

*Re Judiciary 2/21*

*Re Pass 4/5 (p. 1369)*

FILED MAR 11 1979

SENATE FILE 361

By COMMITTEE ON JUDICIARY

*Approved 3/4 (p. 687)*

Passed Senate, Date 2-16-79 (p. 826) Passed House, Date 5-10-79 (p. 2248)

Vote: Ayes 39 Nays 0 Vote: Ayes 75 Nays 0

Approved June 1, 1979

### A BILL FOR

1 An Act increasing the share of the surviving spouse  
2 under the intestate succession laws.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section six hundred thirty-three point two  
2 hundred eleven (633.211), subsection four (4), Code 1979,  
3 is amended to read as follows:

4 4. If the property received by the surviving spouse under  
5 subsections 1, 2 and 3 of this section is not equal in value  
6 to the sum of ~~twenty-five~~ fifty thousand dollars, then so  
7 much additional of any remaining homestead interest and of  
8 the remaining real and personal property of the decedent that  
9 is subject to payment of debts and charges against the  
10 decedent's estate, after payment of such debts and charges,  
11 even to the extent of the whole of the net estate, as may  
12 be necessary to make the amount of ~~twenty-five~~ fifty thousand  
13 dollars.

14 Sec. 2. Section six hundred thirty-three point two hundred  
15 twelve (633.212), Code 1979, is amended to read as follows:

16 633.212 SHARE OF SURVIVING SPOUSE WHERE DECEDENT LEFT  
17 NO ISSUE. If the decedent dies intestate leaving a surviving  
18 spouse and leaving no issue, the surviving spouse shall receive  
19 the following share:

20 1. ~~One-third~~ One-half in value of all the legal or  
21 equitable estates in real property possessed by the decedent  
22 at any time during the marriage, which have not been sold  
23 on execution or other judicial sale, and to which the surviving  
24 spouse has made no relinquishment of his or her right.

25 2. All personal property that, at the time of death, was  
26 in the hands of the decedent as the head of a family, exempt  
27 from execution.

28 3. ~~One-third~~ One-half of all other personal property of  
29 the decedent which is not necessary for the payment of debts  
30 and charges.

31 4. If the property received by the surviving spouse under  
32 subsections 1 and 3 of this section is not equal in value  
33 to the sum of ~~twenty-five~~ fifty thousand dollars, then so  
34 much additional of any remaining homestead interest and of  
35 the nonexempt real and personal property of the decedent

1 remaining after payment of the debts and charges against the  
2 estate, as may be necessary, even to the extent of the entire  
3 net estate, to make the amount of ~~twenty-five~~ fifty thousand  
4 dollars.

5 5. So much additional of the remaining real and personal  
6 property belonging to the decedent as is necessary to make  
7 the entire share of the surviving spouse, including the  
8 property received under subsections 1, 3 and 4 of this section,  
9 equal in value to the aforesaid sum of ~~twenty-five~~ fifty  
10 thousand dollars plus one-half of the net value of the estate  
11 over and above the said sum of ~~twenty-five~~ fifty thousand  
12 dollars and the value of the exempt personal property.

13 Sec. 3. This Act is effective January 1, 1980 for the  
14 estates of persons dying on or after January 1, 1980.

15 EXPLANATION

16 The bill increases the intestate share of the surviving  
17 spouse of a decedent dying intestate without issue on or after  
18 January 1, 1979 from one-third to one-half of certain property  
19 with the minimum amount to be received by the surviving spouse  
20 whether there is issue or not increased from \$25,000 to  
21 \$50,000.

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SENATE FILE 361

H-3981

1 Amend Senate File 361 as passed by the Senate,  
2 as follows:

3 1. By striking everything after the enacting  
4 clause and inserting in lieu thereof the following:  
5 "Section 1. Section six hundred thirty-three point  
6 two hundred eleven (633.211), Code 1979, is amended  
7 by striking the section and inserting in lieu thereof  
8 the following:

9 633.211 SHARE OF THE SURVIVING SPOUSE. If the  
10 decedent dies intestate leaving a surviving spouse,  
11 the surviving spouse shall receive the following:  
12 1. If there are no surviving issue of the decedent,  
13 or if there are surviving issue all of whom are issue  
14 of the decedent and the surviving spouse, the entire  
15 estate.

16 2. If there are surviving issue of the decedent,  
17 one or more of whom are not issue of the surviving  
18 spouse, the first fifty thousand dollars plus one-  
19 third of the balance of the estate.

