive, one-half to the spouse and one-half to children, with descendants of deceased children taking by representation. If all surviving descendants are of the same degree, they share equally. An adopted child may inherit as issue of adoptive parents and of kindred.
3. If children survive, but no spouse, all to the children equally with descendants of a deceased child taking by representation.
4. To parents equally or to the survivor.
5. To brothers and sisters, with the issue of deceased brothers and sisters taking by representation.
6. If there are no surviving brothers and sisters, to the issue of deceased brothers and sisters. If all the issue are in the same degree of kindred to intestate, they share equally; otherwise, by representation.
7. To the next of kin, and if two or more are in equal degree, to the one claiming through the nearest ancestor.

Those of half blood to inherit equally with those of whole blood.

Small Estates Statute - Estate of \$800 or less before 8-30-66 and \$1,000 effective 8-30-66.

**MICHIGAN**

1. If a widow and no issue survives and the estate does not exceed \$3,000, all to the widow. If the estate does exceed \$3,000, the amount over \$3,000 goes one-half to the widow and one-half:
  - a. To the parents or surviving parent.
  - b. To brothers and sisters with children of deceased brothers and sisters taking by representation.
  - c. To the widow, if none of the above survives.
2. If a woman is survived by a widower and no issue, the widower receives one-half and the other half goes:
  - a. To the parents or the surviving parent.
  - b. To brothers and sisters with children of deceased brother and sisters taking by representation.
  - c. To the widower, if none of the above survives.
3. If a spouse and one child, or issue of a deceased child survives, one-half to the spouse and one-half to the child or issue of the deceased child.
4. If a spouse and children or issue of deceased children survive, one-third to the spouse and two-thirds to the children, with children of a deceased child taking by representation. An adopted child shall inherit from and through adopting parents and from lineal or collateral kin of adopting parents as issue.
5. If no father, mother, child, issue of a deceased child, brother, sister or child of deceased brother or sister survives, all to the spouse.
6. If children survive, but no spouse, all to the children equally with descendants of a deceased child taking by representation.
7. To the parents equally or to the survivor.
8. To the brother and sisters, with children of deceased brothers and sisters taking by representation.
9. If only children of deceased brothers and sisters survive and they are of the same degree of kinship to the intestate, they share equally.
10. To the next of kin.

Half-bloods inherit equally with whole bloods.

Small Estates Statute - Estate of \$1,500 or less.

**MINNESOTA**

1. If a spouse and one child or issue of a deceased child survive, one-half to the spouse and one-half to the child or issue of the deceased child.
2. If a spouse and more than one child or one child and issue of a deceased child or issue of deceased children survive, one-third to the spouse and two-thirds to the children, with issue of a deceased child taking by representation.
3. If no child or issue of a deceased child survives, all to the spouse.
4. If no spouse, to the child or children, with issue of deceased child taking by representation.
5. To the parents equally or the survivor.
6. To the surviving brothers and sisters and to issue of deceased brothers and sisters taking by representation.
7. If only issue of deceased brothers and sisters survive, they take per capita, with their issue (grandnephews and grandnieces) taking by representation.
8. To the next of kin in equal degree, with those claiming through a nearer ancestor taking all.

Those of half blood inherit equally with those of whole blood.

Where there is a will - it must be probated.

Small Estates Statute - Only where person has been dead over five years.

**MISSISSIPPI**

1. If a spouse and no child or descendant of a deceased child survives, all to the spouse.
2. If a spouse and child or descendants of a deceased child survive, the spouse takes a child's share, and the estate goes in equal shares to spouse and children, with descendants of a deceased child or grandchild taking by representation.
3. If no spouse survives, all to the child or children, with descendants of a deceased child taking by representation. An adopted child shall inherit from and through the adoptive parents as issue and from other children of the adoptive parents.

4. To the father and mother and brothers and sisters, with the issue of deceased brothers and sisters taking by representation.
5. To the grandparents and uncles and aunts in equal parts.
6. In equal parts to the next of kin of the intestate in equal degree.

No representation among collaterals, except among the descendants of the brothers and sisters of the intestate.

Those of whole blood take over those of half blood in equal degree. If there are none of whole blood those of half blood take.

No Small Estates Statute.

### **MISSOURI**

1. The surviving spouse receives one-half if the intestate is survived by issue, father, mother, brother, sister or their descendants, and all the estate if there is no surviving issue, father, mother, brother, sister or their descendants.
2. The other one-half, or all if there is no surviving spouse, descends:
  - a. To the children or their descendants and where all are of the same degree they share equally; otherwise they take by representation. An adopted child shall inherit from and through the adoptive parents as issue.
  - b. To the mother and father, brothers and sisters in equal parts with the descendants of deceased brothers and sisters taking by representation.
  - c. To the grandfathers, grandmothers, uncles and aunts in equal parts with the descendants of deceased uncles and aunts taking by representation.
  - d. To the great-grandfathers, great-grandmothers in equal parts with the descendants taking by representation.
  - e. To the nearest lineal ancestors and their children with their descendants taking by representation, provided that collateral relatives, those who are neither ancestors nor descendants of the deceased, may not inherit beyond the 9th degree.
3. To the kin of the wife or husband of the deceased, as if such husband or wife had survived the deceased and then died.

