

ESTATES
(755 ILCS 5/) Probate Act of 1975.

(755 ILCS 5/Art. II heading)

ARTICLE II
DESCENT AND DISTRIBUTION

(755 ILCS 5/2-1) (from Ch. 110 1/2, par. 2-1)

Sec. 2-1. Rules of descent and distribution. The intestate real and personal estate of a resident decedent and the intestate real estate in this State of a nonresident decedent, after all just claims against his estate are fully paid, descends and shall be distributed as follows:

(a) If there is a surviving spouse and also a descendant of the decedent: 1/2 of the entire estate to the surviving spouse and 1/2 to the decedent's descendants per stirpes.

(b) If there is no surviving spouse but a descendant of the decedent: the entire estate to the decedent's descendants per stirpes.

(c) If there is a surviving spouse but no descendant of the decedent: the entire estate to the surviving spouse.

(d) If there is no surviving spouse or descendant but a parent, brother, sister or descendant of a brother or sister of the decedent: the entire estate to the parents, brothers and sisters of the decedent in equal parts, allowing to the surviving parent if one is dead a double portion and to the descendants of a deceased brother or sister per stirpes the portion which the deceased brother or sister would have taken if living.

(e) If there is no surviving spouse, descendant, parent, brother, sister or descendant of a brother or sister of the decedent but a grandparent or descendant of a grandparent of the decedent: (1) 1/2 of the entire estate to the decedent's maternal grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes, and (2) 1/2 of the entire estate to the decedent's paternal grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes. If there is no surviving paternal grandparent or descendant of a paternal grandparent, but a maternal grandparent or descendant of a maternal grandparent of the decedent: the entire estate to the decedent's maternal grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes. If there is no surviving maternal grandparent or descendant of a maternal grandparent, but a paternal grandparent or descendant of a paternal grandparent of the decedent: the entire estate to the decedent's paternal grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes.

(f) If there is no surviving spouse, descendant, parent,

brother, sister, descendant of a brother or sister or grandparent or descendant of a grandparent of the decedent:

(1) 1/2 of the entire estate to the decedent's maternal great-grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes, and
(2) 1/2 of the entire estate to the decedent's paternal great-grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes. If there is no surviving paternal great-grandparent or descendant of a paternal great-grandparent, but a maternal great-grandparent or descendant of a maternal great-grandparent of the decedent: the entire estate to the decedent's maternal great-grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes. If there is no surviving maternal great-grandparent or descendant of a maternal great-grandparent, but a paternal great-grandparent or descendant of a paternal great-grandparent of the decedent: the entire estate to the decedent's paternal great-grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes.

(g) If there is no surviving spouse, descendant, parent, brother, sister, descendant of a brother or sister, grandparent, descendant of a grandparent, great-grandparent or descendant of a great-grandparent of the decedent: the entire estate in equal parts to the nearest kindred of the decedent in equal degree (computing by the rules of the civil law) and without representation.

(h) If there is no surviving spouse and no known kindred of the decedent: the real estate escheats to the county in which it is located; the personal estate physically located within this State and the personal estate physically located or held outside this State which is the subject of ancillary administration of an estate being administered within this State escheats to the county of which the decedent was a resident, or, if the decedent was not a resident of this State, to the county in which it is located; all other personal property of the decedent of every class and character, wherever situate, or the proceeds thereof, shall escheat to this State and be delivered to the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act.

In no case is there any distinction between the kindred of the whole and the half blood.

(Source: P.A. 100-22, eff. 1-1-18.)

(755 ILCS 5/2-2) (from Ch. 110 1/2, par. 2-2)

Sec. 2-2. Children born out of wedlock. The intestate real and personal estate of a resident decedent who was a child born out of wedlock at the time of death and the intestate real estate in this State of a nonresident decedent who was a child born out of wedlock at the time of death, after all just claims against his estate are fully paid, descends and shall be distributed as provided in Section 2-1, subject to Section

2-6.5 of this Act, if both parents are eligible parents. As used in this Section, "eligible parent" means a parent of the decedent who, during the decedent's lifetime, acknowledged the decedent as the parent's child, established a parental relationship with the decedent, and supported the decedent as the parent's child. "Eligible parents" who are in arrears of in excess of one year's child support obligations shall not receive any property benefit or other interest of the decedent unless and until a court of competent jurisdiction makes a determination as to the effect on the deceased of the arrearage and allows a reduced benefit. In no event shall the reduction of the benefit or other interest be less than the amount of child support owed for the support of the decedent at the time of death. The court's considerations shall include but are not limited to the considerations in subsections (1) through (3) of Section 2-6.5 of this Act.

If neither parent is an eligible parent, the intestate real and personal estate of a resident decedent who was a child born out of wedlock at the time of death and the intestate real estate in this State of a nonresident decedent who was a child born out of wedlock at the time of death, after all just claims against his or her estate are fully paid, descends and shall be distributed as provided in Section 2-1, but the parents of the decedent shall be treated as having predeceased the decedent.

