

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Probate Act of 1975 is amended by changing Sections 15-1, 15-2, and 25-1 as follows:

(755 ILCS 5/15-1) (from Ch. 110 1/2, par. 15-1)

Sec. 15-1. Spouse's award.

(a) The surviving spouse of a deceased resident of this State whose estate, whether testate or intestate, is administered in this State, shall be allowed as the surviving spouse's own property, exempt from the enforcement of a judgment, garnishment or attachment in the possession of the representative, a sum of money that the court deems reasonable for the proper support of the surviving spouse for the period of 9 months after the death of the decedent in a manner suited to the condition in life of the surviving spouse and to the condition of the estate and an additional sum of money that the court deems reasonable for the proper support, during that period, of minor and adult dependent children of the decedent who reside with the surviving spouse at the time of decedent's death. The award may in no case be less than \$20,000 ~~\$10,000~~, together with an additional sum not less than \$10,000 ~~\$5,000~~ for each such child. The award shall be paid to the surviving

spouse at such time or times, not exceeding 3 installments, as the court directs. If the surviving spouse dies before the award for his support is paid in full, the amount unpaid shall be paid to his estate. If the surviving spouse dies or abandons a child before the award for the support of a child is paid in full, the amount unpaid shall be paid for the benefit of the child to such person as the court directs.

(b) The surviving spouse is entitled to the award unless the will of the decedent expressly provides that the provisions thereof for the surviving spouse are in lieu of the award and the surviving spouse does not renounce the will.

(c) The changes made by this amendatory Act of the 96th General Assembly apply to a decedent whose date of death is on or after the effective date of this amendatory Act of the 96th General Assembly.

(Source: P.A. 87-287.)

(755 ILCS 5/15-2) (from Ch. 110 1/2, par. 15-2)

Sec. 15-2. Child's award.

(a) If a minor or adult dependent child of the decedent does not reside with the surviving spouse of the decedent at the time of decedent's death, there shall be allowed to that child, exempt from the enforcement of a judgment, garnishment or attachment in the possession of the representative, a sum of money that the court deems reasonable for the proper support of the child for the period of 9 months after the death of the

decedent, in a manner suited to the condition in life of the minor child and to the condition of the estate. The award may in no case be less than \$10,000 ~~\$5,000~~ and shall be paid for the benefit of the child to such person as the court directs.

(b) If a deceased resident of this State leaves no surviving spouse, there shall be allowed to all children of the decedent who were minors at the date of death and all adult dependent children, exempt from the enforcement of a judgment, garnishment or attachment in the possession of the representative, a sum of money that the court deems reasonable for the proper support of those children for the period of 9 months after the death of the decedent in a manner suited to the condition in life of those children and to the condition of the estate. The award may in no case be less than \$10,000 ~~\$5,000~~ for each of those children, together with an additional sum not less than \$20,000 ~~\$10,000~~ that shall be divided equally among those children or apportioned as the court directs and that shall be paid for the benefit of any of those children to any person that the court directs.

(c) The changes made by this amendatory Act of the 96th General Assembly apply to a decedent whose date of death is on or after the effective date of this amendatory Act of the 96th General Assembly.

(Source: P.A. 87-287.)

Sec. 25-1. Payment or delivery of small estate of decedent upon affidavit.

(a) When any person or corporation (1) indebted to or holding personal estate of a decedent, (2) controlling the right of access to decedent's safe deposit box or (3) acting as registrar or transfer agent of any evidence of interest, indebtedness, property or right is furnished with a small estate affidavit in substantially the form hereinafter set forth, that person or corporation shall pay the indebtedness, grant access to the safe deposit box, deliver the personal estate or transfer or issue the evidence of interest, indebtedness, property or right to persons and in the manner specified in paragraph 11 of the affidavit or to an agent appointed as hereinafter set forth.

(b) Small Estate Affidavit

I, (name of affiant), on oath state:

1. (a) My post office address is: ;
- (b) My residence address is: ; and
- (c) I understand that, if I am an out-of-state resident, I submit myself to the jurisdiction of Illinois courts for all matters related to the preparation and use of this affidavit. My agent for service of process in Illinois is:

NAME.....

ADDRESS.....

CITY.....

TELEPHONE (IF ANY)

I understand that if no person is named above as my agent for service or, if for any reason, service on the named person cannot be effectuated, the clerk of the circuit court of(County) (Judicial Circuit) Illinois is recognized by Illinois law as my agent for service of process.

2. The decedent's name is ;

3. The date of the decedent's death was , and I have attached a copy of the death certificate hereto.

4. The decedent's place of residence immediately before his death was ;

5. No letters of office are now outstanding on the decedent's estate and no petition for letters is contemplated or pending in Illinois or in any other jurisdiction, to my knowledge;

6. The gross value of the decedent's entire personal estate, including the value of all property passing to any party either by intestacy or under a will, does not exceed \$100,000. (Here, list each asset, e.g., cash, stock, and its fair market value.);

7. (a) All of the decedent's funeral expenses have been paid, or (b) The amount of the decedent's unpaid funeral expenses and the name and post office address of each person entitled thereto are as follows:

Name and post office address	Amount
(Strike either 7(a) or 7(b)).	

