

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 19.**  
**DESCENT, DISTRIBUTION, AND TRUSTS.**

**CHAPTER 1.**  
**RIGHTS OF SURVIVING SPOUSE OR DOMESTIC**  
**PARTNER, AND CHILDREN.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 1. RIGHTS OF SURVIVING SPOUSE OR**  
**DOMESTIC PARTNER, AND CHILDREN.**

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# CHAPTER 1. RIGHTS OF SURVIVING SPOUSE OR DOMESTIC PARTNER, AND CHILDREN.

## **§ 19-101. FAMILY ALLOWANCE; CONSTRUCTION; PENALTIES.[REPEALED]**

(Sept. 14, 1965, 79 Stat. 693, Pub. L. 89-183, § 1; Aug. 11, 1971, 85 Stat. 314, Pub. L. 92-88, § 5; June 24, 1980, D.C. Law 3-72, § 204(a), 27 DCR 2155; Mar. 21, 1995, D.C. Law 10-241, § 2, 42 DCR 63; Apr. 27, 2001, D.C. Law 13-292, § 801(b), 48 DCR 2087.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 19-101.

1973 Ed., § 19-101.

#### *Emergency Act Amendments*

For temporary amendment of § 4 of D.C. Law 10-241, see § 2 of the Probate Reform Act of 1994 Emergency Amendment Act of 1995 (D.C. Act 11-79, June 28, 1995, 42 DCR 3452).

#### *Legislative History of Laws*

Law 3-72, the "District of Columbia Probate Reform Act of 1980," was introduced in Council and assigned Bill No. 3-91, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on April 1, 1980, and April 22, 1980, respectively. Signed by the Mayor on May 7, 1980, it was assigned Act No. 3-181 and transmitted to both Houses of Congress for its review.

Law 10-241, the "Probate Reform Act of 1994," was introduced in Council and assigned Bill No. 10-649, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-386 and transmitted to both Houses of Congress for its review. D.C. Law 10-241 became effective on March 21, 1995.

For Law 13-292, see notes following § 19-101.01.

#### *Miscellaneous Notes*

Application of Law 10-241: Section 4 of D.C. Law 10-241, as amended by § 2 of D.C. Law 11-54, provided that the act shall be applicable to estates of decedents who died on or after July 1, 1995.

Section 1102 of D.C. Law 13-292 provides:

"Sec. 1102. Applicability.

"For the purposes of Title 5 and Title 9 and sections 801(b), 805, and 806 of Title 8 [of this act], the provisions relating to the administration of decedents' estates shall apply only to the estates of decedents who die on or after the effective date of this act."

Section 31 of D.C. Law 15-354 provides that Title 19 is designated Title 19 of the District of Columbia Official Code.

## **§ 19-101.01. APPLICABLE LAW.**

Sections 19-101.01 to 19-101.06 apply to the estate of a decedent who dies domiciled in the District of Columbia. Rights to homestead allowance, exempt property, and family allowance for a decedent who dies not domiciled in the District of Columbia are governed by the law of the decedent's domicile at death.

(Apr. 27, 2001, D.C. Law 13-292, § 801(c), 48 DCR 2087.)

## *HISTORICAL AND STATUTORY NOTES*

### *Legislative History of Laws*

Law 13-292, the "Omnibus Trusts and Estates Amendment Act of 2000", was introduced in Council and assigned Bill No. 13-298, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 26, 2001, it was assigned Act No. 13-599 and transmitted to both Houses of Congress for its review. D.C. Law 13-292 became effective on April 27, 2001.

### **§ 19-101.02. HOMESTEAD ALLOWANCE.**

A decedent's surviving spouse or surviving domestic partner is entitled to a homestead allowance of \$15,000. If there is no surviving spouse or surviving domestic partner, each surviving minor child and each surviving dependent child of the decedent is entitled to a homestead allowance amounting to \$15,000 divided by the number of surviving minor and surviving dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims against the estate, except as provided in section 20-906. The homestead allowance is in addition to any share passing to the surviving spouse, surviving domestic partner, or surviving minor or surviving dependent child by the will of the decedent, unless otherwise provided by intestate succession, or by way of elective share.

(Apr. 27, 2001, D.C. Law 13-292, § 801(c), 48 DCR 2087; Apr. 4, 2006, D.C. Law 16-79, § 5(c), 53 DCR 1035.)