If only one parent is an eligible parent, the intestate real and personal estate of a resident decedent who was a child born out of wedlock at the time of death and the intestate real estate in this State of a nonresident decedent who was a child born out of wedlock at the time of death, after all just claims against his or her estate are fully paid, subject to Section 2-6.5 of this Act, descends and shall be distributed as follows:

(a) If there is a surviving spouse and also a descendant of the decedent: 1/2 of the entire estate to the surviving spouse and 1/2 to the decedent's descendants per stirpes.

(b) If there is no surviving spouse but a descendant of the decedent: the entire estate to the decedent's descendants per stirpes.

(c) If there is a surviving spouse but no descendant of the decedent: the entire estate to the surviving spouse.

(d) If there is no surviving spouse or descendant but the eligible parent or a descendant of the eligible parent of the decedent: the entire estate to the eligible parent and the eligible parent's descendants, allowing 1/2 to the eligible parent and 1/2 to the eligible parent's descendants per stirpes.

(e) If there is no surviving spouse, descendant, eligible parent, or descendant of the eligible parent of the decedent, but a grandparent on the eligible parent's side of the family or descendant of such grandparent of the decedent: the entire estate to the decedent's grandparents on the eligible parent's side of the family in equal parts, or to the survivor of them, or if there is none surviving, to their descendants per stirpes.

(f) If there is no surviving spouse, descendant, eligible parent, descendant of the eligible parent, grandparent on the

eligible parent's side of the family, or descendant of such grandparent of the decedent: the entire estate to the decedent's great-grandparents on the eligible parent's side of the family in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes.

(g) If there is no surviving spouse, descendant, eligible parent, descendant of the eligible parent, grandparent on the eligible parent's side of the family, descendant of such grandparent, great-grandparent on the eligible parent's side of the family, or descendant of such great-grandparent of the decedent: the entire estate in equal parts to the nearest kindred of the eligible parent of the decedent in equal degree (computing by the rules of the civil law) and without representation.

(h) If there is no surviving spouse, descendant, or eligible parent of the decedent and no known kindred of the eligible parent of the decedent: the real estate escheats to the county in which it is located; the personal estate physically located within this State and the personal estate physically located or held outside this State which is the subject of ancillary administration within this State escheats to the county of which the decedent was a resident or, if the decedent was not a resident of this State, to the county in which it is located; all other personal property of the decedent of every class and character, wherever situate, or the proceeds thereof, shall escheat to this State and be delivered to the State Treasurer of this State pursuant to the Revised Uniform Unclaimed Property Act.

For purposes of inheritance, the changes made by this amendatory Act of 1998 apply to all decedents who die on or after the effective date of this amendatory Act of 1998. For the purpose of determining the property rights of any person under any instrument, the changes made by this amendatory Act of 1998 apply to all instruments executed on or after the effective date of this amendatory Act of 1998.

A child born out of wedlock is heir of his mother and of any maternal ancestor and of any person from whom his mother might have inherited, if living; and the descendants of a person who was a child born out of wedlock shall represent such person and take by descent any estate which the parent would have taken, if living. If a decedent has acknowledged paternity of a child born out of wedlock or if during his lifetime or after his death a decedent has been adjudged to be the father of a child born out of wedlock, that person is heir of his father and of any paternal ancestor and of any person from whom his father might have inherited, if living; and the descendants of a person who was a child born out of wedlock shall represent that person and take by descent any estate which the parent would have taken, if living. If during his lifetime the decedent was adjudged to be the father of a child born out of wedlock by a court of competent jurisdiction, an authenticated copy of the judgment is sufficient proof of the paternity; but in all other cases paternity must be proved by clear and convincing evidence. A person who was a child born out of wedlock whose parents intermarry and who is acknowledged by the father as the father's child is a lawful child of the father. After a child born out of wedlock is

adopted, that person's relationship to his or her adopting and natural parents shall be governed by Section 2-4 of this Act. For purposes of inheritance, the changes made by this amendatory Act of 1997 apply to all decedents who die on or after January 1, 1998. For the purpose of determining the property rights of any person under any instrument, the changes made by this amendatory Act of 1997 apply to all instruments executed on or after January 1, 1998. (Source: P.A. 100-22, eff. 1-1-18.)

(755 ILCS 5/2-3) (from Ch. 110 1/2, par. 2-3)
Sec. 2-3. Posthumous child.

(a) For purposes of the descent and distribution of property passing by intestate succession under this Act, a posthumous child of a decedent shall receive the same share of an estate as if the child had been born in wedlock during the decedent's lifetime, but only if: (1) the posthumous child is in utero at the decedent's death; or (2) in the case of a posthumous child not in utero at the decedent's death, the conditions of subsection (b) are met.