Where several descendants all of equal degree survive they take equally, per capita - where part are living and part dead, the issue of those dead take per stirpes or the share of the parent.

If part of the collateral relatives are of whole blood and part of half blood, those of half blood take only half as much as those of whole blood. If only collaterals of the half blood survive, they take whole portions.

Small Estates Statute - Effective October 13, 1967, estate of \$2,000 or less on claim of creditor or payer of the funeral expenses. Estate of \$5,000 on claim of distributees of estate.

### **MONTANA**

1. If a spouse and only one child or issue of a deceased child survives, one-half to the spouse and one-half to the child or issue of a deceased child.
2. If a spouse and more than one child or issue of deceased children, or a child and issue of a deceased child survive, one-third to the spouse and the remainder to the children, with issue of a deceased child taking by representation.
3. If no spouse survives, all to the children, with issue of a deceased child taking by representation. An adopted child shall inherit from or through the adoptive parents as if a natural child or issue.
4. If no issue survives, all to the surviving spouse.
5. To the parents equally or to the survivor.
6. To the brothers and sisters, and the children of any deceased brother and sister by right of representation.
7. To the next of kin in equal degree, with the one claiming through nearest ancestor being preferred.
8. Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Where there is a widow or minor child - \$1,500 after payment of priority creditors, \$3,000 after payment of all creditors.

### **NEBRASKA**

1. If the estate, after payment of funeral charges and administration, is less than \$500.00, all to the spouse or minor child.
2. If a spouse and only one child, or issue of a deceased child of whom the spouse is a parent survives, one-half to the spouse and one-half to the child or descendants of the deceased child.
3. If the surviving spouse is not the parent of all the children of the deceased, one-fourth to the spouse and the remainder to the child or children, with issue of a deceased child taking by representation.

4. If the spouse is the parent of all the children of deceased, and two or more children or a child and issue of one or more children survive, one-third to the spouse and two-thirds, or the entire estate if no spouse survives, to the child, children or issue of the deceased child. If all descendants are of the same degree, they share equally. An adopted child will inherit as if the natural child or issue of adoptive parents.
5. To the parents or to the survivor.
6. To the brothers and sisters, with the children of a deceased brother or sister taking by right of representation.
7. To the next of kin in equal degree, with those claiming through the nearest ancestor being preferred.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estate not exceeding \$10,000 to surviving spouse, minor child or distributees (effective July 12, 1974).

## **NEVADA**

1. If a spouse and only one child or issue of a deceased child survives, one-half to the spouse and one-half to the child or issue of the deceased child.
2. If a spouse and more than one child, or one child issue of a deceased child or issue of deceased children survive, one third to the spouse and the remainder to the child or children, with issue of a deceased child taking by representation.
3. If no child, but issue of a deceased child or children survive and they are all of the same degree, they share equally; otherwise, by representation. An adopted child shall inherit from the adoptive parents or their relatives as if a legitimate child or issue of the adoptive parents.
4. If no spouse but issue survives, all to the issue with each child receiving a child's share, and issue of a deceased child taking by representation.
5. If a spouse and no issue survives, one-half to the spouse and one-half:
  - a. To the parents or to the survivor.
  - b. To brothers and sisters, with children of a deceased brother or sister taking by representation.
6. If no issue, father, mother, brother or sister, or issue of a deceased brother or sister survives, all to the spouse.
7. To the parents or to the survivor.

8. To brothers and sisters, with children of any deceased brother or sister taking by right of representation.
9. To the next of kin in equal degree with the one claiming through the nearest ancestor being preferred.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Surviving wife, husband, or child \$1,000 - no surviving wife, husband, or child \$400.

1. If a spouse and no issue survive, all the estate through \$10,000.00 plus one-half of the remainder over \$10,000.00 to the spouse.
2. If a spouse and no issue, parent, brother or sister survive, the spouse shall take \$10,000 plus \$2,000 for each full year from the date of the marriage to the death of his or her spouse plus one-half of the remaining estate.
3. The remaining amount not disposed of above, or the entire estate if no spouse survives, to the children with legal representatives of deceased children taking by representation. An adopted child will inherit as if natural child or issue of adopting parent.
4. To the parents equally or to the survivor.
5. To the brothers and sisters of their representatives.
6. To the next of kin in equal shares.

No representation will be allowed among collaterals beyond the degree of brothers' and sisters' grandchildren.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estate of \$2,000 or less.

### **NEW JERSEY**

1. If a spouse and a child, children or representative (issue) of a deceased child survive, one-third to the spouse and the remainder in equal portions to the child, children and such persons as legally represent any child who may have died (issue).
2. If there be no child or legal representative (issue) of a child, all to the spouse.
3. If no spouse survives, to the child, children and legal representatives (issue taking by representation) of a deceased child. An adopted child shall have the

same rights of inheritance as if born in lawful wedlock to the adoptive parents and is deemed "lawful issue."