## *HISTORICAL AND STATUTORY NOTES*

### *Effect of Amendments*

D.C. Law 16-79, substituted "surviving spouse or surviving domestic partner" for "surviving spouse" and substituted "surviving spouse, surviving domestic partner, or surviving minor" for "surviving spouse or surviving minor".

### *Legislative History of Laws*

For Law 13-292, see notes following § 19-101.01.

Law 16-79, the "Domestic Partnership Equality Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-52 which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on December 6, 2005, and January 4, 2006, respectively. Signed by the Mayor on January 26, 2006, it was assigned Act No. 16-265 and transmitted to both Houses of Congress for its review. D.C. Law 16-79 became effective on April 4, 2006.

### **§ 19-101.03. EXEMPT PROPERTY.**

In addition to the homestead allowance, the decedent's surviving spouse or surviving domestic partner is entitled from the estate to a value, not exceeding \$10,000 in excess of any security interests therein, in household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse or surviving domestic partner, the decedent's surviving children are entitled jointly to the same value. If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than \$10,000, or if there is not \$10,000 worth of exempt property in the estate, the spouse, domestic partner, or children are entitled to other assets of the estate, if any, except for real property, to the extent necessary to make up the \$10,000 value. Rights to exempt property have priority over all claims against the estate, except the homestead allowance, the family allowance, and as provided in section 20-906. These rights are in addition to any benefit or share passing to the surviving spouse, surviving domestic partner, or surviving children by the decedent's will, unless otherwise provided by intestate succession or by way of elective share.

(Apr. 27, 2001, D.C. Law 13-292, § 801(c), 48 DCR 2087; Apr. 4, 2006, D.C. Law 16-79, § 5(d), 53 DCR 1035.)

## *HISTORICAL AND STATUTORY NOTES*

### *Effect of Amendments*

D.C. Law 16-79 rewrote section, which had read as follows:

"In addition to the homestead allowance, the decedent's surviving spouse is entitled from the estate to a value, not exceeding \$10,000 in excess of any security interests therein, in household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse, the decedent's surviving children are entitled jointly to the same value. If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than \$10,000, or if there is not \$10,000 worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, except for real

property, to the extent necessary to make up the \$10,000 value. Rights to exempt property have priority over all claims against the estate, except the homestead allowance, the family allowance, and as provided in section 20-906. These rights are in addition to any benefit or share passing to the surviving spouse or surviving children by the decedent's will, unless otherwise provided by intestate succession or by way of elective share."

*Legislative History of Laws*

For Law 13-292, see notes following § 19-101.01.

For Law 16-79, see notes following § 19-101.02.

## **§ 19-101.04. FAMILY ALLOWANCE.**

(a) In addition to the right to homestead allowance and exempt property, the decedent's surviving spouse or surviving domestic partner, and minor children whom the decedent was obligated to support and children who were in fact being supported by the decedent are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration. It is payable to the surviving spouse or surviving domestic partner, if living, for the use of the surviving spouse or surviving domestic partner and the decedent's surviving minor and dependent children; otherwise to the children, or persons having their care and custody. If a minor child or dependent child is not living with the surviving spouse or surviving domestic partner, the allowance may be made partially to the child or his or her guardian, or other person having the child's care and custody, and partially to the spouse or domestic partner, as their needs may appear. The family allowance is exempt from and has priority over all claims, except the homestead allowance, and as provided in section 20-906.

(b) The family allowance is not chargeable against any benefit or share passing to the surviving spouse, surviving domestic partner, or children by the will of the decedent, unless otherwise provided, by intestate succession, or by way of elective share. The death of any person entitled to family allowance terminates the right to allowances not yet paid.

(Apr. 27, 2001, D.C. Law 13-292, § 801(c), 48 DCR 2087; Apr. 4, 2006, D.C. Law 16-79, § 5(e), 53 DCR 1035.)

