

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 2, 2009
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB09-1287 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 7, after line 11, insert the following:
 - 2 "(6) THE DOLLAR AMOUNTS STATED IN THIS SECTION SHALL BE
 - 3 INCREASED OR DECREASED BASED ON THE COST OF LIVING ADJUSTMENT AS
 - 4 CALCULATED AND SPECIFIED IN SECTION 15-10-112."
- 5 Page 8, line 8, strike "IN EQUAL SHARES;" and substitute "PER CAPITA AT
- 6 EACH GENERATION;"
- 7 line 13, strike "IN EQUAL SHARES;" and substitute "PER CAPITA AT EACH
- 8 GENERATION;"
- 9 Page 9, line 5, strike "IN EQUAL SHARES;" and substitute "PER CAPITA AT
- 10 EACH GENERATION;"
- 11 line 8, strike "IN" and substitute "PER CAPITA AT EACH GENERATION.";
- 12 strike line 9.
- 13 Page 12, line 27, strike "09-_____", and substitute "09-1286,".
- 14 Page 15, after line 4, insert the following:

1 "(2.5) **Child of a second-parent adoption.** A PARENT-CHILD
2 RELATIONSHIP EXISTS BETWEEN AN INDIVIDUAL WHO IS ADOPTED BY A
3 SECOND PARENT AND:

4 (a) THE GENETIC PARENT WHO CONSENTED TO A SECOND-PARENT
5 ADOPTION; AND

6 (b) THE OTHER GENETIC PARENT, BUT ONLY FOR THE PURPOSE OF
7 THE RIGHT OF THE ADOPTEE OR A DESCENDANT OF THE ADOPTEE TO
8 INHERIT FROM OR THROUGH THE OTHER GENETIC PARENT."

9 Page 23, strike lines 14 through 27.

10 Strike pages 24 through 26.

11 Page 27, strike lines 1 and 2 and substitute the following:

12 "**SECTION 9.** 15-11-201 (2), Colorado Revised Statutes, is
13 amended to read:

14 **15-11-201. Right to elective-share.** (2) (a) **Supplemental**
15 **elective-share amount.** If the sum of the amounts described in sections
16 15-11-202 (2) (d), 15-11-203 (1) (a), and that part of the elective-share
17 amount payable from the decedent's probate estate and nonprobate
18 transfers to others under section 15-11-203 (2) and (3) is less than fifty
19 thousand dollars, the surviving spouse is entitled to a supplemental
20 elective-share amount equal to fifty thousand dollars, minus the sum of
21 the amounts described in those sections. The supplemental elective-share
22 amount is payable from the decedent's probate estate and from recipients
23 of the decedent's nonprobate transfers to others in the order of priority set
24 forth in section 15-11-203 (2) and (3).

25 (b) THE DOLLAR AMOUNT STATED IN PARAGRAPH (a) OF THIS
26 SUBSECTION (2) SHALL BE INCREASED OR DECREASED BASED ON THE COST
27 OF LIVING ADJUSTMENT AS CALCULATED AND SPECIFIED IN SECTION
28 15-10-112.

29 **SECTION 10.** 15-11-403, Colorado Revised Statutes, is amended
30 to read:

31 **15-11-403. Exempt property.** (1) The decedent's surviving
32 spouse is entitled to exempt property from the estate in the form of cash

1 in the amount of or other property of the estate in the value of twenty-six
2 thousand dollars in excess of any security interests therein. If there is no
3 surviving spouse, the decedent's dependent children are entitled jointly to
4 the same exempt property. Rights to exempt property have priority over
5 all claims against the estate, except claims for the costs and expenses of
6 administration, and reasonable funeral and burial, interment, or cremation
7 expenses, which shall be paid in the priority and manner set forth in
8 section 15-12-805. The right to exempt property shall abate as necessary
9 to permit payment of the family allowance. These rights are in addition
10 to any benefit or share passing to the surviving spouse or dependent
11 children by the decedent's will, unless otherwise provided, by intestate
12 succession, or by way of elective-share.

13 (2) THE DOLLAR AMOUNT STATED IN SUBSECTION (1) OF THIS
14 SECTION SHALL BE INCREASED OR DECREASED BASED ON THE COST OF
15 LIVING ADJUSTMENT AS CALCULATED AND SPECIFIED IN SECTION
16 15-10-112.

17 **SECTION 11.** 15-11-405 (1), Colorado Revised Statutes, is
18 amended to read:

19 **15-11-405. Source, determination, and documentation.**

20 (1) (a) If the estate is otherwise sufficient, property specifically devised
21 or disposed of by memorandum under section 15-11-513 to any person
22 other than a person entitled to exempt property may not be used to satisfy
23 rights to exempt property. Subject to this restriction, the surviving
24 spouse, the guardians of minor children, or dependent children who are
25 adults may select property of the estate as their exempt property. The
26 personal representative may make these selections if the surviving spouse,
27 the dependent children, or the guardians of the minor children are unable
28 or fail to do so within a reasonable time or there is no guardian of a minor
29 child. The personal representative may execute an instrument or deed of
30 distribution to establish the ownership of property taken as exempt
31 property allowance. The personal representative may determine the
32 family allowance in a lump sum not exceeding twenty-four thousand
33 dollars or periodic installments not exceeding two thousand dollars per
34 month for one year and may disburse funds of the estate in payment of the
35 family allowance. The personal representative or an interested person
36 aggrieved by any selection, determination, payment, proposed payment,
37 or failure to act under this section may petition the court for appropriate
38 relief, which may provide a family allowance other than that which the
39 personal representative determined or could have determined.

1 (b) THE DOLLAR AMOUNT STATED IN PARAGRAPH (a) OF THIS
2 SUBSECTION (1) SHALL BE INCREASED OR DECREASED BASED ON THE COST
3 OF LIVING ADJUSTMENT AS CALCULATED AND SPECIFIED IN SECTION
4 15-10-112."

5 Renumber succeeding sections accordingly.

6 Page 36, line 3, strike "January" and substitute "July".

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