4. To the parents and brothers and sisters equally, with the children of deceased brothers and sisters taking by representation.
5. To the next of kin in equal degree with those claiming through the nearest ancestor taking.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estate of \$2,500 or less before August 27, 1971. Effective August 27, 1971, estate of \$5,000 or less.

### **NEW MEXICO**

1. If a spouse and issue survive, one-fourth to the spouse and the remainder in equal shares to the children, with issue of a deceased child taking by representation.
2. If no issue survives, all to the spouse.
3. If no spouse survives, all to the child or children, with issue of deceased children taking by representation. An adopted child shall inherit "without exception" as a natural child of the adopting parents.
4. To the parents, with all to the surviving parent.
5. If both parents are dead, the portion which would have been theirs shall be disposed of as if they had outlived the intestate and then died.
6. One-fourth to the surviving spouse of the parent, and three-fourths to the parents, children, with issue of deceased children taking by representation.
7. If no heirs survive the intestate or his parents, to the heirs of the deceased spouse of intestate and if he or she had more than one spouse who died, it shall be equally divided between the heirs of all such spouses, taking by representation.

Small Estate Statute - Estate of \$3,000 or less.

### **NEW YORK**

1. Where decedent died before March 1, 1964:
  - a. If a spouse and only one child, or issue of a deceased child survives, one-half to the spouse and one-half to the child, or issue of the deceased child.



- b. If a spouse and more than one child, or a child and issue of a deceased child, or issue of deceased children survive, one-third to the spouse and the remainder to the child or children, with issue of deceased children taking by representation.
- c. If a spouse and both parents survive, but no child or descendant of a deceased child survives, the spouse shall take \$5,000 and one-half of the residue, with the other half to the parents, or the surviving parent.
- d. If a spouse and no issue or parents survive, the spouse takes \$10,000 and one-half of the residue, and balance is divided among the brothers and sisters with issue of a deceased brother or sister taking by representation.
- e. If no spouse survives, all to the children with issue of a deceased child taking by representation. An adopted child inherits from the adoptive parents and their natural children, but shall not inherit through the adoptive parents.
- f. To the parents or to the survivor.
- g. To the brothers and sisters, with issue of deceased brothers and sisters taking by representation.
- h. To the next of kin.

Those of half blood share equally with those of whole blood.

Small Estates Statute - Estate of \$1,000 or less.

2. Where decedent died after February 29, 1964:

- a. If a spouse and only one child, or issue of a deceased child survives, the spouse takes \$2,000 and one-half of the residue, with the other half going to the surviving child or issue of the deceased child.
- b. If a spouse and more than one child, or a child and issue of a deceased child, or issue of deceased children survive, \$2,000 to the spouse and one-third of the residue, with the remainder of the residue to the children, or issue of deceased children, taking by representation.
- c. If a spouse and both parents survive, but no child or issue of a deceased child survives, the spouse takes \$25,000 and one-half of the residue, and the parents take the other one-half of the residue; and if there is no surviving spouse, the parents each take one-half of the whole.
- d. If only one parent survives, and no child or issue of a deceased child survives, the spouse takes \$25,000 and one-half of the residue, and the

surviving parent takes the balance; if there is no surviving spouse, the surviving parent takes the whole.

- e. If a spouse survives, and no descendants or parents survive, the spouse is entitled to the whole estate.
- f. If there is no surviving spouse, the whole descends and is distributed equally to the children, with issue of deceased children taking by representation. An adopted child inherits from the adoptive parents and their natural children. An adopted child shall not inherit from his natural parents, but inherits as "issue" of his adoptive parents.
- g. If there is no surviving spouse, child, issue of a deceased child, or parents, to the brothers and sisters with issue of deceased brothers and sisters taking by representation.
- h. If there is no surviving spouse, child, issue of a deceased child, parents, brothers and sisters, or issue of deceased brothers and sisters, to the surviving grandparents in equal shares. If there are no grandparents, then to the issue of the grandparents in the nearest degree of kinship. There should be no representation among collaterals after the descendants of brothers and sisters.

Those of half blood share equally with those of whole blood.

Small Estates Statute - Estate of \$3,000 or less.

## **NORTH CAROLINA**

1. If a widow and no issue survive, and the estate does not exceed \$10,000 after payment of debts and administration, all to the widow. If the estate exceeds \$10,000, \$10,000 to the widow plus one-half of the remainder, with the other half to the next of kin.
2. If a widow or widower and issue survive, in equal shares, and the spouse takes a child's share.
3. If a widower and no issue survive, all to the widower.
4. If no spouse survives, to the children, with descendants of a deceased child taking by representation. An adopted child shall inherit from the adoptive parents but not as issue.
5. To the next of kin, with surviving parents taking first, and if neither survive, to brothers and sisters, with children of deceased brothers and sisters taking by representation.

Those of half blood take equally with those of whole blood.

No Small Estates Statute, as such. However, there is a simple procedure by Clerk of Superior Court of County - if not over \$1,000.

