

633A.3115 Allowance to children who do not reside with surviving spouse.

1. If the trustee is required to give notice under section 633A.3114, the trustee shall also mail, pursuant to section 633.40, subsection 5, to the legal guardian of each child qualified under subsection 2 and to each such child or the guardian ad litem for such child if necessary, who has no legal guardian, a written notice regarding the right to request an allowance. The notice shall inform the child and the child's guardian, if applicable, of the right to submit an application to the trustee within four months after service of the notice, for a support allowance for a period of twelve months following the decedent's death.

2. Upon receipt of an application for a support allowance, the trustee may make an allowance of an amount the trustee deems reasonable in light of the assets and condition of the trust, to provide for proper support during the period of twelve months following the decedent's death to a child of the decedent who does not reside with the settlor's surviving spouse and is any of the following:

a. Less than eighteen years of age.

b. Between the ages of eighteen and twenty-two years who is any of the following:

(1) Regularly attending an accredited school in pursuance of a course of study leading to a high school diploma or its equivalent.

(2) Regularly attending a course of vocational-technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs.

(3) Is, in good faith, a full-time student in a college, university, or community college.

(4) Has been accepted for admission to a college, university, or community college and the next regular term has not yet begun.

c. Is a child of any age and dependent because of physical or mental disability.

3. If an application for a support allowance has not been filed within four months after service of the notice by or on behalf of the child qualifying for an allowance under subsection 2, the child shall be deemed to have waived the right to an allowance under this section. A child who qualifies for an allowance under this section or the guardian for the child, if any, may waive the child's right to such an allowance by submitting an affidavit to the trustee acknowledging receipt of notice and irrevocably waiving the child's right to an allowance under this section.

4. The opening of an estate for the settlor shall terminate the right of a child to apply for an allowance from the trustee of the settlor's revocable trust or to receive additional support payments from the trust unless the personal representative consents to a continuation of support payments. If an allowance has been paid from trust assets, the trustee or trust beneficiaries shall have a right to be reimbursed subject to court approval from the settlor's estate for such payment until the final report of the settlor's estate has been approved.

2012 Acts, ch 1123, §26, 32

Referred to in §633A.3110

[SP] Section applies to trusts of settlors dying on or after July 1, 2012; 2012 Acts, ch 1123, §32

[T] NEW section