*HISTORICAL AND STATUTORY NOTES*

*Effect of Amendments*

D.C. Law 16-79 rewrote section, which had read as follows:

"(a) In addition to the right to homestead allowance and exempt property, the decedent's surviving spouse and minor children whom the decedent was obligated to support and children who were in fact being supported by the decedent are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration. It is payable to the surviving spouse, if living, for the use of the surviving spouse and the decedent's surviving minor and dependent children; otherwise to the children, or persons having their care and custody. If a minor child or dependent child is not living with the surviving spouse, the allowance may be made partially to the child or his or her guardian, or other person having the child's care and custody, and partially to the spouse, as their needs may appear. The family allowance is exempt from and has priority over all claims, except the homestead allowance, and as provided in section 20-906.

"(b) The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent, unless otherwise provided, by intestate succession, or by way of elective share. The death of any person entitled to family allowance terminates the right to allowances not yet paid."

*Legislative History of Laws*

For Law 13-292, see notes following § 19-101.01.

For Law 16-79, see notes following § 19-101.02.

## **§ 19-101.05. SOURCE, DETERMINATION, AND DOCUMENTATION; EQUITABLE APPORTIONMENT WHEN MINOR CHILDREN ARE NOT IN CUSTODY OF THE SURVIVING SPOUSE OR SURVIVING DOMESTIC PARTNER.**

(a) If the estate is otherwise sufficient, property specifically devised may not be used to satisfy rights to homestead allowance or exempt property. Subject to this restriction, the surviving spouse, surviving domestic partner, guardians of minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make those selections if the surviving spouse, the surviving domestic partner, the children, or the guardians of the minor children are unable or fail to do so within a reasonable time, or there is no guardian of a minor child. The personal representative may execute an instrument or deed of distribution to establish the ownership of property

taken as homestead allowance or exempt property. The personal representative may disburse the family allowance in a lump sum not exceeding \$15,000 in cash or in personalty at its fair value as the surviving spouse or surviving domestic partner may elect. The personal representative or an interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a family allowance other than that which the personal representative determined or could have determined.

(b) If there are minor or other dependent children of the decedent who are not in the custody of the surviving spouse or surviving domestic partner, the personal representative shall equitably apportion the family allowance under this section between the surviving spouse or surviving domestic partner, minor and dependent children, and other children of the decedent.

(Apr. 27, 2001, D.C. Law 13-292, § 801(c), 48 DCR 2087; Apr. 4, 2006, D.C. Law 16-79, § 5(f), 53 DCR 1035.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 16-79 rewrote section, which had read as follows:

"(a) If the estate is otherwise sufficient, property specifically devised may not be used to satisfy rights to homestead allowance or exempt property. Subject to this restriction, the surviving spouse, guardians of minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make those selections if the surviving spouse, the children, or the guardians of the minor children are unable or fail to do so within a reasonable time, or there is no guardian of a minor child. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as homestead allowance or exempt property. The personal representative may disburse the family allowance in a lump sum not exceeding \$15,000 in cash or in personalty at its fair value as the surviving spouse may elect. The personal representative or an interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a family allowance other than that which the personal representative determined or could have determined.

"(b) If there are minor or other dependent children of the decedent who are not in the custody of the surviving spouse, the personal representative shall equitably apportion the family allowance under this section between the surviving spouse, minor and dependent children, and other children of the decedent.

"(c) The receipt by the recipient of the property distributed under this subchapter shall constitute a full release of the personal representative or administrator making the distribution."

##### *Legislative History of Laws*

For Law 13-292, see notes following § 19-101.01.

For Law 16-79, see notes following § 19-101.02.

## **§ 19-101.06. PENALTIES.**

Whoever, with respect to the allowances or exemptions authorized by sections 19-101.01 to 19-101.05, (1) makes a false affidavit, (2) willfully violates an order of the Probate Division, or (3) willfully violates a provision of this chapter, shall be fined not more than \$2,500 for each offense.

(Apr. 27, 2001, D.C. Law 13-292, § 801(c), 48 DCR 2087.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For Law 13-292, see notes following § 19-101.01.

## **§ 19-102. DOWER AND CURTESY ABOLISHED.**

The estates of dower and curtesy are abolished.

(Sept. 14, 1965, 79 Stat. 694, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(d), 48 DCR 2087; Mar. 2, 2007, D.C. Law 16-191, § 92(a), 53 DCR 6794.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 19-102.