## **NORTH DAKOTA**

1. If a spouse and no issue survives:
  - a. Where decedent died before 7-1-61, and the estate is not over \$25,000, all to the spouse. If the estate is over \$25,000, \$25,000 to the spouse, and the excess is divided one-half to the spouse and one-half to the parents or surviving parent.
  - b. Where decedent died after 6-30-61, and the estate is not over \$50,000, all to the spouse. If the estate is over \$50,000, \$50,000 to the spouse, and the excess is divided one-half to the spouse and one-half to the parents or surviving parent.
2. If a spouse and no issue or parents survive:
  - a. Where decedent died before 7-1-61, the entire estate to a value of \$50,000 to the spouse, with the excess over \$50,000 divided one-half to the spouse and one-half to the brothers and sisters, with children of a deceased brother or sister taking by representation.
  - b. Where decedent died after June 30, 1961, the entire estate to the value of \$100,000 to the spouse, with the excess over \$100,000 divided one-half to the spouse, and one-half to the brothers and sisters, with children of a deceased brother or sister taking by representation.
  - c. Where decedent died after 6-30-61, if a spouse and no issue, parent, brother, sister, or children of a deceased brother or sister, survives, all to the spouse.
3. If a spouse and only one child or issue of a deceased child survives, one-half to the spouse and one-half to the child or issue.
4. If a spouse and more than one child or one child and issue of one or more deceased children, one-third to the spouse, with the remainder to the children, with issue of deceased children taking by representation. If all the descendants are of the same degree they share equally.
5. If no spouse survives, all to the child or children, with issue of a deceased child taking by representation. If all the issue are of the same degree they share equally. An adopted child inherits as if born in lawful wedlock or issue to the adoptive parents.
6. To the parents equally or all to the survivor.

7. To the brothers and sisters, with children of deceased brothers and sisters taking by representation.
8. To the next of kin.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estate of \$2,500 or less.

### **OHIO**

1. If a spouse and one child or its issue survive, one-half to the spouse and one-half to the child or issue of the deceased child.
2. If a spouse and more than one child, or a child and issue of a deceased child or issue of deceased children survive, one-third to the spouse, with the remainder to the children equally with issue of a deceased child taking by representation.
3. If no children or descendants of children survive, three-fourths to the spouse, and one-fourth to the parents or the surviving parent.
4. If no child, issue of a deceased child, or parents survive, all to the spouse.
5. If no spouse survives, all to the child or children, with issue of a deceased child taking by representation. An adopted child shall inherit as if born in lawful wedlock or as issue to the adoptive parents.
6. To the parents or surviving parent.
7. To the brothers and sisters, whether whole or half blood, with descendants of a deceased brother or sister taking by representation.
8. One-half to the paternal grandparents equally or the survivor of them, and one-half to the maternal grandparents equally or the survivor of them.
9. To the lineal descendants of the deceased grandparents by representation.
10. To the next of kin of the intestate, with no representation among such next of kin.
11. To the stepchildren or their descendants by representation.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estate of \$5,000 or less (effective 12-3-71).

## **OKLAHOMA**

1. If a spouse and one child, or issue of one child survives, one-half to the spouse and one-half to the child, or issue of deceased child.
2. If a spouse and more than one child, or a child and issue of one or more deceased children, or issue or more than one deceased child survive, one-third to the spouse, and the remainder to the children, with issue of a deceased child taking by representation unless all descendants are of the same degree, then they share equally.
3. If a spouse and no issue survives, one-half to the spouse and one-half to the father and mother, or the surviving parent.
4. If a spouse and no issue or parents survive, one-half to the spouse and one-half to the brothers and sisters, and to the children of deceased brothers and sisters by representation.
5. If a spouse and no issue, parents, or brothers and sisters survive, all to the spouse.
6. If no spouse survives, all to children with issue of a deceased child taking by representation. An adopted child shall inherit from and through the adoptive parents as issue.
7. To the parents, with all to the surviving parent.
8. To the brothers and sisters, with children of deceased brothers and sisters taking by representation.
9. To the next of kin of equal degree, with preference to one claiming through the nearest ancestor.

Those of half blood inherit equally with those of whole blood.

Small Estate Statute - Summary administration of estate \$5,000 or less (effective 10-1-71).

## **OREGON**

1. If a spouse and issue survive, one-half to the spouse, with the remainder in equal shares to the children, with issue of a deceased child taking by representation.
2. If a spouse and no issue survive, all to the spouse.
3. If no spouse survives, to the children, with issue of a deceased child taking by representation. If all the descendants are of the same degree they share equally. An adopted child shall inherit as the natural child of the adopting parents.

4. To the parents equally or to the survivor.
5. To the brothers and sisters, with issue of any deceased brother and sister taking by representation.
6. To next of kin in equal degree with those claiming through the nearest ancestor preferred.

Those of half blood share equally with those of whole blood.

Small Estates Statute - Estate consists of personal property having a fair market value of \$10,000.00 or less, or real property having a fair market value of \$20,000.00 or less, or a combination of personal and real property worth \$10,000.00 or less, or \$20,000.00 or less, respectively.

