

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE DRS65125-LL-91 (03/01)

Short Title: Child's Allowance From Estate.

(Public)

Sponsors: Senator Berger of Rockingham.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CLARIFY THE LAW PROVIDING FOR A CHILD'S  
ALLOWANCE FROM A DECEDENT'S ESTATE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 30-17 reads as rewritten:

**"§ 30-17. When children entitled to an allowance.**

Whenever any parent dies ~~leaving~~ survived by any child under the age of 18 years, including an adopted child or a child with whom the widow may be pregnant at the death of her husband, or a child who is less than 22 years of age and is a full-time student in any educational institution, or a child under 21 years of age who has been declared mentally incompetent, or a child under 21 years of age who is totally disabled, or any other person under the age of 18 years residing with the deceased parent at the time of death to whom the deceased parent or the surviving parent stood in loco parentis, every such child shall be ~~entitled, besides its share of the estate of such deceased parent, to~~ entitled to receive an allowance of two thousand dollars (\$2,000) for ~~its~~ the child's support for the year next ensuing the death of such ~~parent, less, however, the value of any articles consumed by said child since the death of said parent.~~ Such allowance shall be in addition to the child's share of the deceased parent's estate and shall be exempt from any lien by judgment or execution against the property of such parent. The personal representative of the deceased ~~parent,~~ parent shall, within one year after the parent's death, ~~shall~~ assign to every such child the allowance herein provided for; but if there is no personal representative or if he fails or refuses to act within 10 days after written request by a guardian or next friend on behalf of such child, the allowance may be assigned by a magistrate or clerk of court upon application of said guardian or next friend.

If the child resides with the widow of the deceased parent at the time such allowance is paid, the allowance shall be paid to said widow for the benefit of said child. If the

1 child resides with its surviving parent who is other than the widow of the deceased  
2 parent, such allowance shall be paid to said surviving parent for the use and benefit of  
3 such child, regardless of whether the deceased died testate or intestate or whether the  
4 widow dissented from the will. Provided, however, the allowance shall not be available  
5 to an illegitimate child of a deceased father, unless such deceased father shall have  
6 recognized the paternity of such illegitimate child by deed, will or other paper-writing.  
7 If the child does not reside with a parent when the allowance is paid, ~~it~~ the allowance  
8 shall be paid to ~~its~~ the child's general guardian, if any, and if none, to the clerk of the  
9 superior court who shall receive and disburse same for the benefit of such child."

10 **SECTION 2.** This act is effective when it becomes law.