

HOUSE BILL 567

N2

8lr2511

By: **Delegate Barron**

Introduced and read first time: January 29, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Intestate Succession – Share of Surviving Spouse and**
3 **Order of Distribution**

4 FOR the purpose of altering the share of the intestate estate of a decedent inherited by a
5 surviving spouse under certain circumstances; altering, for purposes of certain
6 provisions of law concerning the distribution of the net estate or residue of the net
7 estate, the order of distribution to certain individuals; making certain stylistic
8 changes; providing for the application of this Act; and generally relating to intestate
9 succession.

10 BY repealing and reenacting, with amendments,
11 Article – Estates and Trusts
12 Section 3–102 and 3–104
13 Annotated Code of Maryland
14 (2017 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Estates and Trusts**

18 3–102.

19 (a) The share of a surviving spouse shall be as provided in this section.

20 (b) **(1)** If there is a surviving minor child **AND ONE OR MORE ISSUE ARE NOT**
21 **THE ISSUE OF THE SURVIVING SPOUSE**, the share shall be [one–half] **THE LESSER OF:**

22 **(i) 90% OF THE NET ESTATE; OR**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(II) THE FIRST \$75,000 PLUS ONE-HALF OF THE RESIDUE.**

2 **(2) IF THERE IS A SURVIVING MINOR CHILD AND ALL ISSUE ARE THE**
3 **ISSUE OF THE SURVIVING SPOUSE, THE SHARE SHALL BE THE FIRST \$125,000 PLUS**
4 **ONE-HALF OF THE RESIDUE.**

5 (c) **(1) IF THERE IS NO SURVIVING MINOR CHILD, BUT THERE IS**
6 **SURVIVING ISSUE, OF WHOM ONE OR MORE ARE NOT THE ISSUE OF THE SURVIVING**
7 **SPOUSE, THE SHARE SHALL BE THE LESSER OF:**

8 **(I) 90% OF THE NET ESTATE; OR**

9 **(II) THE FIRST \$100,000 PLUS ONE-HALF OF THE RESIDUE.**

10 **(2) If there is no surviving minor child, but there is surviving issue, ALL**
11 **OF WHOM ARE THE ISSUE OF THE SURVIVING SPOUSE, the share shall be the first**
12 **[\$40,000] \$150,000 plus one-half of the residue.**

13 (d) If there is no surviving issue but a surviving parent, the share shall be the
14 first [\$40,000] **\$200,000** plus one-half of the residue.

15 (e) If there is no surviving issue or parent, the share shall be the whole estate.

16 (f) For the purposes of this section, the net estate shall be calculated without a
17 deduction for the tax as defined in § 7-308 of the Tax – General Article.

18 3-104.

19 **(A) IN THIS SECTION, “STEPCHILD” MEANS THE CHILD OF ANY SPOUSE OF**
20 **THE DECEDENT IF THE SPOUSE WAS NOT DIVORCED FROM THE DECEDENT.**

21 **[(a)] (B) If there is no surviving issue [the net estate exclusive of the share of**
22 **the surviving spouse, or the entire net estate if there is no surviving spouse, shall be**
23 **distributed by the personal representative pursuant to the provisions of this section], THE**
24 **PERSONAL REPRESENTATIVE SHALL DISTRIBUTE, AS PRESCRIBED IN THIS SECTION:**

25 **(1) IF THERE IS A SURVIVING SPOUSE, THE NET ESTATE EXCLUSIVE**
26 **OF THE SHARE OF THE SURVIVING SPOUSE; OR**

27 **(2) IF THERE IS NO SURVIVING SPOUSE, THE ENTIRE NET ESTATE.**

28 **[(b)] (C) Subject to §§ 3-111 and 3-112 of this subtitle, [it] THE NET ESTATE**
29 **shall be distributed [to]:**

30 **(1) TO the surviving parents equally[, or if];**

1 **(2)** IF only one parent survives, to the survivor; or [if]

2 **(3)** IF neither parent survives, to the issue of the parents, by
3 representation.