### **PENNSYLVANIA**

1. If a spouse and only one child, or one child and issue of a deceased child survive, one-half to the spouse and one-half to the child, or issue of a deceased child.
2. If more than one child, or one child and issue of a deceased child, or issue of deceased children survive, one-third to the spouse and the remainder to the issue.
3. If a spouse, and no issue survives, \$20,000, effective 10-9-67, and one-half of the balance of the estate to the spouse.
4. If a spouse and no issue, parent, brother, sister, child of a brother or sister, grandparent, uncle or aunt survives, all of the estate to the spouse.
5. The estate other than the surviving spouse's share, or the entire estate if no spouse survives, to the issue of decedent. When all persons entitled to take, other than the surviving spouse are all of the same degree of consanguinity to the decedent, they take in equal shares.
6. To the parents or to the survivor.
7. To the brothers and sisters equally, with the issue of deceased brothers and sisters taking by representation.
8. To the issue of decedent's parents.
9. If a grandparent survives, one-half to the paternal grandparents or grandparent and one-half to the maternal grandparents or grandparent, and if both paternal and maternal grandparents are dead, to their children and issue of deceased children. If on either side no grandparent or grandchildren survives, all to the other side.

10. To the next of kin.

Small Estates Statute - Before November 10, 1959 estate of \$1,500 or less; effective November 10, 1959 estate of \$2,500 or less; effective May 5, 1970 personal property not in excess of \$5,000.

### **RHODE ISLAND**

1. If a spouse and no issue survive, \$50,000 and one-half of the remainder to the spouse.
2. If a spouse and issue survive, one-half to the spouse, and one-half to the issue.
3. If issue and no spouse survive, all to the issue. An adopted child shall inherit as lawful issue of the adoptive parent after May 8, 1956.
4. To the parents equally or to the survivor.
5. To the brothers and sisters and their descendants, or such of them as there be, with descendants of deceased sisters and brothers taking by representation.
6. The property to be divided into moieties (halves); one-half to the maternal kin and one-half to paternal kin, each half to go:
  - a. To the grandparents.
  - b. To the uncles and aunts and the descendants of deceased uncles and aunts by representation.
  - c. To great grandparents in equal shares.
  - d. To great uncles and aunts or the descendants of those deceased by representation and so without end.

If none on either the paternal or maternal side survives, both halves go to the other side.

If no kin survive intestate, the property will pass to the kin of wife or husband, as if spouse had survived and died intestate.

Small Estates Statute - Effective 9-1-67, a small estates procedure is authorized that does not protect the Board from liability.

### **SOUTH CAROLINA**

1. If a spouse and only one child survive, one-half to the spouse and one-half to the child.

2. If a spouse and more than one child survive, one-third to the spouse and the remainder to the children, with descendants of a deceased child taking by representation.
3. If a spouse and no child or issue of deceased child survive, one-half to the spouse and the other half to be divided equally among the father, mother and brothers and sisters of whole blood, with children of deceased brothers and sisters taking by representation.
4. If a spouse and only sisters or brothers of half blood survive, one-half to the spouse and one-half to the sisters and brothers of half blood, with children of deceased brothers and sisters of whole blood taking a share by representation.
5. If a spouse and lineal ancestor survive, one-half to the spouse and one-half to the lineal ancestor.
6. If a spouse but no kin through 5 survive, all to the spouse.
7. If no spouse but issue survive, all to the issue with descendants of a deceased child taking by representation. An adopted child shall inherit as issue of adoptive parents.
8. To the mother and father and brothers and sisters of whole blood, with the children of a deceased brother and sister of the whole blood taking by representation.
9. If no brothers or sisters of whole blood and parents survive, to the brothers and sisters of half blood and children of deceased brothers and sisters of whole blood, with the children of each deceased brother or sister taking a full share among them.
10. If no brothers or sisters survive, to the children of deceased brothers and sisters of whole blood taking by representation.
11. To the uncles and aunts, with the children of deceased uncles and aunts taking by representation.
12. To the next of kin.
13. To stepchildren.

Small Estates Statute - Estate of \$1,000 or less.

### **SOUTH DAKOTA**

1. If a spouse and 1 child, or issue of a deceased child survive, one-half to the spouse, and one-half to the child, or to issue of the deceased child. (An adopted child does not inherit as issue of a deceased child.)



2. If a spouse and more than 1 child, or issue of 2 or more deceased children, or 1 child and issue of a deceased child, survive, one-third to the spouse, and the remainder divided among the children, with issue of deceased children taking by representation. If all descendants are of the same degree, they share equally.
3. If a spouse and no issue survive, the spouse takes the estate through \$50,000 plus one-half of the balance, with the other one-half over \$50,000 to:
  - a. The parents or the survivor.
  - b. The brothers and sisters, with descendants of deceased brothers and sisters taking by representation.
4. If a spouse and no issue, parents, brothers and sisters or descendants of brothers and sisters survive, all to the spouse.
5. If no spouse survives, all to the children, with descendants of a deceased child taking by representation.
6. To parents with survivor taking all.
7. To brothers and sisters, with descendants of deceased brothers and sisters taking by representation.
8. To the next of kin, with those claiming through nearest ancestor preferred.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Estate of \$2,500 or less.