(b) A posthumous child of a decedent not in utero at the decedent's death meets the requirements of this subsection (b) only if all of the following conditions apply:

(1) The child is born of the decedent's gametes, whether those gametes form an embryo before or after the decedent's death ("gametes").

(2) The child is born within 36 months of the death of the decedent.

(3) The decedent had provided consent in writing to be a parent of any child born of such gametes posthumously and had not revoked the consent prior to death.

(4) The administrator of the estate receives a signed and acknowledged written notice with a copy of the written consent attached within 6 months of the date of issuance of a certificate of the decedent's death or entry of a judgment determining the fact of the decedent's death, whichever event occurs first, from a person to whom such consent applies that:

(i) the decedent's gametes exist;

(ii) the person has the intent to use the gametes in a manner that could result in a child being born within 36 months of the death of the decedent; and

(iii) the person has the intent to raise any such child as his or her child.

The requirements of this subsection impose no duty on the administrator of an estate to provide notice of death to any person and apply without regard to when any person receives notice of the decedent's death.

(c) For the purpose of determining the property rights of any person under any instrument, a posthumous child of a decedent who is in utero at the decedent's death shall be treated as a child of the decedent unless the intent to exclude the child is demonstrated by the express terms of the

instrument by clear and convincing evidence.

(d) For the purpose of determining the property rights of any person under any instrument, a posthumous child of a decedent not in utero at the decedent's death shall not be treated as a child of the decedent unless one of the following conditions applies:

(1) the intent to include the child is demonstrated by the express terms of the instrument by clear and convincing evidence; or

(2) the fiduciary or other holder of the property treated the child as a child of the decedent for purposes of a division or distribution of property made prior to January 1, 2018 under the instrument based on a good faith interpretation of Illinois law regarding the right of the child to take property under the instrument.

(e) For purposes of subsection (d), the use in the instrument of terms such as "child", "children", "grandchild", "grandchildren", "descendants", and "issue", whether or not modified by phrases such as "biological", "genetic", "born to", or "of the body" shall not alone constitute clear and convincing evidence of an intent to include posthumous children not in utero at the decedent's death. An intent to exclude posthumous children not in utero at the decedent's death shall be presumed with respect to any instrument that does not address specifically how and when the class of posthumous children are to be determined with respect to each division or distribution provided for under the instrument as well as whose posthumous children are to be included and when a posthumous child has to be born to be considered a beneficiary with respect to a particular division or distribution.

(f) No fiduciary or other person shall be liable to any other person for any action taken or benefit received prior to the effective date of this amendatory Act of the 100th General Assembly that was based on a good faith interpretation of Illinois law regarding the right of posthumous children to take property by intestate succession or under an instrument. If after the effective date of this amendatory Act of the 100th General Assembly the administrator of an estate does not receive the written notice required by subsection (b), the administrator of the estate shall not be liable to any posthumous child not in utero at the decedent's death or any person claiming for or through the child.

(g) The changes made to subsection (a) of this Section by this amendatory Act of the 100th General Assembly apply to the estates of all decedents who die on or after January 1, 2018. For the purpose of determining the property rights of any person under any instrument, the changes made by this amendatory Act of the 100th General Assembly apply to all instruments executed before, on, or after the effective date of this amendatory Act of the 100th General Assembly.
(Source: P.A. 99-85, eff. 1-1-16; 100-85, eff. 1-1-18.)

(755 ILCS 5/2-4) (from Ch. 110 1/2, par. 2-4)
Sec. 2-4. Adopted child.

(a) An adopted child is a descendant of the adopting parent for purposes of inheritance from the adopting parent and from the lineal and collateral kindred of the adopting parent and for the purpose of determining the property rights of any person under any instrument, unless the adopted child is adopted after attaining the age of 18 years and the child never resided with the adopting parent before attaining the age of 18 years, in which case the adopted child is a child of the adopting parent but is not a descendant of the adopting parent for the purposes of inheriting from the lineal or collateral kindred of the adopting parent. An adopted child and the descendants of the child who is related to a decedent through more than one line of relationship shall be entitled only to the share based on the relationship which entitles the child or descendant to the largest share. The share to which the child or descendant is not entitled shall be distributed in the same manner as if the child or descendant never existed. For purposes of inheritance, the changes made by this amendatory Act of 1997 apply to all decedents who die on or after January 1, 1998. For the purpose of determining the property rights of any person under any instrument, the changes made by this amendatory Act of 1997 apply to all instruments executed on or after January 1, 1998.

(b) An adopting parent and the lineal and collateral kindred of the adopting parent shall inherit property from an adopted child to the exclusion of the natural parent and the lineal and collateral kindred of the natural parent in the same manner as though the adopted child were a natural child of the adopting parent, except that the natural parent and the lineal or collateral kindred of the natural parent shall take from the child and the child's kindred the property that the child has taken from or through the natural parent or the lineal or collateral kindred of the natural parent by gift, by will or under intestate laws.

