

2017 -- H 5439

LC001259

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO PROBATE PRACTICE AND PROCEDURE -- ELECTIVE SHARE

Introduced By: Representatives McEntee, Craven, McKiernan, and O'Brien

Date Introduced: February 09, 2017

Referred To: House Judiciary

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 33-28-1 of the General Laws in Chapter 33-28 entitled "Elective  
2 Share" is hereby amended to read as follows:

3 **33-28-1. Elective share.**

4 (a) The surviving spouse of a decedent who dies domiciled in this state has a right of  
5 election, under the limitations and conditions stated in this chapter, to take an elective share equal  
6 to: ~~the life estate and allowance of an intestate's real estate pursuant to §§ 33-1-5 and 33-1-6, and~~  
7 ~~share of an intestate's personal estate pursuant to § 33-1-10.~~

8 (1) The life estate and allowance in an intestate's real estate titled in the name of the  
9 decedent individually at the time of the decedent's death pursuant to §§33-1-5 and 33-1-6; and

10 (2) The share of the decedent's personal estate subject to probate pursuant to §33-1-10.

11 The elective share may be taken in kind or the value thereof.

12 (b) If the right of election is exercised by, or on behalf of the surviving spouse, the  
13 surviving spouse's allowances pursuant to chapter 10 of this title, if any, are not charged against,  
14 but are in addition to, the elective share.

15 (c) The right, if any, of the surviving spouse of a decedent who dies domiciled outside  
16 this state to take an elective share in property in this state is governed by the law of the decedent's  
17 domicile at death.

18 SECTION 2. This act shall take effect upon passage and shall apply to the estates of

1 decedents dying on and after January 1, 2017.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would clarify the right of a surviving spouse of a decedent regarding elective  
2 shares against the decedent's will relating to real and personal estate to the estates of decedents  
3 dying on and after January 1, 2017.

4           This act would take effect upon passage and would apply to the estates of decedents  
5 dying on and after January 1, 2017.

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