1973 Ed., § 19-102.

*Effect of Amendments*

D.C. Law 13-292 rewrote the section which had read:

"(a) The widow of a deceased man, with respect to parties who inter-married prior to November 29, 1957, or the widow or widower of a deceased person dying after March 15, 1962, is entitled to dower and its incidents as the rights thereto were known at common law with respect to widows, including the use, during her or his natural life, of one-third part of all the land on which the deceased spouse was seized of an estate of inheritance at any time during the marriage. The surviving spouse entitled to dower under this section may remain in the chief dwelling house of the decedent 40 days after the death, without being liable for rent therefor, within which period the dower of the surviving spouse, if not previously assigned to her or him, shall be so assigned. In the meantime, the surviving spouse may have reasonable sustenance out of the estate of the decedent.

"(b) The right of dower and its incidents provided for by subsection (a) of this section entitles the widow or widower to lands held by the deceased spouse at any time during the marriage, whether by legal or equitable title, and whether held by the decedent at the time of death, or not, but the right does not operate to the prejudice of a claim for the purchase money of the lands or other lien thereon.

"(c) The right of dower provided for by this section does not attach to lands held by two or more persons as joint tenants while the joint tenancy exists. A husband may not claim a right of dower in land which his wife, during the coverture, conveyed or transferred to another person by her sole deed prior to November 29, 1957.

"(d) With respect to the real estate of a wife dying after November 29, 1957, there is no estate by the curtesy."

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

*Legislative History of Laws*

For Law 13-292, see notes following § 19-101.01.

Law 16-191, the "Technical Amendments Act of 2006", was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

## **§ 19-103. FORFEITURE OF DOWER BY DESERTION AND ADULTERY.[REPEALED]**

(Sept. 14, 1965, 79 Stat. 694, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(e), 48 DCR 2087; Mar 2, 2007, D.C. Law 16-191, § 92(b), 53 DCR 6794.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 19-103.

1973 Ed., § 19-103.

*Effect of Amendments*

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

*Legislative History of Laws*

For Law 13-292, see notes following § 19-101.01.

For Law 16-191, see notes following § 19-102.

## **§ 19-104. ABSENT OR INCOMPETENT SPOUSE.[REPEALED]**

(Sept. 14, 1965, 79 Stat. 694, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(e), 48 DCR 2087; Mar 2, 2007, D.C. Law 16-191, § 92(b), 53 DCR 6794.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 19-104.

1973 Ed., § 19-104.

*Effect of Amendments*

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-191, see notes following § 19-102.

### **§ 19-105. JOINTURE BEFORE MARRIAGE AS BAR TO DOWER.[REPEALED]**

(Sept. 14, 1965, 79 Stat. 695, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(e), 48 DCR 2087; Mar 2, 2007, D.C. Law 16-191, § 92(b), 53 DCR 6794.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 19-105.

1973 Ed., § 19-105.

##### *Effect of Amendments*

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

##### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-191, see notes following § 19-102.

### **§ 19-106. JOINTURE AFTER MARRIAGE; ELECTION.[REPEALED]**

(Sept. 14, 1965, 79 Stat. 695, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(e), 48 DCR 2087; Mar 2, 2007, D.C. Law 16-191, § 92(b), 53 DCR 6794.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 19-106.

1973 Ed., § 19-106.

##### *Effect of Amendments*

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

##### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-191, see notes following § 19-102.

### **§ 19-107. EFFECT OF ACTS OF ONE SPOUSE.[REPEALED]**

(Sept. 14, 1965, 79 Stat. 695, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(e), 48 DCR 2087; Mar 2, 2007, D.C. Law 16-191, § 92(b), 53 DCR 6794.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 19-107.

1973 Ed., § 19-107.

##### *Effect of Amendments*

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

##### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-191, see notes following § 19-102.

### **§ 19-107A. RELEASE OF DOWER.[REPEALED]**



(Mar. 3, 1901, 31 Stat. 1267, ch. 854, § 494; June 30, 1902, 32 Stat. 531, ch. 1329; Oct. 1, 1976, D.C. Law 1087, § 33(c), 23 DCR 2544; Apr. 30, 1988, D.C. Law 7-104, § 5(a), 35 DCR 147; Apr. 27, 2001, D.C. Law 13-292, § 801(e), 48 DCR 2087; Mar. 2, 2007, D.C. Law 16-191, § 92(b), 53 DCR 6794.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 19-107a.