(c) For purposes of inheritance from the child and his or her kindred (1) the person who at the time of the adoption is the spouse of an adopting parent is an adopting parent and (2) a child is adopted when the child has been or is declared by any court to have been adopted or has been or is declared or assumed to be the adopted child of the testator or grantor in any instrument bequeathing or giving property to the child.

(d) For purposes of inheritance from or through a natural parent and for determining the property rights of any person under any instrument, an adopted child is not a child of a natural parent, nor is the child a descendant of a natural parent or of any lineal or collateral kindred of a natural parent, unless one or more of the following conditions apply:

(1) The child is adopted by a descendant or a spouse of a descendant of a great-grandparent of the child, in which case the adopted child is a child of both natural parents.

(2) A natural parent of the adopted child died before the child was adopted, in which case the adopted child is a child of that deceased parent and an heir of the lineal and collateral kindred of that deceased parent.

(3) The contrary intent is demonstrated by the terms of the instrument by clear and convincing evidence.

An heir of an adopted child who, by reason of this subsection (d), is not a child of a natural parent is also not an heir of that natural parent or of the lineal or collateral kindred of that natural parent. A fiduciary who has actual knowledge that a person has been adopted, but who has no actual knowledge that any of paragraphs (1), (2), or (3) of this subsection apply to the adoption, shall have no liability for any action taken or omitted in good faith on the assumption that the person is not a descendant or heir of the natural parent. The preceding sentence is intended to affect only the liability of the fiduciary and shall not affect the property rights of any person.

For purposes of inheritance, the changes made by this amendatory Act of 1997 apply to all decedents who die on or after January 1, 1998. For the purpose of determining the property rights of any person under any instrument, the changes made by this amendatory Act of 1997 apply to all instruments executed on or after January 1, 1998.

(e) For the purpose of determining the property rights of any person under any instrument executed on or after September 1, 1955, an adopted child is deemed a child born to the adopting parent unless the contrary intent is demonstrated by the terms of the instrument by clear and convincing evidence.

(f) After September 30, 1989, a child adopted at any time before or after that date is deemed a child born to the adopting parent for the purpose of determining the property rights of any person under any instrument executed before September 1, 1955, unless one or more of the following conditions applies:

(1) The intent to exclude such child is demonstrated by the terms of the instrument by clear and convincing evidence.

(2) An adopting parent of an adopted child, in the belief that the adopted child would not take property under an instrument executed before September 1, 1955, acted to substantially benefit such adopted child when compared to the benefits conferred by such parent on the child or children born to the adopting parent. For purposes of this paragraph:

(i) "Acted" means that the adopting parent made one or more gifts during life requiring the filing of a federal gift tax return or at death (including gifts which take effect at death), or exercised or failed to exercise powers of appointment or other legal rights, or acted or failed to act in any other way.

(ii) Any action which substantially benefits the adopted child shall be presumed to have been made in such a belief unless a contrary intent is demonstrated by clear and convincing evidence.

(g) No fiduciary or other person shall be liable to any other person for any action taken or benefit received prior to October 1, 1989, under any instrument executed before September 1, 1955, that was based on a good faith interpretation of Illinois law regarding the right of adopted children to take property under such an instrument.

(h) No fiduciary under any instrument executed before September 1, 1955, shall have any obligation to determine whether any adopted child has become a taker under such instrument due to the application of subsection (f) unless such fiduciary has received, on or before the "notice date", as defined herein, written evidence that such adopted child has become a taker of property. A fiduciary who has received such written evidence shall determine in good faith whether or not any of the conditions specified in subsection (f) exists but shall have no obligation to inquire further into whether such adopted child is a taker of property pursuant to such subsection. Such written evidence shall include a sworn statement by the adopted child or his or her parent or guardian that such child is adopted and to the best of the knowledge and belief of such adopted child or such parent or guardian, none of the conditions specified in such subsection exists. The "notice date" shall be the later of February 1, 1990, or the expiration of 90 days after the date on which the adopted child becomes a taker of property pursuant to the terms of any instrument executed before September 1, 1955.

(i) A fiduciary shall advise all persons known to him or her to be subject to these provisions of the existence of the right to commence a judicial proceeding to prevent the adopted child from being a taker of property under the instrument.
(Source: P.A. 90-237, eff. 1-1-98.)

(755 ILCS 5/2-5) (from Ch. 110 1/2, par. 2-5)

Sec. 2-5. Advancements.) (a) In the division and distribution of the estate of an intestate decedent, real or personal estate given by him in his lifetime as an advancement to a descendant is considered as part of the decedent's estate to be applied on the share of the person to whom the advancement was made or, if he died before the decedent, on the share of the descendants of the person to whom the advancement was made. A gift is not an advancement unless so expressed in writing by the decedent or unless so acknowledged in writing by the person to whom the gift was made.

(b) If the value of the advancement is expressed in the writing made by the decedent or, if not so expressed, in the written acknowledgment by the person to whom the advancement was made, it shall be considered as of that value; otherwise it shall be considered as of the value when given. The person to whom the advancement was made shall not be required to refund any part of it, although it exceeds his share in the entire estate.