## **TENNESSEE**

1. In equal shares to the spouse and children, with descendants of child taking by representation.
2. If no child or descendant of a child survives, all to the spouse.
3. If no spouse survives, all to the child or children, with issue of a deceased child taking by representation. An adopted child shall inherit from the adoptive parents, other adopted children or natural born children of adoptive parents, but not through adoptive parents as issue.
4. To the mother and father or to the survivor of them. However, if parents divorced and custody of intestate awarded to one parent, the other parent entitled to nothing.
5. To the brothers and sisters, with children of deceased brothers and sisters taking by representation.

6. To the next of kin in equal degree.

No representation among collaterals after nieces and nephews.

Those of half blood share equally with those of whole blood.

No Small Estates Statute

## **TEXAS**

1. If a spouse and child or children, or issue of a deceased child survive, one-third to the spouse and the balance to the child, children or issue of a deceased child.
2. If a spouse and no child or issue of a deceased child survives, all to the spouse.
3. If no spouse survives, all to the child or children, with issue of a deceased child taking by representation. An adopted child shall inherit as if natural born child or issue of adoptive parents.
4. To the father and mother in equal portions.
5. If only the father or mother survives, one-half to the surviving parent and one-half to the brothers and sisters, with descendants of a deceased brother or sister taking by representation.
6. If only a parent and no brothers and sisters or descendants of deceased brothers and sisters survive - all to the surviving parent.
7. If neither parent survives, to the brothers and sisters, with descendants of a deceased brother or sister taking by representation.
8. The estate is divided into two moieties (halves) one to the paternal line and one to the maternal line, each half to go:
  - a. To the grandfather or grandmother in equal shares, and if one be dead, that share to the descendants of the deceased grandparent.
  - b. If neither grandparent survives - to their descendants in equal degree.
  - c. If there are no descendants, all to the surviving grandparent.

Intestate's children, brothers, sisters, uncles, aunts, and other relatives standing in the same degree take per capita. However, when a part of them are living and a part are dead, the descendants of the deceased ones take by representation.

Those of half blood take one-half as much as those of whole blood. If all are of half blood they share equally.

Small Estates Statute - Estate of \$2,500 effective 9-1-69. Estate of \$5,000 effective 9-1-75.

## **UTAH**

1. If a spouse and one child, or issue of a deceased child survive, one-half to the spouse and one-half to the child, or issue of the deceased child.
2. If a spouse and more than one child, or a child and issue of a deceased child, or issue of more than one deceased child survive, one-third to the spouse and the remainder to the child or children, with issue of a deceased child taking by representation. If no child survives, and all the issue are of the same degree, they share equally.
3. If a spouse and no issue survives:
  - a. Where decedent died before 5-10-61, the estate up to \$25,000 to the spouse, plus one-half of the remainder. The other half to the parents equally or to the surviving parent. If no parent survives, to the brothers and sisters with descendants of deceased brothers and sisters taking by representation.
  - b. Where decedent died after 5-9-61, if a spouse and no issue survives, the estate to a net value of \$100,000 to the spouse, plus one-half of the remainder. The other one-half of the remainder to the parents equally, or to the surviving parent. If no parent survives, to the brothers and sisters, with descendants of deceased brothers and sisters taking by representation.
4. If a spouse and no issue, parents, brothers and sisters, or issue of brothers and sisters survive, all to the spouse.
5. If no spouse survives, all to the children, with the issue of a deceased child taking by representation. An adopted child may not inherit as "issue" of adoptive parents, from adoptive parents's relatives.
6. To parents equally or to the survivor.
7. To the brothers and sisters in equal shares, with the descendants of a deceased brother or sister taking by representation.
8. To the next of kin with those claiming through the nearest ancestor being preferred.

Those of half blood inherit equally with those of whole blood.

Small Estates Statutes - Estate of \$1,500 or less.

## **VERMONT**

1. If a spouse and child, children, or issue of a deceased child survive, one-third to the spouse and the balance in equal shares to the children, with issue of deceased children taking by representation.
2. If a spouse and no issue survive and the spouse does not take one-third of the real estate, or waives under the will, the spouse shall take the entire personal estate if it does not exceed \$8,000 or \$8,000 and one-half of the remainder. The other half shall descend as if no spouse survived. If no other kin survives, spouse shall be entitled to entire estate.
3. If no spouse survives, in equal shares to the children, with issue of deceased children taking by representation. An adopted child shall inherit from the adoptive parents and their children, but not as issue of the adoptive parents, and may still inherit from or through the natural parents.
4. To the parents equally, or to survivor.
5. To the brothers and sisters, with issue of deceased brothers or sisters taking by representation.
6. To the next of kin in equal degree, with no right of representation to the share of such next of kin who has died.

Those of half blood inherit equally with those of whole blood.

No Small Estates Statute.

## **VIRGINIA**

1. If no child or descendants of a deceased child survives, all to the spouse.
2. If a spouse and child, children or descendants of a deceased child survive, one-third to the spouse and the balance to the child, children or descendants of a deceased child, with such descendants taking by representation.
3. If no spouse survives, all to the child, children, or descendants of a deceased child with such descendants taking by representation. An adopted child shall inherit from and through the adoptive parents as if natural child or issue.
4. To the parents or to the survivor.
5. To the brothers and sisters, with descendants of deceased brothers and sisters taking by representation.
6. The estate is divided into moieties (halves); one-half to the paternal side and one-half to the maternal side, each half to:

- a. The grandfather and grandmother or to the survivor.
- b. The uncles, aunts; descendants of deceased uncles and aunts taking by representation.
- c. The great-grandparents.
- d. The brothers and sisters of the grandparents, with the descendants of those deceased taking by representation.
- e. The next of kin.