8. There is no known unpaid claimant or contested claim against the decedent, except as stated in paragraph 7.

9. (a) The names and places of residence of any surviving spouse, minor children and adult dependent* children of the decedent are as follows:

Name and Relationship	Place of Residence	Age of minor child
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* (Note: An adult dependent child is one who is unable to maintain himself and is likely to become a public charge.)

(b) The award allowable to the surviving spouse of a decedent who was an Illinois resident is \$..... (\$20,000
~~\$10,000~~, plus \$10,000 ~~\$5,000~~ multiplied by the number of minor children and adult dependent children who resided with the surviving spouse at the time of the decedent's death. If any such child did not reside with the surviving spouse at the time of the decedent's death, so indicate).

(c) If there is no surviving spouse, the award allowable to the minor children and adult dependent children of a decedent who was an Illinois resident is \$..... (\$20,000 ~~\$10,000~~, plus \$10,000 ~~\$5,000~~ multiplied by the number of minor children and adult dependent children), to be divided among them in equal shares.

10. (a) The decedent left no will. The names, places of residence and relationships of the decedent's heirs, and the portion of the estate to which each heir is entitled under the law where decedent died intestate are as follows:

Name, relationship and place of residence	Age of minor	Portion of Estate
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OR

(b) The decedent left a will, which has been filed with the clerk of an appropriate court. A certified copy of the will on file is attached. To the best of my knowledge and belief the will on file is the decedent's last will and was signed by the decedent and the attesting witnesses as required by law and would be admissible to probate. The names and places of residence of the legatees and the portion of the estate, if any, to which each legatee is entitled are as follows:

Name, relationship and place of residence	Age of minor	Portion of Estate
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(Strike either 10(a) or 10(b)).

(c) Affiant is unaware of any dispute or potential conflict as to the heirship or will of the decedent.

11. The property described in paragraph 6 of this affidavit should be distributed as follows:

Name	Specific sum or property to be distributed
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The foregoing statement is made under the penalties of perjury*.

.....

Signature of Affiant

* (Note: A fraudulent statement made under the penalties of perjury is perjury, as defined in Section 32-2 of the Criminal Code of 1961.)

(c) Appointment of Agent. If safe deposit access is involved or if sale of any personal property is desirable to facilitate distribution pursuant to the small estate affidavit, all persons named in paragraph 11 of the small estate affidavit (excluding minors and unascertained or disabled persons) may in writing appoint one or more persons as their agent for that purpose. The agent shall have power, without court approval, to gain access to, sell, and distribute the property for the benefit of all persons named in paragraph 11 of the affidavit; and the payment, delivery, transfer, access or issuance shall be made or granted to or on the order of the agent.

(d) Release. Upon payment, delivery, transfer, access or issuance pursuant to a properly executed affidavit, the person or corporation is released to the same extent as if the payment, delivery, transfer, access or issuance had been made or granted to the representative of the estate. Such person or corporation is not required to see to the application or

disposition of the property; but each person to whom a payment, delivery, transfer, access or issuance is made or given is answerable therefor to any person having a prior right and is accountable to any representative of the estate.

(e) The affiant signing the small estate affidavit prepared pursuant to subsection (b) of this Section shall indemnify and hold harmless all creditors and heirs of the decedent and other persons relying upon the affidavit who incur loss because of such reliance. That indemnification shall only be up to the amount lost because of the act or omission of the affiant. Any person recovering under this subsection (e) shall be entitled to reasonable attorney's fees and the expenses of recovery.

(f) The affiant of a small estate affidavit who is a non-resident of Illinois submits himself or herself to the jurisdiction of Illinois courts for all matters related to the preparation or use of the affidavit. The affidavit shall provide the name, address, and phone number of a person whom the affiant names as his agent for service of process. If no such person is named or if, for any reason, service on the named person cannot be effectuated, the clerk of the circuit court of the county or judicial circuit of which the decedent was a resident at the time of his death shall be the agent for service of process.

(g) Any action properly taken under this Section, as amended by Public Act 93-877, on or after August 6, 2004 (the effective date of Public Act 93-877) is valid regardless of the

date of death of the decedent.

(h) The changes made by this amendatory Act of the 96th General Assembly apply to a decedent whose date of death is on or after the effective date of this amendatory Act of the 96th General Assembly.

(Source: P.A. 93-877, eff. 8-6-04; 94-57, eff. 6-17-05.)

Section 99. Effective date. This Act takes effect upon becoming law.