(Source: P.A. 79-328.)

(755 ILCS 5/2-6) (from Ch. 110 1/2, par. 2-6)

Sec. 2-6. Person causing death. A person who intentionally

and unjustifiably causes the death of another shall not receive any property, benefit, or other interest by reason of the death, whether as heir, legatee, beneficiary, joint tenant, survivor, appointee or in any other capacity and whether the property, benefit, or other interest passes pursuant to any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. The property, benefit, or other interest shall pass as if the person causing the death died before the decedent, provided that with respect to joint tenancy property the interest possessed prior to the death by the person causing the death shall not be diminished by the application of this Section. A determination under this Section may be made by any court of competent jurisdiction separate and apart from any criminal proceeding arising from the death, provided that no such civil proceeding shall proceed to trial nor shall the person be required to submit to discovery in such civil proceeding until such time as any criminal proceeding has been finally determined by the trial court or, in the event no criminal charge has been brought, prior to one year after the date of death. A person convicted of first degree murder or second degree murder of the decedent is conclusively presumed to have caused the death intentionally and unjustifiably for purposes of this Section.

The holder of any property subject to the provisions of this Section shall not be liable for distributing or releasing said property to the person causing the death if such distribution or release occurs prior to a determination made under this Section.

If the holder of any property subject to the provisions of this Section knows or has reason to know that a potential beneficiary caused the death of a person within the scope of this Section, the holder shall fully cooperate with law enforcement authorities and judicial officers in connection with any investigation of such death.

(Source: P.A. 86-749.)

(755 ILCS 5/2-6.2)

Sec. 2-6.2. Financial exploitation, abuse, or neglect of an elderly person or a person with a disability.

(a) In this Section:

"Abuse" means any offense described in Section 12-1, 12-2, 12-3, 12-3.05, or 12-21 or subsection (b) of Section 12-4.4a of the Criminal Code of 1961 or the Criminal Code of 2012.

"Elderly person" has the meaning provided in subsection (e) of Section 12-4.4a of the Criminal Code of 2012.

"Financial exploitation" means any offense or act described or defined in Section 16-1.3 or 17-56 of the Criminal Code of 1961 or the Criminal Code of 2012, and, in the context of civil proceedings, the taking, use, or other misappropriation of the assets or resources of an elderly person or a person with a disability contrary to law, including, but not limited to, misappropriation of assets or

resources by undue influence, breach of a fiduciary relationship, fraud, deception, extortion, and conversion.

"Neglect" means any offense described in Section 12-19 or subsection (a) of Section 12-4.4a of the Criminal Code of 1961 or the Criminal Code of 2012.

(b) Persons convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability or persons who have been found by a preponderance of the evidence to be civilly liable for financial exploitation shall not receive any property, benefit, or other interest by reason of the death of that elderly person or person with a disability, whether as heir, legatee, beneficiary, survivor, appointee, claimant under Section 18-1.1, or in any other capacity and whether the property, benefit, or other interest passes pursuant to any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. Except as provided in subsection (f) of this Section, the property, benefit, or other interest shall pass as if the person convicted of the financial exploitation, abuse, or neglect or person found civilly liable for financial exploitation died before the decedent, provided that with respect to joint tenancy property the interest possessed prior to the death by the person convicted of the financial exploitation, abuse, or neglect shall not be diminished by the application of this Section. Notwithstanding the foregoing, a person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability or a person who has been found by a preponderance of the evidence to be civilly liable for financial exploitation shall be entitled to receive property, a benefit, or an interest in any capacity and under any circumstances described in this subsection (b) if it is demonstrated by clear and convincing evidence that the victim of that offense knew of the conviction or finding of civil liability and subsequent to the conviction or finding of civil liability expressed or ratified his or her intent to transfer the property, benefit, or interest to the person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability or the person found by a preponderance of the evidence to be civilly liable for financial exploitation in any manner contemplated by this subsection (b).

(c) (1) The holder of any property subject to the provisions of this Section shall not be liable for distributing or releasing the property to the person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability or the person who has been found by a preponderance of the evidence to be civilly liable for financial exploitation if the distribution or release occurs prior to the conviction or finding of civil liability.

(2) If the holder is a financial institution, trust company, trustee, or similar entity or person, the holder shall not be liable for any distribution or release of the property, benefit, or other interest to the person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or the person who has

been found by a preponderance of the evidence to be civilly liable for financial exploitation unless the holder knowingly distributes or releases the property, benefit, or other interest to the person so convicted or found civilly liable after first having received actual written notice of the conviction in sufficient time to act upon the notice.

