

ASSEMBLY, No. 947

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman FELICE

1 AN ACT concerning the distribution of an intestate estate to
2 stepchildren under certain circumstances and amending
3 N.J.S.3B:5-4.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. N.J.S.3B:5-4 is amended to read as follows:

9 3B:5-4. Intestate shares of heirs other than surviving spouse. The
10 part of the intestate estate not passing to the surviving spouse under
11 N.J.S.3B:5-3, or the entire intestate estate if there is no surviving
12 spouse, passes as follows:

13 a. To the issue of the decedent; if they are all of the same degree
14 of kinship to the decedent they take equally, but if of unequal degree,
15 then those of more remote degree take by representation;

16 b. If there is no surviving issue, to his parent or parents equally;

17 c. If there is no surviving issue or parent, to the issue of the
18 parents or either of them by representation;

19 d. If there is no surviving issue, parent or issue of a parent, but the
20 decedent is survived by one or more grandparents:

21 (1) Half of the estate passes to the paternal grandparents equally
22 if both survive, or to the surviving paternal grandparent; or if both are
23 deceased and the decedent is survived by maternal grandparents or
24 grandparent, then to the issue of the paternal grandparents, the issue
25 taking equally if they are all of the same degree of kinship to the
26 decedent, but if of unequal degree those of more remote degree take
27 by representation;

28 (2) The other half passes to the maternal grandparents equally if
29 both survive, or to the surviving maternal grandparent; or if both are
30 deceased and the decedent is survived by paternal grandparents or
31 grandparent, then to the issue of the maternal grandparents, the issue
32 taking equally if they are all of the same degree of kinship to the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 decedent, but if of unequal degree, those more remote take by
2 representation;

3 (3) If the decedent is survived by a grandparent or grandparents
4 only on the paternal side or only on the maternal side and by no issue
5 of the grandparents on the other side, the entire estate passes to the
6 surviving grandparent or grandparents equally;

7 e. If there is no surviving issue, parent, issue of a parent or no
8 surviving grandparent, but the decedent is survived by the issue of
9 grandparents, the issue taking equally if they are all of the same degree
10 of kinship to the decedent, but if of unequal degree those of more
11 remote degree take by representation.

12 f. If there is no surviving spouse, issue, parent, issue of a parent or
13 no surviving grandparent, or issue of a grandparent, the children of a
14 spouse or spouses of the decedent who are not children of the
15 decedent but who establish a mutually acknowledged parent-child
16 relationship with the decedent shall share in the estate equally.

17 (cf: P.L.1981, c.405, s.3B:5-4)

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19 2. This act shall take effect immediately and shall apply to any
20 estate of a decedent who dies on or after the effective date.

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STATEMENT

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25 This bill permits a stepchild or stepchildren of a person who dies
26 without a will and who leaves no surviving spouse or other relatives
27 set forth in N.J.S.A.3B:5-4 potentially to share in the decedent's
28 estate. Under the provisions of the bill the stepchild or stepchildren
29 may inherit if there is no surviving spouse, issue, parent, issue of a
30 parent or no surviving grandparent, or issue of a grandparent and the
31 stepchild establishes a mutually acknowledged parent-child
32 relationship. A similar type of mutually acknowledged parent-child
33 relationship is recognized in N.J.S.A.54:34-2.1 in certain
34 circumstances where there is a will concerning the relationship of a
35 child and a person who "stood in the mutually acknowledged relation
36 of a parent". Issue are the decedent's lineal descendants, natural or
37 adopted, of all generations. The bill makes no change in the current
38 statutory scheme for the distribution of decedent's estates when there
39 is a surviving spouse. The bill does not include stepchildren with the
40 issue of a decedent equally but does permit stepchildren to potentially
41 share in the estate if there are no other relatives who take under the
42 current statutory scheme and the stepchild or stepchildren establish the
43 existence of a mutually acknowledged parent-child relationship with
44 the decedent.

45 The sponsor believes that this provision may be necessary in
46 recognition of the various circumstances which may arise out of

1 second and subsequent marriages. Including stepchildren as potential
2 heirs under the intestacy law will prevent also a decedent's estate from
3 escheating to the State in the event that there are no living relatives.

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8 Permits stepchildren to share in intestate decedent's estate in certain
9 circumstances.