

524.2-301 ENTITLEMENT OF SPOUSE; PREMARITAL WILL.

(a) If a testator married after making a will and the spouse survives the testator, the surviving spouse shall receive a share of the estate of the testator equal in value to that which the surviving spouse would have received if the testator had died intestate, unless:

- (1) provision has been made for, or waived by, the spouse by prenuptial or postnuptial agreement;
- (2) the will or other written evidence discloses an intention not to make provision for the spouse;
- (3) the person, who was the surviving spouse at death, was designated as a devisee, or is the beneficiary of a trust referenced, in the will; or
- (4) the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's written statements or may be reasonably inferred from the amount of the transfer or other evidence.

(b) In satisfying the share provided by this section, devises made by the will other than a devise to a child of the testator who was born before the testator married the surviving spouse and who is not a child of the surviving spouse or a devise or substitute gift under section 524.2-603 or 524.2-604 to a descendant of such a child, abate first as otherwise provided in section 524.3-902.

History: 1985 c 250 s 21; 1986 c 444; 1994 c 472 s 29; 2002 c 379 art 1 s 101; 2008 c 341 art 4 s 1; 2016 c 135 art 2 s 24