

Stricken language would be deleted from and underlined language would be added to present law.
Act 924 of the Regular Session

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H4/14/21

A Bill

HOUSE BILL 1829

By: Representative Clowney

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING POSTHUMOUSLY
CONCEIVED CHILDREN AS IT RELATES TO INTESTATE
SUCCESSION; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING POSTHUMOUSLY
CONCEIVED CHILDREN AS IT RELATES TO
INTESTATE SUCCESSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 28-9-221 is amended to read as follows:

28-9-221. Child conceived after death of parent.

~~(a) Notwithstanding the provisions of any law to the contrary, a child conceived after the death of a decedent who specifically authorized the decedent's surviving spouse, in a writing that is either notarized or witnessed by a licensed physician or a person acting under the supervision of a licensed physician, to use the decedent's gametes after the decedent's death shall be deemed the child of the decedent with the right to inherit from the decedent if the child is conceived within twelve (12) months following the death of the decedent and born within nineteen (19) months following the death of the decedent.~~

~~(b) This section is retroactive to December 1, 2009, solely for the purpose of establishing a posthumous child's entitlement to Social Security benefits under the federal Social Security Act, 42 U.S.C. § 402(d), deriving from the decedent.~~



(a) A child of a decedent who is conceived and born after the death of the decedent shall be deemed the legitimate child of the decedent for the purposes of intestate succession if:

(1) Either of the following apply:

(A) The decedent consented in a record to the use of his or her genetic material to posthumously conceive a child by assisted reproduction; or

(B) The intent of the decedent to conceive a child by assisted reproduction after the death of the decedent is established by clear and convincing evidence; and

(2) The embryo of the posthumously conceived child is in utero no later than twenty-four (24) months after the death of the decedent.

(b)(1) Within six (6) months of the death of a decedent, a person designated by the decedent to control the decedent's genetic material shall provide written notice advising the personal representative with the authority to control the distribution of the decedent's estate of the availability of the decedent's genetic material for possible use.

(2) Failure to provide the notice required under subdivision (b)(1) of this section in a timely manner shall absolve a personal representative with the authority to control the distribution of the decedent's estate from liability for distributing the decedent's estate as otherwise authorized by law after the six-month period to provide the notice lapses.

(3) If a personal representative with the authority to control the distribution of the decedent's estate receives the notice required under subdivision (b)(1) of this section before the six-month period to provide the notice lapses, the fiduciary shall retain any remaining assets of the decedent's estate to which a posthumous child of the decedent may have a valid claim until three (3) years after the death of the decedent.

(c) Unless otherwise agreed by a decedent and his or her spouse, the consent of the decedent to posthumous conception with his or her spouse shall be automatically revoked upon the divorce of the decedent and his or her spouse.

APPROVED: 4/26/21