

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2552

BY DELEGATES ROWE, FLUHARTY, FLEISCHAUER, BYRD

AND ROBINSON

[Introduced January 21, 2019; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §42-1-3 of the Code of West Virginia, 1931, as amended, relating
 2 to providing that the intestate share of a decedent's surviving spouse also includes
 3 household goods, appliances and equipment, located at or generally associated with use
 4 of the last residence of the decedent if the spouse has been in cohabitation with the
 5 decedent in the previous 12 months prior to the death of the decedent; and making an
 6 exception.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. DESCENT.

§42-1-3. Share of spouse.

1 (a) The intestate share of a decedent's surviving spouse is:

2 ~~(a)~~ (1) The entire intestate estate if:

3 ~~(1)~~ (A) No descendant of the decedent survives the decedent; or

4 ~~(2)~~ (B) All of the decedent's surviving descendants are also descendants of the surviving
 5 spouse and there is no other descendant of the surviving spouse who survives the decedent;

6 ~~(b)~~ (2) Three fifths of the intestate estate, if all of the decedent's surviving descendants
 7 are also descendants of the surviving spouse and the surviving spouse has one or more surviving
 8 descendants who are not descendants of the decedent;

9 ~~(c)~~ (3) One half of the intestate estate, if one or more of the decedent's surviving
 10 descendants are not descendants of the surviving spouse.

11 (b) The intestate share of a decedent's surviving spouse also includes household goods,
 12 furniture, appliances and equipment, located at or generally associated with use of the last
 13 residence of the decedent if the spouse has been in cohabitation with the decedent in the previous
 14 12 months prior to the death of the decedent: *Provided*, That items received by the decedent from
 15 his or her family with sentimental value to the family is part of the intestate share of the decedent's
 16 children.

NOTE: The purpose of this bill is to provide that the intestate share of a decedent's surviving spouse also includes all household goods, appliances and equipment, located at or generally associated with use of the last residence of the decedent if the spouse has been in cohabitation with the decedent in the previous 12 months prior to the death of the decedent. The bill makes an exception for items of sentimental value.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.