

Increase in Spouse's Share for Intestate Florida Residents

Florida has made an important change in its inheritance law for surviving spouses. In the absence of a will, under current Florida law, an existing spouse of a deceased Florida resident is entitled to \$60,000 plus 50% of the decedent's estate if all the decedent's children are also children of the existing spouse. However, effective October 1, 2011, Florida law has been amended so that, if all of the decedent's children are also children of the surviving spouse, **the surviving spouse is entitled to 100% of the estate.**

If the deceased Florida resident has at least one child with a person other than the surviving spouse, and there is no will, the law is unchanged. The surviving spouse receives half of the estate, and the children of the deceased person share the other half of the estate. (Grandchildren take the place of a parent who has previously passed away.)

The change in law is intended to reflect the way in which most estate plans are constructed when there is a will. For married couples with children only of the marriage, the spouses do typically leave their entire estates to each other. By changing the Florida law of intestacy to better reflect how most estate plans operate, there will be more conformity of estates whether or not there is a will.

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