

524.2-202 MS 1992 [Repealed, 1994 c 472 s 64]

524.2-202 ELECTIVE SHARE.

(a) **Elective share amount.** The surviving spouse of a decedent who dies domiciled in this state has a right of election, under the limitations and conditions stated in this part, to take an elective-share amount equal to the value of the elective-share percentage of the augmented estate, determined by the length of time the spouse and the decedent were married to each other, in accordance with the following schedule:

| If the decedent and the spouse were married to each other: | The elective-share percentage is: |
|--|---------------------------------------|
| Less than one year | Supplemental amount only |
| One year but less than two years | Three percent of the augmented estate |
| Two years but less than three years | Six percent of the augmented estate |
| Three years but less than four years | Nine percent of the augmented estate |
| Four years but less than five years | 12 percent of the augmented estate |
| Five years but less than six years | 15 percent of the augmented estate |
| Six years but less than seven years | 18 percent of the augmented estate |
| Seven years but less than eight years | 21 percent of the augmented estate |
| Eight years but less than nine years | 24 percent of the augmented estate |
| Nine years but less than ten years | 27 percent of the augmented estate |
| Ten years but less than 11 years | 30 percent of the augmented estate |
| 11 years but less than 12 years | 34 percent of the augmented estate |
| 12 years but less than 13 years | 38 percent of the augmented estate |
| 13 years but less than 14 years | 42 percent of the augmented estate |
| 14 years but less than 15 years | 46 percent of the augmented estate |
| 15 years or more | 50 percent of the augmented estate |

(b) **Supplemental elective-share amount.** If the sum of the amounts described in sections 524.2-207, 524.2-209, paragraph (a), clause (1), and that part of the elective-share amount payable from the decedent's probate estate and nonprobate transfers to others under section 524.2-209, paragraphs (b) and (c), is less than \$75,000, the surviving spouse is entitled to a supplemental elective-share amount equal to \$75,000, minus the sum of the amounts described in those sections. The supplemental elective-share amount is payable from the decedent's probate estate and from recipients of the decedent's nonprobate transfers to others in the order of priority set forth in section 524.2-209, paragraphs (b) and (c).

(c) **Effect of election on statutory benefits.** If the right of election is exercised by or on behalf of the surviving spouse, the surviving spouse's homestead rights and other allowances under sections 524.2-402,

524.2-403 and 524.2-404, if any, are not charged against but are in addition to the elective-share and supplemental elective-share amounts.

(d) **Nondomiciliary.** The right, if any, of the surviving spouse of a decedent who dies domiciled outside this state to take an elective share in property in this state is governed by the law of the decedent's domicile at death.

History: *1994 c 472 s 16; 2016 c 135 art 2 s 23*