20 Sec. 2. Section six hundred thirty-three point  
21 two hundred nineteen (633.219), Code 1979, is amended  
22 by striking the section and inserting in lieu thereof  
23 the following:

24 633.219 SHARE OF HEIRS. The part of the estate  
25 not passing to the surviving spouse under section  
26 one (1) of this Act, or the entire estate if there  
27 is no surviving spouse, shall be disposed of as  
28 follows:

29 1. To the issue of the decedent, to be distributed  
30 among them per capita at each generation as provided  
31 for in subsection five (5) of this section.

32 2. If there are no surviving issue, to the  
33 decedent's parents equally, or to the surviving parent  
34 if one parent predeceased the decedent, or if both  
35 parents predeceased the decedent, the share of each  
36 parent to be distributed among that parent's issue  
37 per capita at each generation as provided for in  
38 subsection five (5) of this section. If both parents  
39 predecease the decedent, with only one of those pa-  
40 rents survived by issue, the share of the parent who  
41 predeceased the decedent without issue who survived  
42 the decedent shall be distributed among the issue  
43 of the other parent per capita at each generation  
44 as provided for in subsection five (5) of this section.

45 3. If there are no surviving issue, parents, or  
46 issue of parents, but the decedent is survived by  
47 one or more grandparents or issue of grandparents,  
48 half of the estate passes to the paternal grandparents  
49 if both paternal grandparents survive, or to the  
50 surviving paternal grandparent, or if both paternal

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1 grandparents are deceased, to the issue of the pa-  
2 ternal grandparents to be distributed per capita at  
3 each generation as provided for in subsection five  
4 (5) of this section. If both paternal grandparents  
5 predecease the decedent with only one of those  
6 grandparents survived by issue, the share of the  
7 paternal grandparent who predeceased the decedent  
8 without issue who survived the decedent shall be  
9 distributed among the issue of the other paternal  
10 grandparent per capita at each generation as provided  
11 for in subsection five (5) of this section. The other  
12 half of the decedent's estate not passing to the  
13 paternal grandparents, or their issue, passes to the  
14 maternal grandparents or their issue in the same  
15 manner; but if there are no surviving grandparents  
16 or issue of a grandparent on the maternal side, the  
17 entire estate passes to the relatives on the paternal  
18 side.

19 4. If the decedent is not survived by a spouse,  
20 issue, parents or issue of parents, grandparents or  
21 issue of grandparents, the estate escheats to the  
22 state of Iowa.

23 5. In situations in which per capita at each  
24 generation distribution is called for by this section,  
25 the estate is initially divided at the nearest  
26 generation to the decedent, which generation contains  
27 at least one living member who survived the decedent,  
28 with an allocation of one equal share to each of the  
29 surviving members of that generation and each of the  
30 members of that generation who predeceased the decedent  
31 leaving issue. The shares of members of that initial  
32 division generation who predeceased the decedent  
33 leaving issue who survived the decedent are divided  
34 among the issue of those predeceased members as if  
35 each succeeding generation was the initial division  
36 generation.

37 Sec. 3. Section six hundred thirty-three point  
38 two hundred twelve (633.212), Code 1979, is repealed.

39 Sec. 4. This Act takes effect January first  
40 following its enactment for the estates of persons  
41 who die on or after that date."

SENATE FILE 361

H-3822

1 Amend Senate File 361 as follows:

2 1. Page 1, line 2, by striking the word  
3 "subsection" and inserting in lieu thereof the words  
4 and figures "subsections one (1), three (3) and".

5 2. Page 1, line 3, by striking the word "is" and  
6 inserting in lieu thereof the word "are".

7 3. Page 1, by inserting after line 3 the following:

8 "1. ~~One-third~~ One-half in value of all the legal  
9 or equitable estates in real property possessed by  
10 the decedent at any time during the marriage, which  
11 have not been sold on execution or other judicial  
12 sale, and to which the surviving spouse has made no  
13 relinquishment of his or her right.

14 3. ~~One-third~~ One-half of all other personal  
15 property of the decedent which is not necessary for  
16 the payment of debts and charges."

17 4. Page 1, line 6, by striking the word "fifty"  
18 and inserting in lieu thereof the words "one hundred".

19 5. Page 1, line 12, by striking the word "fifty"  
20 and inserting in lieu thereof the words "one hundred".

