

**ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)**  
**Act 386 of 1998**

**700.2301 Entitlement of spouse; premarital will.**

Sec. 2301. (1) Except as provided in subsection (2), if a testator's surviving spouse marries the testator after the testator executes his or her will, the surviving spouse is entitled to receive, as an intestate share, not less than the value of the share of the estate the surviving spouse would have received if the testator had died intestate as to that portion of the testator's estate, if any, that is not any of the following:

(a) Property devised to or in trust for the benefit of a child of the testator who was born before the testator married the surviving spouse and who is not the surviving spouse's child.

(b) Property devised to or in trust for the benefit of a descendant of a child described in subdivision (a).

(c) Property that passes under section 2603 or 2604 to a child described in subdivision (a) or to a descendant of such a child.

(2) Subsection (1) does not apply if any of the following are true:

(a) From the will or other evidence, it appears that the will was made in contemplation of the testator's marriage to the surviving spouse.

(b) The will expresses the intention that it is to be effective notwithstanding a subsequent marriage.

(c) The testator provided for the spouse by transfer outside the will, and the intent that the transfer be a substitute for a testamentary provision is shown by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

(3) In satisfying the share provided by this section, devises made by the will to the testator's surviving spouse, if any, are applied first, and other devises, other than a devise to or in trust for the benefit of a child of the testator who was born before the testator married the surviving spouse and who is not the surviving spouse's child or a devise or substitute gift under section 2603 or 2604 to a descendant of such a child, abate as provided in section 3902.

(4) A spouse who receives an intestate share under this section may also exercise the right of election under section 2202, but the intestate share received by the spouse under this section reduces the sum available to the spouse under section 2202(2)(b).

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2004, Act 314, Eff. Sept. 1, 2004;—Am. 2005, Act 204, Imd. Eff. Nov. 10, 2005.

**Popular name:** EPIC