1973 Ed., § 19-107a.

##### *Effect of Amendments*

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

##### *Legislative History of Laws*

Law 1-87, the "Anti-Sex Discriminatory Language Act," was introduced in Council and assigned Bill No. 1-36, which was referred to the Committee on the Judiciary and Criminal Law. The Bill was adopted on first and second readings on June 15, 1976, and June 29, 1976, respectively. Signed by the Mayor on July 27, 1976, it was assigned Act No. 1-143 and transmitted to both Houses of Congress for its review.

Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-191, see notes following § 19-102.

### **§ 19-108. RECOVERY OF DOWER WITHHELD; DAMAGES.[REPEALED]**

(Sept. 14, 1965, 79 Stat. 695, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(e), 48 DCR 2087; Mar 2, 2007, D.C. Law 16-191, § 92(b), 53 DCR 6794.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 19-108.

1973 Ed., § 19-108.

##### *Effect of Amendments*

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

##### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-191, see notes following § 19-102.

### **§ 19-109. RECOVERY OF DOWER OBTAINED BY DEFAULT OR COLLUSION; DAMAGES.[REPEALED]**

(Sept. 14, 1965, 79 Stat. 695, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(e), 48 DCR 2087; Mar 2, 2007, D.C. Law 16-191, § 92(b), 53 DCR 6794.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 19-109.

1973 Ed., § 19-109.

##### *Effect of Amendments*

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

##### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-191, see notes following § 19-102.

## **§ 19-110. ASSIGNMENT OF GUARDIAN; RIGHTS OF HEIR.[REPEALED]**

(Sept. 14, 1965, 79 Stat. 696, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(e), 48 DCR 2087; Mar 2, 2007, D.C. Law 16-191, § 92(b), 53 DCR 6794.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 19-110.

1973 Ed., § 19-110.

#### *Effect of Amendments*

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

#### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-191, see notes following § 19-102.

## **§ 19-111. REENDOWMENT UPON EVICTION FROM JOINTURE.[REPEALED]**

(Sept. 14, 1965, 79 Stat. 696, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(e), 48 DCR 2087; Mar 2, 2007, D.C. Law 16-191, § 92(b), 53 DCR 6794.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 19-111.

1973 Ed., § 19-111.

#### *Effect of Amendments*

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

#### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-191, see notes following § 19-102.

## **§ 19-112. DEVISE OR BEQUEST TO A SPOUSE OR DOMESTIC PARTNER.**

Subject to section 19-114, and unless it is otherwise expressed in the will, a devise of real estate or an interest therein, or a bequest of personal estate or an interest therein, to the surviving spouse or surviving domestic partner, bars his or her share in the decedent's estate.

(Sept. 14, 1965, 79 Stat. 696, Pub. L. 89-183, § 1; Apr. 27, 2001, D.C. Law 13-292, § 801(f), 48 DCR 2087; Apr. 4, 2006, D.C. Law 16-79, § 5(g), 53 DCR 1035; Mar. 2, 2007, D.C. Law 16-191, § 92(c), 53 DCR 6794.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 19-112.

1973 Ed., § 19-112.

#### *Effect of Amendments*

D.C. Law 13-292 deleted ", and his or her dower rights" following "decedent's estate".

D.C. Law 16-79 rewrote section which had read as follows:

"Subject to section 19-114, and unless it is otherwise expressed in the will, a devise of real estate or an interest therein, or a bequest of personal estate or an interest therein, to the surviving spouse, bars his or her share in the decedent's estate."

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

#### *Legislative History of Laws*

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-79, see notes following § 19-101.02.

For Law 16-191, see notes following § 19-102.

**§ 19-113. RENUNCIATION OF DEVISES AND BEQUESTS; ELECTION; TIME LIMITATIONS; RENUNCIATION OR ELECTION BY GUARDIAN OR FIDUCIARY; MAXIMUM RIGHTS; EFFECT OF NO DEVISE OR BEQUEST OR IF NOTHING PASSES UNDER EITHER; ANTENUPTIAL OR POSTNUPTIAL AGREEMENTS.**

(a) Subject to section 19-114, a surviving spouse or surviving domestic partner is, by a devise or bequest specified in section 19-112, barred on any statutory rights or interest he has in the real and personal estate of the deceased spouse or deceased domestic partner unless, within 6 months after the will of the deceased spouse or deceased domestic partner is admitted to probate, he files in the Probate Court a written renunciation to the following effect: "I, A B, surviving spouse or surviving domestic partner of \_\_\_\_\_ late of \_\_\_\_\_, deceased, renounce and quit all claim to any devise or bequest made to me by the last will of my spouse or domestic partner exhibited and proved according to law; and I elect to take in lieu thereof my legal share of the real and personal estate of my deceased spouse or deceased domestic partner.