(d) If the holder of any property subject to the provisions of this Section knows that a potential beneficiary has been convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability or has been found by a preponderance of the evidence to be civilly liable for financial exploitation within the scope of this Section, the holder shall fully cooperate with law enforcement authorities and judicial officers in connection with any investigation of the financial exploitation, abuse, or neglect. If the holder is a person or entity that is subject to regulation by a regulatory agency pursuant to the laws of this or any other state or pursuant to the laws of the United States, including but not limited to the business of a financial institution, corporate fiduciary, or insurance company, then such person or entity shall not be deemed to be in violation of this Section to the extent that privacy laws and regulations applicable to such person or entity prevent it from voluntarily providing law enforcement authorities or judicial officers with information.

(e) A civil action against a person for financial exploitation may be brought by an interested person, pursuant to this Section, after the death of the victim or during the lifetime of the victim if the victim is adjudicated a person with a disability. A guardian is under no duty to bring a civil action under this subsection during the ward's lifetime, but may do so if the guardian believes it is in the best interests of the ward.

(f) The court may, in its discretion, consider such facts and circumstances as it deems appropriate to allow the person found civilly liable for financial exploitation to receive a reduction in interest or benefit rather than no interest or benefit as stated under subsection (b) of this Section.

(Source: P.A. 101-182, eff. 1-1-20.)

(755 ILCS 5/2-6.5)

Sec. 2-6.5. Parent neglecting child. A parent who, for a period of one year or more immediately before the death of the parent's minor or dependent child, has willfully neglected or failed to perform any duty of support owed to the minor or dependent child or who, for a period of one year or more, has willfully deserted the minor or dependent child shall not receive any property, benefit, or other interest by reason of the death, whether as heir, legatee, beneficiary, survivor, appointee, or in any other capacity (other than joint tenant) and whether the property, benefit, or other interest passes pursuant to any form of title registration (other than joint tenancy), testamentary or nontestamentary instrument,

intestacy, renunciation, or any other circumstance, unless and until a court of competent jurisdiction makes a determination as to the effect on the deceased minor or dependent child of the parent's neglect, failure to perform any duty of support owed to the minor or dependent child, or willful desertion of the minor or dependent child and allows a reduced benefit or other interest that the parent was to receive by virtue of the death of the minor or dependent child, as the interests of justice require. In no event shall the reduction of the benefit or other interest be less than the amount of child support owed to the minor or dependent child at the time of the death of the minor or dependent child. The court's considerations in determining the amount to be deducted from the parent's award shall include, but not be limited to:

(1) the deceased minor's or dependent child's loss of opportunity as a result of the parent's willful neglect, failure to perform any duty of support owed to the minor or dependent child, or willful desertion of the minor or dependent child;

(2) the effect of the parent's willful neglect, failure to perform any duty of support owed to the minor or dependent child, or willful desertion of the minor or dependent child on the deceased minor's or dependent child's overall quality of life; and

(3) the ability of the parent to avoid the willful neglect, failure to perform any duty of support owed to the minor or dependent child, or willful desertion of the minor or dependent child.

A determination under this Section may be made by any court of competent jurisdiction separate and apart from any civil or criminal proceeding arising from the duty of support owed to or desertion of the minor or dependent child. A petition for adjudication of an allegation under this Section must be filed within 6 months after the date of the death of the minor or dependent child.

The holder of any property subject to the provisions of this Section shall not be liable for distributing, releasing, or transferring the property to the person who neglected, failed to perform any duty of support owed to the minor or dependent child, or willfully deserted the minor or dependent child if the distribution or release occurs before a determination has been made under this Section or if the holder of the property has not received written notification of the determination before the distribution or release, accompanied by a certified copy of the determination.

If the property in question is an interest in real property, that interest may be distributed, released, or transferred at any time by a holder of property, the parent, or any other person or entity before a determination is made under this Section and a certified copy of that determination is recorded in the office of the recorder in the county in which the real property is located. The document to be recorded must include the title of the action or proceeding, the parties to the action or proceeding, the court in which the action or proceeding was brought, the date of the determination, and the legal description, permanent index number, and common address of the real property. If a

certified copy of the determination is not recorded within 6 months of the date of the determination, any subsequent recording of a certified copy of the determination does not act to prevent the distribution, release, or transfer of real property to any person or entity, including the neglectful parent.

(Source: P.A. 88-631, eff. 9-9-94.)

(755 ILCS 5/2-6.6)

Sec. 2-6.6. Person convicted of or found civilly liable for certain offenses against the elderly or a person with a disability.