If there are no paternal kin, all to the maternal side; if there are no maternal kin, all to the paternal side. If no kin of the intestate survive, all to the kin of the husband or wife, as if spouse had died entitled to the estate.

Those of half blood inherit only one-half as much as those of whole blood. If all collaterals are of half blood, the ascending kin, if any, shall have double portions.

#### Small Estates Statute

- Before January 1, 1970, not over \$1,000 due from State or the United States as "pension" or burial allowance.
  - Effective January 1, 1970, not over \$2,500 due from State or the United States as "pension" or burial allowance.
1. If a spouse and issue survive, one-half to the spouse, and one-half to the issue.
  2. Before 6-10-65 if a spouse and no issue survive, all to the spouse. Effective 6-10-65, three-quarters to the spouse, if no issue survive, but intestate is survived by one or both parents or by one or more issue of one or both parents.
  3. Effective 6-10-65, all to the spouse if no issue, parent or issue of parent survive.
  4. If no spouse survives, to the children in equal shares, with issue of a deceased child taking by representation. If no child survives and all issue of deceased children are of the same degree, they share equally. An adopted child is included in "issue," "child," or "children."
  5. To the parents or to the survivor.
  6. To the brothers and sisters and to the children of any deceased brother or sister, by representation.
  7. Before 6-10-65, to the next of kin in equal degree, with those claiming through the nearest ancestor preferred. Effective 6-10-65, to the surviving grandparent or

grandparents, maternal grandparent or grandparents sharing equally with paternal grandparent or grandparents.

8. Effective 6-10-65, to the issue of any maternal grandparent sharing equally with the issue of any paternal grandparent.

Those of half blood inherit equally with those of whole blood.

Small Estates Statute - Only where will provides for non-intervention by the court.

### **WEST VIRGINIA**

1. If a spouse and no issue survives, all to the spouse.
2. If a spouse and issue survive, one-third to the spouse, and the balance to the children with the descendants of a deceased child taking by representation.
3. If no spouse survives, all to the children, with issue of a deceased child taking by representation. An adopted child shall inherit from and through the adoptive parents as if their natural born child or issue.
4. To the parents equally or all to the survivor.
5. If no spouse, child, descendant of a deceased child, father or mother survives, all to the brothers and sisters, with descendants of deceased brothers and sisters taking by representation.
6. The estate is divided into moieties (halves); one-half to paternal and one-half to maternal kin, each half:
  - a. One-half to grandfather and one-half to grandmother. If either is dead, that half to uncles and aunts on the same side and the descendants of deceased uncles and aunts by representation.
  - b. If no grandparents survive, to the uncles and aunts on same side and the descendants of deceased uncles and aunts by representation.
  - c. If only one grandparent among those in a and b survive, the entire moiety to the grandparent.
  - d. To the next of kin.

If no one survives on either maternal or paternal side, all to the other side. If neither maternal or paternal kin survive, to the kin and spouse as if spouse had survived and inherited.

Those of half blood inherit one-half as much as those of whole blood. Those of ascending kin, if all surviving are of half blood, take double portions.

No Small Estates Statute.

**WISCONSIN**

1. If a spouse and issue survive:
  - a. Prior to July 23, 1961, all to issue as in 2.
  - b. Effective July 23, 1961, the spouse is entitled to the greater of:
    - The same share as a child is only one child survives, and in other cases, one-third, with two-thirds to the issue, or
    - When the deceased leaves no lawful issue by a previous marriage, all of the estate up to value of \$10,000.
  - c. (Effective April 1, 1971):
    - If issue survives, all of whom are issue of surviving spouse, the first \$25,000 plus one-half of the balance if only one surviving child or issue of a deceased child survives, or one-third of the balance in other cases to surviving spouse.
    - If issue survives, and one or more is not issue of surviving spouse, one-half of estate to surviving spouse if only one child, or only issue of a deceased child survives, and in other cases, one-third of estate to surviving spouse.
2. To the children and lawful issue of a deceased child by representation. If no child survives, and all lineal descendants are of the same degree, they share equally. An adopted child shall inherit from or through the adoptive parent as "issue."
3. If no issue survive, all to the spouse.
4. To the parents, with all to the survivor.
5. To the brothers and sisters, with descendants of any deceased brother or sister taking by representation.
6. To the grandparents.
7. To the next of kin in equal degree.

Small Estates Statute - \$5,000 or under - summary procedure.

Effective April 1, 1971, Small Estate Affidavit on estate not exceeding \$1,500.

