
HOUSE BILL No. 1155

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-8-5-22; IC 29-1-2-1.

Synopsis: Parent's intestate share of child's estate. Provides that if a parent was convicted of murder or voluntary manslaughter of the other parent of a minor or adult child while the child was alive, the parent may not receive: (1) an intestate share of the child's estate; or (2) a refund of unused accident and sickness insurance premiums upon the death of the insured child, if the child paid the insurance premiums.

Effective: July 1, 2008.

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January 10, 2008, read first time and referred to Committee on Judiciary.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1155



A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-8-5-22 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) All individual
- 3 policies of accident and sickness insurance issued for delivery in
- 4 Indiana after June 30, 1990, must provide for the refund of unused
- 5 premiums upon the death of the insured during the contract period.
- 6 (b) The amount of premium refund shall be prorated from the date
- 7 following the date of death of the insured to the end of the contract
- 8 period for which the premium has been paid.
- 9 (c) The refund required by this section shall be paid as follows:
- 10 (1) If a person other than the insured paid the premium, to that
- 11 person. A person entitled to a refund under this subdivision must
- 12 furnish proof of payment to the insurer.
- 13 (2) If the insured paid the premium, to the surviving spouse of the
- 14 insured. If there is no surviving spouse, the premium shall be paid
- 15 in the same manner as distributions of the net estate of a person
- 16 who dies intestate under IC 29-1-2-1(d). **A parent disqualified**
- 17 **under IC 29-1-2-1(e) from receiving an intestate share of the**



1 **parent's child's estate is not entitled to a refund under this**
2 **section of insurance premiums paid by the child.**

3 (d) A person entitled to receive a refund under this section must do
4 the following:

- 5 (1) Submit a written request for the refund.
- 6 (2) Furnish proof of the insured's death.

7 (e) This section does not affect the rights of a dependent under a
8 policy covered by this section to obtain a conversion policy upon the
9 death of the insured.

10 SECTION 2. IC 29-1-2-1, AS AMENDED BY P.L.61-2006,
11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2008]: Sec. 1. (a) The estate of a person dying intestate shall
13 descend and be distributed as provided in this section.

14 (b) Except as otherwise provided in subsection (c), the surviving
15 spouse shall receive the following share:

- 16 (1) One-half (1/2) of the net estate if the intestate is survived by
17 at least one (1) child or by the issue of at least one (1) deceased
18 child.
- 19 (2) Three-fourths (3/4) of the net estate, if there is no surviving
20 issue, but the intestate is survived by one (1) or both of the
21 intestate's parents.
- 22 (3) All of the net estate, if there is no surviving issue or parent.

23 (c) If the surviving spouse is a second or other subsequent spouse
24 who did not at any time have children by the decedent, and the
25 decedent left surviving the decedent a child or children or the
26 descendants of a child or children by a previous spouse, the surviving
27 second or subsequent childless spouse shall take only an amount equal
28 to twenty-five percent (25%) of the remainder of:

- 29 (1) the fair market value as of the date of death of the real
30 property of the deceased spouse; minus
- 31 (2) the value of the liens and encumbrances on the real property
32 of the deceased spouse.

33 The fee shall, at the decedent's death, vest at once in the decedent's
34 surviving child or children, or the descendants of the decedent's child
35 or children who may be dead. A second or subsequent childless spouse
36 described in this subsection shall, however, receive the same share of
37 the personal property of the decedent as is provided in subsection (b)
38 with respect to surviving spouses generally.

39 (d) The share of the net estate not distributable to the surviving
40 spouse, or the entire net estate if there is no surviving spouse, shall
41 descend and be distributed as follows:

- 42 (1) To the issue of the intestate, if they are all of the same degree

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of kinship to the intestate, they shall take equally, or if of unequal degree, then those of more remote degrees shall take by representation.

(2) **Except as provided in subsection (e)**, if there is a surviving spouse but no surviving issue of the intestate, then to the surviving parents of the intestate.

(3) **Except as provided in subsection (e)**, if there is no surviving spouse or issue of the intestate, then to the surviving parents, brothers, and sisters, and the issue of deceased brothers and sisters of the intestate. Each living parent of the intestate shall be treated as of the same degree as a brother or sister and shall be entitled to the same share as a brother or sister. However, the share of each parent shall be not less than one-fourth (1/4) of the decedent's net estate. Issue of deceased brothers and sisters shall take by representation.

(4) If there is no surviving parent or brother or sister of the intestate, then to the issue of brothers and sisters. If the distributees described in this subdivision are all in the same degree of kinship to the intestate, they shall take equally or, if of unequal degree, then those of more remote degrees shall take by representation.

(5) If there is no surviving issue or parent of the intestate or issue of a parent, then to the surviving grandparents of the intestate equally.

(6) If there is no surviving issue or parent or issue of a parent, or grandparent of the intestate, then the estate of the decedent shall be divided into that number of shares equal to the sum of:

- (A) the number of brothers and sisters of the decedent's parents surviving the decedent; plus
- (B) the number of deceased brothers and sisters of the decedent's parents leaving issue surviving both them and the decedent;

and one (1) of the shares shall pass to each of the brothers and sisters of the decedent's parents or their respective issue per stirpes.

(7) If interests in real estate go to a husband and wife under this subsection, the aggregate interests so descending shall be owned by them as tenants by the entireties. Interests in personal property so descending shall be owned as tenants in common.

(8) If there is no person mentioned in subdivisions (1) through (7), then to the state.

(e) A parent may not receive an intestate share of the estate of

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1 **the parent's minor or adult child if:**
2 **(1) the parent was convicted while the child was alive of:**
3 **(A) murder (IC 35-42-1-1) or voluntary manslaughter**
4 **(IC 35-42-1-3) in Indiana; or**
5 **(B) a crime in any other jurisdiction in which the elements**
6 **of the crime are substantially similar to the elements of**
7 **murder or voluntary manslaughter; and**
8 **(2) the victim of the crime is the other parent of the child.**
9 **If a parent is disqualified from receiving an intestate share under**
10 **this subsection, the estate of the deceased child shall be distributed**
11 **as though the parent had predeceased the child.**

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