

RCW 11.12.095 Omitted spouse or omitted domestic partner. (1)

If a will fails to name or provide for a spouse or domestic partner of the decedent whom the decedent marries or enters into a domestic partnership after the will's execution and who survives the decedent, referred to in this section as an "omitted spouse" or "omitted domestic partner," the spouse or domestic partner must receive a portion of the decedent's estate as provided in subsection (3) of this section, unless it appears either from the will or from other clear and convincing evidence that the failure was intentional.

(2) In determining whether an omitted spouse or omitted domestic partner has been named or provided for, the following rules apply:

(a) A spouse or domestic partner identified in a will by name is considered named whether identified as a spouse or domestic partner or in any other manner.

(b) A reference in a will to the decedent's future spouse or spouses or future domestic partner or partners, or words of similar import, constitutes a naming of a spouse or domestic partner whom the decedent later marries or with whom the decedent enters into a domestic partnership. A reference to another class such as the decedent's heirs or family does not constitute a naming of a spouse or domestic partner who falls within the class.

(c) A nominal interest in an estate does not constitute a provision for a spouse or domestic partner receiving the interest.

(3) The omitted spouse or omitted domestic partner must receive an amount equal in value to that which the spouse or domestic partner would have received under RCW 11.04.015 if the decedent had died intestate, unless the court determines on the basis of clear and convincing evidence that a smaller share, including no share at all, is more in keeping with the decedent's intent. In making the determination the court may consider, among other things, the spouse's or domestic partner's property interests under applicable community property or quasi-community property laws, the various elements of the decedent's dispositive scheme, and a marriage settlement or settlement in a domestic partnership or other provision and provisions for the omitted spouse or omitted domestic partner outside the decedent's will.

(4) In satisfying a share provided by this section, the bequests made by the will abate as provided in chapter 11.10 RCW. [2008 c 6 s 911; 1994 c 221 s 10.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Effective dates—1994 c 221: See note following RCW 11.100.035.