

LEGISLATIVE BILL 318

Approved by the Governor April 28, 1999

Introduced by Brashear, 4

AN ACT relating to decedents' estates; to amend section 30-2323, Reissue Revised Statutes of Nebraska; to change provisions relating to exempt property allowances; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 30-2323, Reissue Revised Statutes of Nebraska, is amended to read:

30-2323. In addition to the homestead allowance, the surviving spouse of a decedent who was domiciled in this state is entitled from the estate to value not exceeding five thousand dollars in excess of any security interests therein in household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse, children of the decedent are entitled jointly to the same value unless the decedent has provided in his or her will that one or more of such children shall be disinherited, in which case only those children not so disinherited shall be so entitled. For purposes of this section, disinherited means providing in one's will that a child shall take nothing or a nominal amount of ten dollars or less from the estate.

If encumbered chattels are selected and if the value in excess of security interests, plus that of other exempt property, is less than five thousand dollars, or if there is not five thousand dollars worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the five thousand dollars value. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate except for costs and expenses of administration, and except that the right to any assets to make up a deficiency of exempt property shall abate as necessary to permit prior payment of homestead allowance and family allowance.

These rights are in addition to any benefit or share passing to the surviving spouse ~~or children~~ by the will of the decedent unless otherwise provided therein, by intestate succession, or by way of elective share. These rights are in addition to any benefit or share passing to the surviving children by intestate succession and are in addition to any benefit or share passing by the will of the decedent to those surviving children not disinherited unless otherwise provided in the will.

Sec. 2. Original section 30-2323, Reissue Revised Statutes of Nebraska, is repealed.