

**SUMMARY OF ALASKA INTESTATE SUCCESSION LAWS
FOR PROBATES OF ALASKA NATIVE LANDS (AS OF 2010)**

§ 13.12.101. Intestate estate

- (a) A part of a decedent's estate not effectively disposed of by will passes by intestate succession to the decedent's heirs as prescribed in AS 13.06-AS 13.36, except as modified by the decedent's will.
- (b) A decedent by will may expressly exclude or limit the right of an individual or class to succeed to property of the decedent passing by intestate succession. If that individual or a member of that class survives the decedent, the share of the decedent's intestate estate to which that individual or class would have succeeded passes as if that individual or each member of that class had disclaimed the intestate share of the individual or member.

§ 13.12.102. Share of spouse [Numbers have increased over the years]

- (a) Except as provided in (b) of this section, the intestate share of a decedent's surviving spouse is
- (1) the entire intestate estate if
 - (A) no descendant or parent of the decedent survives the decedent; or
 - (B) all of the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent;
 - (2) the first \$200,000, plus three-fourths of any balance of the intestate estate, if no descendant of the decedent survives the decedent, but a parent of the decedent survives the decedent;
 - (3) the first \$150,000, plus one-half of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has one or more surviving descendants who are not descendants of the decedent;
 - (4) the first \$100,000, plus one-half of any balance of the intestate estate, if one or more of the decedent's surviving descendants are not descendants of the surviving spouse.
- (b) **[Non-trust assets; not probated by OHA]** The intestate share of the surviving spouse in settlement common stock or other inalienable stock in a corporation organized under the laws of the state under [43 U.S.C. 1601 et seq.](#) (Alaska Native Claims Settlement Act) is
- (1) all of it if there is no surviving issue; or
 - (2) one-half of it if the decedent is survived by issue.

§ 13.12.103. Share of heirs other than surviving spouse

A part of the intestate estate not passing to the decedent's surviving spouse under [AS 13.12.102](#), or the entire intestate estate if there is no surviving spouse, passes in the following order to the individuals designated below who survive the decedent:

- (1) to the decedent's descendants by representation;
- (2) if there is no surviving descendant, to the decedent's parents equally if both survive, or to the surviving parent;
- (3) if there is no surviving descendant or parent, to the descendants of the decedent's parents or either of them by representation;
- (4) if there is no surviving descendant, parent, or descendant of a parent, but the decedent is survived by one or more grandparents or descendants of grandparents, half of the estate passes to the decedent's paternal grandparents equally if both survive, or to the surviving paternal grandparent, or to the descendants of the decedent's paternal grandparents or either of them if both are deceased, the descendants taking by representation; and the other half passes to the decedent's maternal relatives in the same manner; but if there is no surviving grandparent or descendant of a grandparent on either the paternal or the maternal side, the entire estate passes to the decedent's relatives on the other side in the same manner as the half.

[SOME OF THESE APPLY; OTHERS ARE PREEMPTED BY FEDERAL STATUTES OR REGULATIONS THAT APPLY TO PROBATES OF NATIVE ESTATES]

[13.12.104 and 106-114 apply to probates for Alaska lands]

§ 13.12.104. Requirement that heir survive decedent for 120 hours

An individual who fails to survive the decedent by 120 hours is considered to have predeceased the decedent for purposes of homestead allowance, exempt property, and intestate succession, and the decedent's heirs are determined accordingly. If it is not established by clear and convincing evidence that an individual who would otherwise be an heir survived the decedent by 120 hours, it is considered that the individual failed to survive for the required period. This section is not to be applied if its application would result in a taking of intestate estate by the state under [AS 13.12.105](#).

§ 13.12.106. Representation

(a) If, under [AS 13.12.103\(1\)](#), all or part of a decedent's intestate estate passes by representation to the decedent's descendants, the estate or part of the estate passing is divided into as many equal shares as there are

- (1) surviving descendants in the generation nearest to the decedent that contains one or more surviving descendants; and
- (2) deceased descendants in the same generation who left surviving descendants, if any.

(b) Under (a) of this section, each surviving descendant in the nearest generation is allocated one share, and the remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the decedent.

(c) If, under [AS 13.12.103\(3\)](#) or (4), all or part of a decedent's intestate estate passes by representation to the descendants of the decedent's deceased parents or either of them or to the descendants of the decedent's deceased paternal or maternal grandparents or either of them, the estate or part of the estate passing is divided into as many equal shares as there are

- (1) surviving descendants in the generation nearest the deceased parents or either of them, or the deceased grandparents or either of them, that contains one or more surviving descendants; and
- (2) deceased descendants in the same generation who left surviving descendants, if any.

(d) Under (c) of this section, each surviving descendant in the nearest generation is allocated one share, and the remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the decedent.

(e) In this section, “deceased descendant,” “deceased parent,” or “deceased grandparent” means a descendant, parent, or grandparent who either predeceased the decedent or is considered to have predeceased the decedent under [AS 13.12.104](#).

§ 13.12.107. Kindred of half blood

Relatives of the half blood inherit the same share they would inherit if they were of the whole blood.

§ 13.12.108. After-born heirs

An individual in gestation at a particular time is treated as living at that time if the individual lives 120 hours or more after birth.

§ 13.12.111. Alienage

An individual is not disqualified to take as an heir because the individual or another individual through whom the individual claims is or has been an alien. [However, any inheritance or devise taken by an alien may not pass in trust or restricted status.]

§ 13.12.113. Individuals related to decedent through two lines

An individual who is related to the decedent through two lines of relationship is entitled to only a single share based on the relationship that would entitle the individual to the larger share.

§ 13.12.114. Parent and child relationship

(a) Except as provided in (b)-(d) of this section, for purposes of intestate succession by, through, or from a person, an individual is the child of the individual's natural parents, regardless of their marital status, and the parent and child relationship may be established as indicated under [AS 25.20.050](#).

(b) An adopted individual is the child of the individual's adopting parent or parents and not of the individual's natural parents, but adoption of a child by the spouse of either natural parent does not affect

(1) the relationship between the child and that natural parent; or

(2) the right of the child or a descendant of the child to inherit from or through the other natural parent.

(c) Inheritance from or through a child by either natural parent or the natural parent's kindred is precluded unless that natural parent has openly treated the child as the natural parent's child, and has not refused to support the child.

(d) To the extent there is a conflict between this section and either [AS 25.20.050](#) or [AS 25.23.130](#), this section controls.