(b) Repealed.

(c) If, during the period of 6 months specified by subsection (a) of this section, a suit is instituted to construe the will of the deceased spouse or deceased domestic partner, the period of 6 months for the filing of the renunciation or election commences to run from the date when the suit is finally determined. A renunciation or election may be made in behalf of a spouse or domestic partner unable to act for himself by reason of infancy, incompetency, or inability to manage his property, by the guardian or other fiduciary acting for the spouse or domestic partner when so authorized by the court having jurisdiction of the person of the spouse or domestic partner. The time for renunciation by a spouse or domestic partner may be extended before its expiration by an order of the Probate Court for successive periods of not more than 6 months each upon petition showing reasonable cause and on notice given to the personal representative and to the other persons herein referred to in such manner as the Probate Court directs.

(d) Where a decedent has not made a devise or bequest to the spouse or domestic partner, or nothing passes by a purported devise or bequest, the surviving spouse or surviving domestic partner is entitled to his legal share of the real and personal estate of the deceased spouse or deceased domestic partner without filing a written renunciation.

(e) The legal share of a surviving spouse or surviving domestic partner under subsection (a) or (d) of this section is such share or interest in the real or personal property of the deceased spouse or deceased domestic partner as he would have taken if the deceased spouse or deceased domestic partner had died intestate, not to exceed one-half of the net estate bequeathed and devised by the will.

(f) A valid antenuptial or postnuptial agreement entered into by the spouses or domestic partners determines the rights of the surviving spouse or the surviving domestic partner in the real and personal estate of the deceased spouse or deceased domestic partner and the administration thereof, but a spouse or domestic partner may accept the benefits of a devise or bequest made to him by the deceased spouse or deceased domestic partner.

(Sept. 14, 1965, 79 Stat. 696, Pub. L. 89-183, § 1; Mar. 24, 1998, D.C. Law 12-81, § 12, 45 DCR 745; Apr. 27, 2001, D.C. Law 13-292, § 801(g), 48 DCR 2087; Apr. 4, 2006, D.C. Law 16-79, § 5(h), 53 DCR 1035; Mar. 2, 2007, D.C. Law 16-191, § 92(d), 53 DCR 6794.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 19-113.

1973 Ed., § 19-113.

*Effect of Amendments*

D.C. Law 13-292, in subsec. (a), in the first sentence, deleted "or dower rights, as the case may be," following "deceased spouse", in the second sentence, deleted "(except than in lieu of my legal share of the real estate, I elect to take dower in all the real estate of my deceased spouse to which that right is applicable)" from the end; repealed subsec. (b); in subsec. (c), deleted "or (b)" following "subsection (a)"; in subsec. (d), deleted ", but may, instead, elect to take dower as provided by subsection (b) of this section" following "renunciation"; and, in subsec. (e), deleted ", including dower if elected in lieu of the legal share in the real estate," following "property of the deceased spouse", and deleted ", or, if dower is elected, one-half of the net personal property bequeathed and dower in the real estate devised" following "devised by the will". Prior to repeal, subsec. (b) read:

"(b) In similar manner, where the deceased spouse dies intestate of real estate, and letters of administration

are issued with respect to the estate the surviving spouse is barred of dower rights, unless, within six months after the letters of administration have been issued with respect to the estate of the deceased spouse, he files in the Probate Court a written renunciation of his legal share of the intestate real estate to the following effect:

" I A B, widow [or surviving husband] of \_\_\_\_ deceased, in lieu of my legal share of the real estate which my deceased spouse died intestate, elect to take dower in all the real estate of my deceased spouse to which the right is applicable."