4 [(c)] **(D)** **(1)** If there is no surviving parent or issue of a parent, [it] **THE NET**
5 **ESTATE** shall be distributed [one]:

6 **(I)** ONE half [to]:

7 1. TO the surviving paternal grandparents equally[, or if];

8 2. IF only one paternal grandparent survives, to the
9 survivor[.]; or [if]

10 3. IF neither paternal grandparent survives, to the issue of
11 the paternal grandparents, by representation[.]; and [one]

12 **(II)** ONE half [to]:

13 1. TO the surviving maternal grandparents equally[, of if];

14 2. IF only one maternal grandparent survives, to the
15 survivor[.]; or [if]

16 3. IF neither maternal grandparent survives, to the issue of
17 the maternal grandparents, by representation.

18 **(2)** In the event that neither of one pair of grandparents and none of the
19 issue of either of that pair survives, the one half share applicable shall be distributed to
20 [the]:

21 **(I)** THE other pair of grandparents[, the];

22 **(II)** THE survivor of [them] **THE OTHER PAIR OF GRANDPARENTS;**
23 or [the]

24 **(III)** THE issue of either of [them] **THE OTHER PAIR OF**
25 **GRANDPARENTS**, in the same manner as prescribed for their half share.

26 [(d) If there is no surviving parent or issue of a parent, or surviving grandparent
27 or issue of a grandparent, it shall be distributed one quarter to each pair of
28 great-grandparents equally or all to the survivor, or if neither survives, all to the issue of

1 either or of both of that pair of great-grandparents, by representation. In the event that
2 neither member of a pair of great-grandparents nor any issue of either of that pair survives,
3 the quarter share applicable shall be distributed equally among the remaining pairs of
4 great-grandparents or the survivor of a pair or issue of either of a pair of
5 great-grandparents, in the same manner as prescribed for a quarter share.]

6 (e) (1) If there is no surviving [blood relative entitled to inherit under this
7 section] **PARENT OR ISSUE OF A PARENT, OR SURVIVING GRANDPARENT OR ISSUE OF**
8 **A GRANDPARENT, [it] THE NET ESTATE** shall be divided into as many equal shares as
9 there are [stepchildren]:

10 (I) **STEPCHILDREN** of the decedent who survive the decedent; and
11 [stepchildren]

12 (II) **STEPCHILDREN** of the decedent who did not survive the
13 decedent but of whom issue did survive the decedent.

14 (2) (I) Each stepchild of the decedent who did survive the decedent shall
15 receive one share [and the].

16 (II) **THE** issue of each stepchild of the decedent who did not survive
17 the decedent but of whom issue did survive the decedent shall receive one share
18 apportioned by applying the pattern of representation set forth in § 1-210 of this article.
19 [As used in this subsection, “stepchild” shall mean the child of any spouse of the decedent
20 if such spouse was not divorced from the decedent.]

21 (F) (1) **IF THERE IS NO SURVIVING PARENT OR ISSUE OF A PARENT, OR**
22 **SURVIVING GRANDPARENT OR ISSUE OF A GRANDPARENT, OR SURVIVING**
23 **STEPCHILD OR ISSUE OF A STEPCHILD, ONE-QUARTER OF THE NET ESTATE SHALL**
24 **BE DISTRIBUTED TO:**

25 (I) **EACH PAIR OF GREAT-GRANDPARENTS EQUALLY;**

26 (II) **THE SURVIVOR OF A PAIR OF GREAT-GRANDPARENTS; OR**

27 (III) **IF NEITHER OF A PAIR OF GREAT-GRANDPARENTS**
28 **SURVIVES, THE ISSUE OF EITHER OR OF BOTH OF THE PAIR OF**
29 **GREAT-GRANDPARENTS, BY REPRESENTATION.**

30 (2) **IN THE EVENT THAT NEITHER MEMBER OF A PAIR OF**
31 **GREAT-GRANDPARENTS NOR ANY ISSUE OF EITHER OF THAT PAIR SURVIVES, THE**
32 **QUARTER SHARE APPLICABLE SHALL BE DISTRIBUTED EQUALLY AMONG THE**
33 **REMAINING PAIRS OF GREAT-GRANDPARENTS OR THE SURVIVOR OF A PAIR OR**
34 **ISSUE OF EITHER OF A PAIR OF GREAT-GRANDPARENTS, IN THE SAME MANNER AS**

1 **PRESCRIBED FOR A QUARTER SHARE.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
3 apply only prospectively and may not be applied or interpreted to have any effect on or
4 application to any estate of a decedent who died before the effective date of this Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2018.