§2-404. Family allowance

1. Family allowance during administration. 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, which allowance may not continue for longer than one year if the estate is inadequate to discharge allowed claims. The allowance may be paid as a lump sum or in periodic installments. It is payable to the surviving spouse, if living, for the use of the surviving spouse and 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 the child's 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 costs and expenses of administration, reasonable funeral expenses and the homestead allowance. The personal representative shall promptly satisfy the family allowance from available assets.
[PL 2023, c. 4, §6 (AMD).]

2. Additional benefit or share; right terminates on death. The family allowance is in addition to any benefit or share passing to the surviving spouse or minor or dependent children by intestate succession or by way of elective share and is in addition to any benefit or share passing to the surviving spouse or minor or dependent children by the decedent's will unless the decedent's will expressly provides that the benefit or share passing to the surviving spouse or minor or dependent children is intended to be made in lieu of the allowance. The death of any person entitled to family allowance terminates that person's right to allowance not yet paid.
[PL 2023, c. 4, §6 (AMD).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2023, c. 4, §6 (AMD).

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