(a) A person who is convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or a person who has been found by a preponderance of the evidence to be civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, may not receive any property, benefit, or other interest by reason of the death of the victim of that offense, whether as heir, legatee, beneficiary, joint tenant, tenant by the entirety, survivor, appointee, or in any other capacity and whether the property, benefit, or other interest passes pursuant to any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. Except as provided in subsection (f) of this Section, the property, benefit, or other interest shall pass as if the person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or the person found by a preponderance of the evidence to be civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, died before the decedent; provided that with respect to joint tenancy property or property held in tenancy by the entirety, the interest possessed prior to the death by the person convicted or found civilly liable may not be diminished by the application of this Section. Notwithstanding the foregoing, a person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or a person who has been found by a preponderance of the evidence to be civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, shall be entitled to receive property, a benefit, or an interest in any capacity and under any circumstances described in this Section if it is demonstrated by clear and convincing evidence that the victim of that offense knew of the conviction or finding of civil liability and subsequent to the conviction or finding of civil liability expressed or ratified his or her intent to transfer the property, benefit, or interest to the person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code

of 1961 or the Criminal Code of 2012 or the person found by a preponderance of the evidence to be civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, in any manner contemplated by this Section.

(b) The holder of any property subject to the provisions of this Section is not liable for distributing or releasing the property to the person convicted of violating Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or to the person found by a preponderance of the evidence to be civilly liable for financial exploitation as defined in subsection (a) of Section 2-6.2 of this Act.

(c) If the holder is a financial institution, trust company, trustee, or similar entity or person, the holder shall not be liable for any distribution or release of the property, benefit, or other interest to the person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or person found by a preponderance of the evidence to be civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, unless the holder knowingly distributes or releases the property, benefit, or other interest to the person so convicted or found civilly liable after first having received actual written notice of the conviction or finding of civil liability in sufficient time to act upon the notice.

(d) The Department of State Police shall have access to State of Illinois databases containing information that may help in the identification or location of persons convicted of or found civilly liable for the offenses enumerated in this Section. Interagency agreements shall be implemented, consistent with security and procedures established by the State agency and consistent with the laws governing the confidentiality of the information in the databases. Information shall be used only for administration of this Section.

(e) A civil action against a person for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, may be brought by an interested person, pursuant to this Section, after the death of the victim or during the lifetime of the victim if the victim is adjudicated a person with a disability. A guardian is under no duty to bring a civil action under this subsection during the ward's lifetime, but may do so if the guardian believes it is in the best interests of the ward.

(f) The court may, in its discretion, consider such facts and circumstances as it deems appropriate to allow the person convicted or found civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, to receive a reduction in interest or benefit rather than no interest or benefit as stated under subsection (a) of this Section.

(Source: P.A. 98-833, eff. 8-1-14; 99-143, eff. 7-27-15.)

(755 ILCS 5/2-7) (from Ch. 110 1/2, par. 2-7)
Sec. 2-7. Disclaimer.

(a) Right to Disclaim Interest in Property. A person to whom any property or interest therein passes, by whatever means, may disclaim the property or interest in whole or in part by delivering or filing a written disclaimer as hereinafter provided. A disclaimer may be of a fractional share or undivided interest, a specifically identifiable asset, portion or amount, any limited interest or estate or any property or interest derived through right of survivorship. A powerholder, as that term is defined in Section 103 of the Illinois Trust Code, with respect to property shall be deemed to be a holder of an interest in such property.

The representative of a decedent or ward may disclaim on behalf of the decedent or ward with leave of court. The court may approve the disclaimer by a representative of a decedent if it finds that the disclaimer benefits the estate as a whole and those interested in the estate generally even if the disclaimer alters the distribution of the property, part or interest disclaimed. The court may approve the disclaimer by a representative of a ward if it finds that it benefits those interested in the estate generally and is not materially detrimental to the interests of the ward. A disclaimer by a representative of a decedent or ward may be made without leave of court if a will or other instrument signed by the decedent or ward designating the representative specifically authorizes the representative to disclaim without court approval.

The right to disclaim granted by this Section exists irrespective of any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction.

(b) Form of Disclaimer. The disclaimer shall (1) describe the property or part or interest disclaimed, (2) be signed by the disclaimant or his representative and (3) declare the disclaimer and the extent thereof.

(c) Delivery of Disclaimer. The disclaimer shall be delivered to the transferor or donor or his representative, or to the trustee or other person who has legal title to the property, part or interest disclaimed, or, if none of the foregoing is readily determinable, shall be either delivered to a person having possession of the property, part or interest or who is entitled thereto by reason of the disclaimer, or filed or recorded as hereinafter provided. In the case of an interest passing by reason of the death of any person, an executed counterpart of the disclaimer may be filed with the clerk of the circuit court in the county in which the estate of the decedent is administered, or, if administration has not been commenced, in which it could be commenced. If an interest in real property is disclaimed, an executed counterpart of the disclaimer may be recorded in the office of the recorder in the county in which the real estate lies, or, if the title to the real estate is registered under "An Act

concerning land titles", approved May 1, 1897, as amended, may be filed in the office of the registrar of titles of such county.