D.C. Law 16-79 rewrote subsecs. (a), (c), (d), (e), and (f), which had read as follows:

"(a) Subject to section 19-114, a surviving spouse is, by a devise or bequest specified in section 19-112, barred on any statutory rights or interest he has in the real and personal estate of the deceased spouse unless, within six months after the will of the deceased spouse is admitted to probate, he files in the Probate Court a written renunciation to the following effect: "I, A B, widow [or surviving husband] of \_\_\_\_ late of \_\_\_\_, deceased, renounce and quit all claim to any devise or bequest made to me by the last will of my husband [or wife] exhibited and proved according to law; and I elect to take in lieu thereof my legal share of the real and personal estate of my deceased spouse.

"(c) If, during the period of six months specified by subsection (a) of this section, a suit is instituted to construe the will of the deceased spouse, the period of six months for the filing of the renunciation or election commences to run from the date when the suit is finally determined. A renunciation or election may be made in behalf of a spouse unable to act for himself by reason of infancy, incompetency, or inability to manage his property, by the guardian or other fiduciary acting for the spouse when so authorized by the court having jurisdiction of the person of the spouse. The time for renunciation by a spouse may be extended before its expiration by an order of the Probate Court for successive periods of not more than six months each upon petition showing reasonable cause and on notice given to the personal representative and to the other persons herein referred to in such manner as the Probate Court directs.

"(d) Where a decedent has not made a devise or bequest to the spouse, or nothing passes by a purported devise or bequest, the surviving spouse is entitled to his legal share of the real and personal estate of the deceased spouse without filing a written renunciation.

"(e) The legal share of a surviving spouse under subsection (a) or (d) of this section is such share or interest in the real or personal property of the deceased spouse as he would have taken if the deceased spouse had died intestate, not to exceed one-half of the net estate bequeathed and devised by the will.

"(f) A valid antenuptial or postnuptial agreement entered into by the spouses determines the rights of the surviving spouse in the real and personal estate of the deceased spouse and the administration thereof, but a spouse may accept the benefits of a devise or bequest made to him by the deceased spouse."

D.C. Law 16-191, in the section credit for D.C. Law 13-292, validated a previously made technical correction.

#### *Legislative History of Laws*

Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

For D.C. Law 13-292, see notes following § 19-101.01.

For Law 16-79, see notes following § 19-101.02.

For Law 16-191, see notes following § 19-102.

### **§ 19-114. RIGHT OF SURVIVING SPOUSE OR SURVIVING DOMESTIC PARTNER IF THERE IS NO RENUNCIATION.**

A surviving spouse or surviving domestic partner who does not renounce as provided by section 19-113 is entitled to the benefit of all provisions in his favor in the will of the deceased spouse or deceased domestic partner and shall share, in accordance with sections 19-301 and 19-302 in any estate of the deceased spouse or deceased domestic partner undisposed of by the will.

(Sept. 14, 1965, 79 Stat. 697, Pub. L. 89-183, § 1; Apr. 4, 2006, D.C. Law 16-79, § 5(i), 53 DCR 1035.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 19-114.

1973 Ed., § 19-114.

##### *Effect of Amendments*

D.C. Law 16-79 rewrote section which had read as follows:

"A surviving spouse who does not renounce as provided by section 19-113 is entitled to the benefit of all provisions in his favor in the will of the deceased spouse and shall share, in accordance with sections 19-301, 19-302, 19-303, 19-304, and 20-1901, in any estate of the deceased spouse undisposed of by the will."

*Legislative History of Laws*

For Law 16-79, see notes following § 19-101.02.

*References in Text*

The reference to section 20-1901, appearing near the end of this section, is no longer accurate in light of the revisions of Title 20 by the Act of June 24, 1980, D.C. Law 3-72 and by D.C. Law 10-241.

## **§ 19-115. DEFINITIONS.**

For the purposes of this chapter, the term:

(1) "Domestic partner" shall have the same meaning as provided in § 32- 701(3).

(2) "Domestic partnership" shall have the same meaning as provided in § 32- 701(4).

(3) "Probate Court" means the Superior Court of the District of Columbia.

(July 29, 1970, 84 Stat. 566, Pub. L. 91-358, title I, § 148 (2)(A); Apr. 4, 2006, D.C. Law 16-79, § 5(j), 53 DCR 1035.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 19-115.

1973 Ed., § 19-115.

*Effect of Amendments*

D.C. Law 16-79 rewrote section which had read as follows:

"For purposes of this chapter 'Probate Court' means the Superior Court of the District of Columbia."

*Legislative History of Laws*

For Law 16-79, see notes following § 19-101.02.