

TITLE 8: FAMILY LAW AND PROBATE
DIVISION 1: DOMESTIC RELATIONS

§ 2702. Pretermitted Children.

(a) If a testator fails to provide in his will for any of the testator's children born or adopted after the execution of the testator's will, the omitted child receives a share in the estate equal in value to that which he would have received if the testator had died intestate unless:

(1) It appears from the will that the omission was intentional;

(2) When the will was executed the testator had one or more children and devised substantially all his or her estate to the other parent of the omitted child; or

(3) The testator provided for the child by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or other evidence.

(b) If at the time of execution of the will the testator fails to provide in his will for a living child solely because the testator believes the child to be dead, the child receives a share in the estate equal in value to that which he would have received if the testator had died intestate.

(c) In satisfying a share provided by this section, the devises made by the will abate as provided in 8 CMC § 2801.

(d) For the purposes of this section, an adopted child may claim as a pretermitted child through the child's adopted and natural parents.

(e) The provisions of 8 CMC § 2702 shall not apply to pretermitted children who have failed to establish paternity by an adjudication prior to the death of the father unless:

(1) The natural parents participated in a marriage ceremony before or after the birth of the child; or

(2) It is established by clear and convincing evidence that the father openly and notoriously held the child out as his own during his lifetime.

(f) The provisions of this section shall apply to both the paternity and heirship actions heretofore or hereafter made, and shall govern in all proceedings in which a final judgment, not subject to further appeal, has not been entered prior to June 4, 1996.

Source: PL 3-106, ch. 7, § 2; amended by PL 10-10, § 2.