

### **633.238 Share of surviving spouse who elects to take against will.**

If the surviving spouse elects to take against the will, the share of such surviving spouse will be:

1. One-third 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 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 other personal property of the decedent that is not necessary for the payment of debts and charges.

[C51, § 1329, 1390, 1394, 1421; R60, § 2361, 2422, 2477, 2479; C73, § 2371, 2436, 2440; C97, § 3312, 3362, 3366; C24, 27, 31, 35, 39, § **11918, 11986, 11990, 11991**; C46, 50, 54, 58, 62, § 635.7, 636.1, 636.5, 636.6; C66, 71, 73, 75, 77, 79, 81, § 633.238]