

## ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)

### Act 386 of 1998

#### PART 1

#### INTESTATE SUCCESSION

##### **700.2101 Intestate estate.**

Sec. 2101. (1) Any part of a decedent's estate not effectively disposed of by will passes by intestate succession to the decedent's heirs as prescribed in this act, except as modified by the decedent's will.

(2) A decedent by will may expressly exclude or limit the right of an individual or class to succeed to property of the decedent that passes by intestate succession. If that individual or a member of that class survives the decedent, the share of the decedent's intestate estate to which that individual or class would have succeeded passes as if that individual or each member of that class had disclaimed his or her intestate share.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

##### **700.2102 Share of spouse.**

Sec. 2102. (1) The intestate share of a decedent's surviving spouse is 1 of the following:

(a) The entire intestate estate if no descendant or parent of the decedent survives the decedent.

(b) The first \$150,000.00, plus 1/2 of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent.

(c) The first \$150,000.00, plus 3/4 of any balance of the intestate estate, if no descendant of the decedent survives the decedent, but a parent of the decedent survives the decedent.

(d) The first \$150,000.00, plus 1/2 of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has 1 or more surviving descendants who are not descendants of the decedent.

(e) The first \$150,000.00, plus 1/2 of any balance of the intestate estate, if 1 or more, but not all, of the decedent's surviving descendants are not descendants of the surviving spouse.

(f) The first \$100,000.00, plus 1/2 of any balance of the intestate estate, if none of the decedent's surviving descendants are descendants of the surviving spouse.

(2) Each dollar amount listed in subsection (1) shall be adjusted as provided in section 1210.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

##### **700.2103 Share of heirs other than surviving spouse.**

Sec. 2103. Any part of the intestate estate that does not pass to the decedent's surviving spouse under section 2102, or the entire intestate estate if there is no surviving spouse, passes in the following order to the following individuals who survive the decedent:

(a) The decedent's descendants by representation.

(b) If there is no surviving descendant, the decedent's parents equally if both survive or to the surviving parent.

(c) If there is no surviving descendant or parent, the descendants of the decedent's parents or of either of them by representation.

(d) If there is no surviving descendant, parent, or descendant of a parent, but the decedent is survived by 1 or more grandparents or descendants of grandparents, 1/2 of the estate passes to the decedent's paternal grandparents equally if both survive, or to the surviving paternal grandparent, or to the descendants of the decedent's paternal grandparents or either of them if both are deceased, the descendants taking by representation; and the other 1/2 passes to the decedent's maternal relatives in the same manner. If there is no surviving grandparent or descendant of a grandparent on either the paternal or the maternal side, the entire estate passes to the decedent's relatives on the other side in the same manner as the 1/2.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

##### **700.2104 Requirement that heir survive decedent for 120 hours.**

Sec. 2104. An individual who fails to survive the decedent by 120 hours is considered to have predeceased the decedent for purposes of homestead allowance, exempt property, and intestate succession, and the decedent's heirs are determined accordingly. If it is not established by clear and convincing evidence that an

individual who would otherwise be an heir survived the decedent by 120 hours, it is considered that the individual failed to survive for the required period. This section does not apply if its application would result in a taking of the intestate estate by the state under section 2105.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2105 No taker; effect.**

Sec. 2105. If there is no taker under the provisions of this article, the intestate estate passes to this state.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2106 Representation.**

Sec. 2106. (1) If, under section 2103(a), a decedent's intestate estate or a part of the estate passes by representation to the decedent's descendants, the estate or part of the estate is divided into as many equal shares as the total of the surviving descendants in the generation nearest to the decedent that contains 1 or more surviving descendants and the deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated 1 share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the decedent.

(2) If, under section 2103(c) or (d), a decedent's intestate estate or a part of the estate passes by representation to the descendants of the decedent's deceased parents or either of them or to the descendants of the decedent's deceased paternal or maternal grandparents or either of them, the estate or part of the estate is divided into as many equal shares as the total of the surviving descendants in the generation nearest the deceased parents or either of them, or the deceased grandparents or either of them, that contains 1 or more surviving descendants and the deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated 1 share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the decedent.

(3) As used in this section:

(a) "Deceased descendant", "deceased parent", or "deceased grandparent" means a descendant, parent, or grandparent who either predeceased the decedent or is considered to have predeceased the decedent under section 2104.

(b) "Surviving descendant" means a descendant who neither predeceased the decedent nor is considered to have predeceased the decedent under section 2104.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2107 Relative of half blood.**

Sec. 2107. A relative of the half blood inherits the same share he or she would inherit if he or she were of the whole blood.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2108 Afterborn heirs.**

Sec. 2108. An individual in gestation at a particular time is treated as living at that time if the individual lives 120 hours or more after birth.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2109 Advancements.**

Sec. 2109. (1) If an individual dies intestate as to all or a portion of his or her estate, property the decedent gave during the decedent's lifetime to an individual who, at the decedent's death, is an heir is treated as an advancement against the heir's intestate share only under either of the following circumstances:

(a) The decedent declared in a contemporaneous writing or the heir acknowledged in writing that the gift is an advancement.

