§ 31-5.5. After-born or after-adopted child; children born out of wedlock; effect on will.

(a) A will shall not be revoked by the subsequent birth of a child to the testator, or by the subsequent adoption of a child by the testator, or by the subsequent entitlement of an after-born child born out of wedlock to take as an heir of the testator pursuant to the provisions of G.S. 29-19(b), but any after-born, after-adopted or entitled after-born child born out of wedlock shall have the right to share in the testator's estate to the same extent the after-born, after-adopted, or entitled after-born child born out of wedlock would have shared if the testator had died intestate unless:

(1) The testator made some provision in the will for the child, whether adequate or not;

(2) It is apparent from the will itself that the testator intentionally did not make specific provision therein for the child;

(3) The testator had children living when the will was executed, and none of the testator's children actually take under the will;

(4) The surviving spouse receives all of the estate under the will; or

(5) The testator made provision for the child that takes effect upon the death of the testator, whether adequate or not.

(b) The provisions of G.S. 28A-22-2 shall be construed as being applicable to after-adopted children and to after-born children, whether legitimate or entitled children born out of wedlock.

(c) The terms "after-born," "after-adopted" and "entitled after-born" as used in this section refer to children born, adopted or entitled subsequent to the execution of the will. (1868-9, c. 113, s. 62; Code, s. 2145; Rev., s. 3145; C.S., s. 4169; 1953, c. 1098, s. 7; 1955, c. 541; 1973, c. 1062, s. 2; 1985, c. 689, s. 9; 1995, c. 161, s. 1; 1997-456, s. 55.8; 2011-344, s. 8; 2013-198, s. 14.)