**WYOMING**

1. If a spouse and child or descendants of a deceased child survive, one-half to the spouse and one-half to the child or children with descendants of deceased children taking by representation.
2. If a spouse and no issue survive, all the estate, after the payment of debts and administration, up to \$20,000 to the spouse, with the amount over \$20,000 divided, three-fourths to the spouse and the one-fourth to:
  - a. The father and mother, or the surviving parent.
  - b. If both parents are dead, to the brothers and sisters taking by representation, in equal shares.
3. If a spouse and no issue, parents, brothers and sisters survive, all to the spouse.
4. To the children, and descendants of deceased children by representation. An adopted child is entitled to the same rights as an heir at law of the adopting parents.
5. To the parents, brothers and sisters in equal shares, with descendants of deceased brothers and sisters taking by representation.
6. To the grandparents, uncles and aunts in equal parts, with their descendants taking by representation.

Children and descendants of children of half blood inherit as is whole blood, but collateral relatives of half blood take one-half that taken by those of whole blood.

Small Estates Statute - Estate of \$500 or less.

**Appendix E - Appointment Of Fiduciary****E1. Proof Of Appointment**

Evidence of appointment will be required when any fiduciary files an application in his official capacity on behalf of an estate. Fiduciary includes, among others, administrators and executors.

**E2. Legal Representative Appointed By Court**

Evidence of appointment may be:

- A certified copy of letters of appointment; or
- A "short" certificate; or



- A certified copy of the order of appointment; or
- Any official document issued by the clerk or other proper official of the appointing court.

The document submitted must bear the court seal or the signature of the court clerk and where the order specifies conditions to be complied with before issuance of letters of appointment, it must appear that those conditions have been met; e.g., if a bond is required, such bond must have been furnished.

Certifications of the appointment made more than a year before filing and transcriptions or certifications by anyone other than the proper court office are not acceptable. If the representative had been appointed more than a year before filing, the certification must show that the appointment is still in full force and effect. If the representative had been appointed within the year before filing, the certification must show that the appointment is still in full force and effect only where the circumstances indicate that the appointment may have ended.

If the representative is a "special administrator" (i.e., his powers are limited) and not a general administrator, the certification must show that the appointment is in full force and effect in all cases.

### E3. Public Administrator

The application and supporting documents of a public administrator or other State official authorized to distribute estate monies must contain:

- His full title,
- A copy of a document needed to place the estate within his jurisdiction,
- Such other evidence of his authority as we may need.

## Appendix F - Payment Of LSDP Before 10-30-66

### F1. Eligibility And Entitlement Requirements

Conditions for Payment	DOD before 10-1958	DOD after 9-1958 & before 10-30-66
1. The employee must be completely or partially insured.	Yes	Yes

2.	There must be no surviving widow(er), child, or parent entitled to an insurance annuity on the basis of the employee's death.	Yes	Yes
3.	An application must be filed before the second anniversary of the employee's death.	Yes	Yes
4.	Applicant must be:		
a.	"Living-with" widow(er) of employee;	No*	Yes
b.	Child(ren) and/or child(ren) of deceased child(ren) of employee;	Yes	No
c.	Parent(s) of employee;	Yes	No
d.	Person(s) equitably entitled for having paid employee's B/E.	Yes	Yes

\* "Living with" not required for widow(er) prior to 10-1958.

## F2. Priority Of Payment

Person(s) and amount(s) payable	DOD before 10-1958	DOD after 9-1958 & before 10-30-66
1. "Living-with" widow(er); full amount.	No*	Yes
2. Child(ren) and/or child(ren) of deceased child(ren): Proportions payable under applicable State Law for distributing employee's intestate personal property	Yes	No
3. Parent(s): One-half to each; full amount to sole survivor.	Yes	No
4. Person(s) equitably entitled: One person receives amount equal to reimbursable B/E(s)he paid or LSDP, whichever is less; two or more share in LSDP to extent and proportion they paid B/E.	Yes	Yes

\* "Living with" not required for widow(er) prior to 10-1958.

### **F3. Relatives As Applicant**

- A. Relatives Defined - The applicant must have the status of the deceased employee's widow(er), child (or person entitled to share with child), or parent under the intestacy law of the State of the employee's last domicile; and
1. Must not be disqualified from inheriting the deceased employee's intestate personal property under the law of the State of the employee's last domicile; and
  2. Must not have been finally convicted of the felonious homicide of the employee.

NOTE: Neither a stepchild nor a stepparent may receive an LSDP by virtue of such relationship to the deceased employee since neither may take intestate personal property under State law. They may, however, receive the LSDP by reason of being equitably entitled.

- B. Adopted Child as Relative - Follow the instructions in chapter 4.4, "Family Relationships," in determining an adopted child's rights as a relative of the deceased employee.

### **F4. When Relative's Rights Pass To Another**

An applicant entitled by virtue of his relationship to the deceased employee must be living on the date RRB determines his relationship in order to prevent entitlement of groups below his. The date the RRB determines relationship is interpreted to be the date on which such person's claim for the LSDP is approved for payment by an authorizer.

Thus, if an employee's widow(er) filed for the LSDP but died before the date her/his claim was approved for payment, the employee's children could file within the two-year period and become entitled. However, if the widow(er) died on or after the date her/his claim was approved for payment, entitlement to the LSDP passed to her/his estate.