21 6. Page 1, by inserting after line 13 the  
22 following:

23 "Sec. \_\_\_\_\_. Section six hundred thirty-three point  
24 two hundred eleven (633.211), Code 1979, is amended  
25 by adding the following new subsection:

26 NEW SUBSECTION. So much additional of the remaining  
27 real and personal property belonging to the decedent  
28 as is necessary to make the entire share of the  
29 surviving spouse, including the property received  
30 under subsections one (1), three (3) and four (4)  
31 of this section, equal in value to the aforesaid sum  
32 of one hundred thousand dollars plus one-half of the  
33 net value of the estate over and above the said sum  
34 of one hundred thousand dollars and the value of the  
35 exempt personal property."

36 7. Page 1, line 15, by striking the words and  
37 figure "Code 1979, is" and inserting in lieu thereof  
38 the words and figures "subsections one (1) and three  
39 (3), Code 1979, are".

40 8. Page 1, by striking lines 16 through 19.

41 9. Page 1, line 20, by striking the words "One-  
42 half in value of all" and inserting in lieu thereof  
43 the words "~~in-value-of-all~~ All".

44 10. Page 1, by striking line 25 through page 2,  
45 line 14, and inserting in lieu thereof the following:

46 "3. ~~One-third-of-all~~ All other personal property  
47 of the decedent which is not necessary for the payment  
48 of debts and charges.

49 Sec. \_\_\_\_\_. Section six hundred thirty-three point  
50 two hundred twelve (633.212), Code 1979, is amended

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- 1 by striking subsections four (4) and five (5).
- 2 Sec. 5. This Act is effective January first
- 3 following its enactment for the estates of decedents
- 4 dying intestate on or after the effective date of
- 5 this Act."
- 6 11. By numbering and renumbering as required by
- 7 this Act.

H-3822 FILED - *H/Draw 5/10 (# 2243)* BY CONLON of Muscatine  
APRIL 9, 1979

decedent's estate, after payment of such debts and charges, even to the extent of the whole of the net estate, as may be necessary to make the amount of ~~twenty-five~~ fifty thousand dollars.

Sec. 2. Section six hundred thirty-three point two hundred twelve (633.212), Code 1979, is amended to read as follows:

633.212 SHARE OF SURVIVING SPOUSE WHERE DECEDENT LEFT NO ISSUE. If the decedent dies intestate leaving a surviving spouse and leaving no issue, the surviving spouse shall receive the following share:

1. ~~One-third~~ One-half in value of all the legal or equitable estates in real property possessed by the decedent at any time during the marriage, which have not been sold on execution or other judicial sale, and to which the surviving spouse has made no relinquishment of his or her right.

2. All personal property that, at the time of death, was in the hands of the decedent as the head of a family, exempt from execution.

3. ~~One-third~~ One-half of all other personal property of the decedent which is not necessary for the payment of debts and charges.

4. If the property received by the surviving spouse under subsections 1 and 3 of this section is not equal in value to the sum of ~~twenty-five~~ fifty thousand dollars, then so much additional of any remaining homestead interest and of the nonexempt real and personal property of the decedent remaining after payment of the debts and charges against the estate, as may be necessary, even to the extent of the entire net estate, to make the amount of ~~twenty-five~~ fifty thousand dollars.

5. So much additional of the remaining real and personal property belonging to the decedent as is necessary to make the entire share of the surviving spouse, including the property received under subsections 1, 3 and 4 of this section, equal in value to the aforesaid sum of ~~twenty-five~~ fifty

SENATE FILE 361

AN ACT

INCREASING THE SHARE OF THE SURVIVING SPOUSE UNDER THE  
INTESTATE SUCCESSION LAWS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section six hundred thirty-three point two hundred eleven (633.211), subsection four (4), Code 1979, is amended to read as follows:

4. If the property received by the surviving spouse under subsections 1, 2 and 3 of this section is not equal in value to the sum of ~~twenty-five~~ fifty thousand dollars, then so much additional of any remaining homestead interest and of the remaining real and personal property of the decedent that is subject to payment of debts and charges against the

thousand dollars plus one-half of the net value of the estate over and above the said sum of ~~twenty-five~~ fifty thousand dollars and the value of the exempt personal property.

Sec. 3. This Act is effective January 1, 1980 for the estates of persons dying on or after January 1, 1980.

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TERRY E. BRANSTAD  
President of the Senate

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FLOYD H. MILLEN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 361, Sixty-eighth General Assembly.

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FRANK J. STORK  
Secretary of the Senate

Approved June 1, 1979

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ROBERT D. RAY  
Governor