

**CHAPTER 18**  
**CUSTODY OF CHILDREN BY ABANDONED SPOUSE**  
*H.F. 421*

**AN ACT** relating to the custody of children by an abandoned spouse.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 597.15, Code 1985, is amended to read as follows:

**597.15 CUSTODY OF CHILDREN.**

If the ~~husband~~ one spouse abandons the ~~wife~~ ~~she~~ other spouse, the abandoned spouse is entitled to the custody of the minor children, unless the district court, upon application for that purpose, ~~shall~~ otherwise ~~direct~~ directs, or unless a custody decree is entered in accordance with the provisions of chapter 598A. In this section "abandon" does not include:

1. The departure of a spouse due to physical or emotional abuse.
2. The departure of a spouse accompanied by the minor children.

Approved March 21, 1985

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**CHAPTER 19**  
**SURVIVING SPOUSE'S SHARE IN INTESTATE SUCCESSION**  
*S.F. 378*

**AN ACT** relating to the share of the surviving spouse in intestate succession.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 633.211, Code 1985, is amended to read as follows:

**633.211 SHARE OF SURVIVING SPOUSE IF DECEDENT LEFT NO ISSUE OR LEFT ISSUE ALL OF WHOM ARE ISSUE OF SURVIVING SPOUSE.**

If the decedent dies intestate leaving a surviving spouse and leaving no issue or leaving issue all of whom are the issue of the surviving spouse, the surviving spouse shall receive the following share:

1. ~~One-third in~~ All the 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 by other judicial sale, and to which the surviving spouse has made no relinquishment of 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 of all~~ 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, 2 and 3 of this section is not equal in value to the sum of 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 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 fifty thousand dollars.

Sec. 2. Section 633.212, Code 1985, is amended to read as follows:

633.212 SHARE OF SURVIVING SPOUSE WHERE IF DECEDENT LEFT NO ISSUE SOME OF WHOM ARE NOT ISSUE OF SURVIVING SPOUSE.

If the decedent dies intestate leaving a surviving spouse and leaving ~~no issue~~ some of whom are not the issue of the surviving spouse, the surviving spouse shall receive the following share:

1. 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 by other judicial sale, and to which the surviving spouse has made no relinquishment of 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-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, 2 and 3 of this section is not equal in value to the sum of fifty thousand dollars, then so much additional of any remaining homestead interest and of the ~~nonexempt~~ remaining real and personal property of the decedent remaining that is subject to payment of debts and charges against the decedent's estate, after payment of the debts and charges against the estate, as may be necessary, even to the extent of the entire whole of the net estate, as necessary to make the amount of 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 fifty thousand dollars plus one-half of the net value of the estate over and above the said sum of fifty thousand dollars and the value of the exempt personal property.

Sec. 3. Section 633.436, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Except as provided in section 633.211 and 633.212, shares of the distributees shall abate, for the payment of debts and charges, federal and state estate taxes, legacies, the shares of children born or adopted after the making of a will, or the share of the surviving spouse who elects to take against the will, without any preference or priority as between real and personal property, in the following order:

Sec. 4. This Act applies to the estates of decedents dying on or after the effective date of this Act.

Approved March 22, 1985