**Updated 6-28-18**

**Section 43-8-40 — Intestate estate generally.**

Any part of the estate of a decedent not effectively disposed of by his will passes to his heirs as prescribed in the following sections of this chapter.

***(Acts 1982, No. 82-399, §2-101.)***

# Section 43-8-41 — Share of the spouse.

The intestate share of the surviving spouse is as follows:

(1) If there is no surviving issue or parent of the decedent, the entire intestate estate;

(2) If there is no surviving issue but the decedent is survived by a parent or parents, the first $100,000.00 in value, plus one-half of the balance of the intestate estate;

(3) If there are surviving issue all of whom are issue of the surviving spouse also, the first $50,000.00 in value, plus one-half of the balance of the intestate estate;

(4) If there are surviving issue one or more of whom are not issue of the surviving spouse, one-half of the intestate estate;

(5) If the estate is located in two or more states, the share shall not exceed in the aggregate the allowable amounts under this chapter.

##### *(Acts 1982, No. 82-399, §2-102.)*

# Section 43-8-42 — Share of heirs other than surviving spouse.

The part of the intestate estate not passing to the surviving spouse under section 43-8-41, or the entire intestate estate if there is no surviving spouse, passes as follows:

(1) To the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;

(2) If there is no surviving issue, to his parent or parents equally;

(3) If there is no surviving issue or parent, to the issue of the parents or either of them by representation;

(4) If there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents or issue of grandparents, half of the estate passes to the paternal grandparents if both survive, or to the surviving paternal grandparent, or to the issue of the paternal grandparents if both are deceased, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation; and the other half passes to the maternal relatives in the same manner; but if there be no surviving grandparent or issue of grandparent on either the paternal or the maternal side, the entire estate passes to the relatives on the other side in the same manner as the other half.

##### *(Acts 1982, No. 82-399, §2-103.)*

# 2006 Alabama Code - Section 43-8-43 — Requirement that heir survive decedent for five days.

Any person who fails to survive the decedent by five days is deemed to have predeceased the decedent for purposes of homestead allowance, the exempt property and intestate succession, and the decedent's heirs are determined accordingly. If the time of death of the decedent or of the person who would otherwise be an heir, or the times of death of both, cannot be determined, and it cannot be established that the person who would otherwise be an heir has survived the decedent by five days, it is deemed that the person failed to survive for the required period. This section is not to be applied where its application would result in a taking of intestate estate by the state under section 43-8-44.

##### *(Acts 1982, No. 82-399, §2-104.)*

# 2006 Alabama Code - Section 43-8-44 — When estate passes to state.

If there is no taker under the provisions of this article, the intestate estate passes to the state of Alabama.

##### *(Acts 1982, No. 82-399, §2-105.)*

# 2006 Alabama Code - Section 43-8-45 — Division of estate where representation is involved.

If representation is called for by this chapter, the estate is divided into as many shares as there are surviving heirs in the nearest degree of kinship and deceased persons in the same degree who left issue who survive the decedent, each surviving heir in the nearest degree receiving one share and the share of each deceased person in the same degree being divided among the issue of such deceased heir in the same manner.

##### *(Acts 1982, No. 82-399, §2-106.)*

# 2006 Alabama Code - Section 43-8-46 — Inheritance by relatives of half blood.

Relatives of the half blood inherit the same share they would inherit if they were of the whole blood.

##### *(Acts 1982, No. 82-399, §2-107.)*

# 2006 Alabama Code - Section 43-8-47 — Inheritance by afterborn heirs.

Relative of the decedent conceived before his death but born thereafter inherit as if they had been born in the lifetime of the decedent.

##### *(Acts 1982, No. 82-399, §2-108.)*

# 2006 Alabama Code - Section 43-8-48 — Parent and child relationship.

If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:

(1) An adopted person is the child of an adopting parent and not of the natural parents except that adoption of a child by the spouse of a natural parent has no effect on the right of the child to inherit from or through either natural parent;

(2) In cases not covered by subdivision (1) of this section, a person born out of wedlock is a child of the mother. That person is also a child of the father, if:

a. The natural parents participated in a marriage ceremony before or after the birth of the child, even though the attempted marriage is void; or

b. The paternity is established by an adjudication before the death of the father or is established thereafter by clear and convincing proof, but the paternity established under this paragraph is ineffective to qualify the father or his kindred to inherit from or through the child unless the father has openly treated the child as his, and has not refused to support the child.

##### *(Acts 1982, No. 82-399, §2-109.)*