(d) Effect of Disclaimer. Unless expressly provided otherwise in an instrument transferring the property or creating the interest disclaimed, the property, part or interest disclaimed shall descend or be distributed (1) if a present interest (a) in the case of a transfer by reason of the death of any person, as if the disclaimant had predeceased the decedent; (b) in the case of a transfer by revocable instrument or contract, as if the disclaimant had predeceased the date the maker no longer has the power to transfer to himself or another the entire legal and equitable ownership of the property or interest; or (c) in the case of any other inter vivos transfer, as if the disclaimant had predeceased the date of the transfer; and (2) if a future interest, as if the disclaimant had predeceased the event that determines that the taker of the property or interest has become finally ascertained and his interest has become indefeasibly fixed both in quality and quantity; and in each case the disclaimer shall relate back to such date for all purposes.

A disclaimer of property or an interest in property shall not preclude any disclaimant from receiving the same property in another capacity or from receiving other interests in the property to which the disclaimer relates.

Unless expressly provided otherwise in an instrument transferring the property or creating the interest disclaimed, a future interest limited to take effect at or after the termination of the estate or interest disclaimed shall accelerate and take effect in possession and enjoyment to the same extent as if the disclaimant had died before the date to which the disclaimer relates back.

A disclaimer made pursuant to this Section shall be irrevocable and shall be binding upon the disclaimant and all persons claiming by, through or under the disclaimant.

(e) Waiver and Bar. The right to disclaim property or a part thereof or an interest therein shall be barred by (1) a judicial sale of the property, part or interest before the disclaimer is effected; (2) an assignment, conveyance, encumbrance, pledge, sale or other transfer of the property, part or interest, or a contract therefor, by the disclaimant or his representative; (3) a written waiver of the right to disclaim; or (4) an acceptance of the property, part or interest by the disclaimant or his representative. Any person may presume, in the absence of actual knowledge to the contrary, that a disclaimer delivered or filed as provided in this Section is a valid disclaimer that is not barred by the preceding provisions of this paragraph.

A written waiver of the right to disclaim may be made by any person or his representative and an executed counterpart of a waiver of the right to disclaim may be recorded or filed, all in the same manner as provided in this Section with respect to a disclaimer.

In every case, acceptance must be affirmatively proved in order to constitute a bar to a disclaimer. An acceptance of property or an interest in property shall include the taking of possession, the acceptance of delivery or the receipt of

benefits of the property or interest; except that (1) in the case of an interest in joint tenancy with right of survivorship such acceptance shall extend only to the fractional share of such property or interest determined by dividing the number one by the number of joint tenants, and (2) in the case of a ward, such acceptance shall extend only to property actually received by or on behalf of the ward or his representative during his minority or incapacity. The mere lapse of time or creation of an interest, in joint tenancy with right of survivorship or otherwise, with or without knowledge of the interest on the part of the disclaimant, shall not constitute acceptance for purposes of this Section.

This Section does not abridge the right of any person to assign, convey, release, renounce or disclaim any property or interest therein arising under any other statute or that arose under prior law.

Any interest in real or personal property that exists on or after the effective date of this Section may be disclaimed after that date in the manner provided herein, but no interest that has arisen prior to that date in any person other than the disclaimant shall be destroyed or diminished by any action of the disclaimant taken pursuant to this Section.

(Source: P.A. 100-1044, eff. 1-1-19; 101-48, eff. 1-1-20.)

(755 ILCS 5/2-8) (from Ch. 110 1/2, par. 2-8)
Sec. 2-8. Renunciation of will by spouse.)

(a) If a will is renounced by the testator's surviving spouse, whether or not the will contains any provision for the benefit of the surviving spouse, the surviving spouse is entitled to the following share of the testator's estate after payment of all just claims: 1/3 of the entire estate if the testator leaves a descendant or 1/2 of the entire estate if the testator leaves no descendant.

(b) In order to renounce a will, the testator's surviving spouse must file in the court in which the will was admitted to probate a written instrument signed by the surviving spouse and declaring the renunciation. The time of filing the instrument is: (1) within 7 months after the admission of the will to probate or (2) within such further time as may be allowed by the court if, within 7 months after the admission of the will to probate or before the expiration of any extended period, the surviving spouse files a petition therefor setting forth that litigation is pending that affects the share of the surviving spouse in the estate. The filing of the instrument is a complete bar to any claim of the surviving spouse under the will.

(c) If a will is renounced in the manner provided by this Section, any future interest which is to take effect in possession or enjoyment at or after the termination of an estate or other interest given by the will to the surviving spouse takes effect as though the surviving spouse had predeceased the testator, unless the will expressly provides that in case of renunciation the future interest shall not be

accelerated.

(d) If a surviving spouse of the testator renounces the will and the legacies to other persons are thereby diminished or increased in value, the court, upon settlement of the estate, shall abate from or add to the legacies in such a manner as to apportion the loss or advantage among the legatees in proportion to the amount and value of their legacies.

(Source: P.A. 79-328.)

(755 ILCS 5/2-9) (from Ch. 110 1/2, par. 2-9)

Sec. 2-9. Dower and Curtesy.) There is no estate of dower or curtesy. All inchoate rights to elect to take dower existing on January 1, 1972, are extinguished.

(Source: P.A. 80-808.)