(b) The decedent's contemporaneous writing or the heir's written acknowledgment otherwise indicates that

the gift is to be taken into account in computing the division and distribution of the decedent's intestate estate.

(2) For purposes of subsection (1), property advanced is valued as of the time the heir came into possession or enjoyment of the property or as of the time of the decedent's death, whichever first occurs.

(3) If the recipient of property advanced fails to survive the decedent, the property is not taken into account in computing the division and distribution of the decedent's intestate estate, unless the decedent's contemporaneous writing provides otherwise.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2110 Debts to decedent.**

Sec. 2110. A debt owed to a decedent is not charged against the intestate share of any individual except the debtor. If the debtor fails to survive the decedent, the debt is not taken into account in computing the intestate share of the debtor's descendants.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2111 Alienage.**

Sec. 2111. An individual is not disqualified to take as an heir because the individual or an individual through whom he or she claims is or has been an alien.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2113 Individuals related to decedent through two lines.**

Sec. 2113. An individual who is related to the decedent through 2 lines of relationship is entitled to only a single share based on the relationship that would entitle the individual to the larger share.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2114 Parent and child relationship.**

Sec. 2114. (1) Except as provided in subsections (2) to (4), for purposes of intestate succession by, through, or from an individual, an individual is the child of the individual's natural parents, regardless of their marital status. The parent and child relationship may be established and the individual may be considered a child of the individual's natural parent in any of the following manners:

(a) If a child is born or conceived during a marriage, both spouses are presumed to be the natural parents of the child for purposes of intestate succession. If 2 individuals participated in a marriage ceremony in apparent compliance with the law before the birth of a child, even though the attempted marriage may be void, the child is presumed to be their child for purposes of intestate succession.

(b) If a child is born out of wedlock or if a child is born or conceived during a marriage but is not the issue of that marriage, an individual who did not give birth is considered to be the child's natural parent for purposes of intestate succession if any of the following occur:

(i) The individual who did not give birth joins with the child's mother and acknowledges that child as his child by completing an acknowledgment of parentage as prescribed in the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013.

(ii) The individual who did not give birth joins the mother in a written request for a correction of certificate of birth pertaining to the child that results in issuance of a substituted certificate recording the child's birth.

(iii) The individual who did not give birth and child have established a mutually acknowledged relationship of parent and child that begins before the child becomes age 18 and continues until terminated by the death of either.

(iv) The individual who did not give birth is determined to be the child's parent and an order of filiation establishing that paternity or parentage is entered as provided in the paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(v) Regardless of the child's age or whether or not the individual with a claim to parentage has died, the court with jurisdiction over probate proceedings relating to the decedent's estate determines that the individual who did not give birth is the child's parent, using the standards and procedures established under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, or other law of this state.

(vi) The individual who did not give birth is determined to be the parent in an action under the revocation of parentage act, 2012 PA 159, MCL 722.1431 to 722.1445.

(c) A child who is not conceived or born during a marriage is an individual born in wedlock if the child's

parents marry after the conception or birth of the child.

(d) A child conceived by assisted reproduction with the consent of an individual consistent with the assisted reproduction and surrogacy parentage act is considered the child of the intended parent or parents for purposes of intestate succession.

(e) A child conceived by assisted reproduction under a surrogacy agreement that complies with the assisted reproduction and surrogacy parentage act is considered the child of the intended parent or parents for purposes of intestate succession.

(2) An adopted individual is the child of the child's adoptive parent or parents and not of the child's natural parents, but adoption of a child by the spouse of either natural parent has no effect on either the relationship between the child and that natural parent or the right of the child or a descendant of the child to inherit from or through the other natural parent. An individual is considered to be adopted for purposes of this subsection when a court of competent jurisdiction enters an interlocutory decree of adoption that is not vacated or reversed.

(3) The permanent termination of parental rights of a minor child by an order of a court of competent jurisdiction; by a release for purposes of adoption given by the parent, but not a guardian, to the department of health and human services or a licensed child placement agency, or before a probate or juvenile court; or by any other process recognized by the law governing the parent-child status at the time of termination, excepting termination by emancipation or death, ends kinship between the parent whose rights are so terminated and the child for purposes of intestate succession by that parent from or through that child.

(4) Inheritance from or through a child by either natural parent or the child's kindred is precluded unless that natural parent has openly treated the child as the natural parent's child and has not refused to support the child.

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2004, Act 314, Eff. Sept. 1, 2004;—Am. 2012, Act 160, Imd. Eff. June 12, 2012;—Am. 2024, Act 27, Eff. Apr. 2, 2025.

**Popular name:** EPIC