

University of Colorado Law School

## Colorado Law Scholarly Commons

---

Session Laws 1951-2000

Colorado Session Laws

---

1987

### Amending 15-11-402, 15-11-404, 15-12-1009 (1), and 15-13-204, Colorado Revised Statutes, as Amended, Concerning Probate.

Colorado General Assembly

Follow this and additional works at: <https://scholar.law.colorado.edu/session-laws-1951-2000>

---

#### Recommended Citation

Colorado General Assembly, "Amending 15-11-402, 15-11-404, 15-12-1009 (1), and 15-13-204, Colorado Revised Statutes, as Amended, Concerning Probate." (1987). *Session Laws 1951-2000*. 11306. <https://scholar.law.colorado.edu/session-laws-1951-2000/11306>

This Act is brought to you for free and open access by the Colorado Session Laws at Colorado Law Scholarly Commons. It has been accepted for inclusion in Session Laws 1951-2000 by an authorized administrator of Colorado Law Scholarly Commons. For more information, please contact [rebecca.ciota@colorado.edu](mailto:rebecca.ciota@colorado.edu).

## CHAPTER 114

**PROBATE, TRUSTS, AND FIDUCIARIES****INTESTATE SUCCESSION AND WILLS — EXEMPT PROPERTY AND FAMILY ALLOWANCES**

SENATE BILL NO. 16. BY SENATORS Winkler and Beatty;  
also REPRESENTATIVES Grant, Anderson, Bath, Bond, Dambman, Mutzebaugh, Ratierree, Ruddick, Thiebaut, and Webb.

**AN ACT**

AMENDING 15-11-402, 15-11-404, 15-12-1009 (1), AND 15-13-204, COLORADO REVISED STATUTES, AS AMENDED, CONCERNING PROBATE.

*Be it enacted by the General Assembly of the State of Colorado:*

Section 1. 15-11-402, Colorado Revised Statutes, as amended, is amended to read:

**15-11-402. Exempt property allowance.** A surviving spouse of a decedent who was domiciled in this state is entitled to an exempt property allowance of seven FIFTEEN thousand five hundred dollars. If there is no surviving spouse, each child under twenty-one years of age and each dependent child of the decedent is entitled to an exempt property allowance amounting to seven FIFTEEN thousand five hundred dollars divided by the number of children under twenty-one years of age and dependent children of the decedent. The exempt property allowance is exempt from and has priority over all claims against the estate, except claims for property held by or in the possession of the deceased or mental incompetent as a fiduciary or trustee. The exempt property allowance is in addition to any share passing to the surviving spouse or child under twenty-one years of age or dependent child by the will of the decedent unless otherwise provided, by intestate succession, or by way of elective share. As used in this part 4, the term "dependent child" means a child who was in fact being supported, or was legally entitled to support, by the decedent.

Section 2. 15-11-404, Colorado Revised Statutes, as amended, is amended to read:

**15-11-404. Source, determination, and documentation.** If the estate is otherwise sufficient, property specifically devised is not used to satisfy rights to exempt property. Subject to this restriction, the surviving spouse, the

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

guardians of the minor children, or dependent children who are adults may select property of the estate as exempt property. The personal representative may make these selections if the surviving spouse, the dependent children, or the guardians of the minor children are unable or fail to do so within a reasonable time or if there are no guardians of the minor children. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as exempt property allowance. He may determine the family allowance in a lump sum not exceeding six TWELVE thousand dollars or periodic installments not exceeding five hundred ONE THOUSAND dollars per month for one year and may disburse funds of the estate in payment of the family allowance. The personal representative or any interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which relief may provide a family allowance larger or smaller than that which the personal representative determined or could have determined.

Section 3. 15-12-1009 (1), Colorado Revised Statutes, as amended, is amended to read:

**15-12-1009. Estates not closed after three years or more.** (1) When records of the court indicate no action has been taken in an estate for a period of five THREE years or more, the court may, on its own motion, and after notice to the attorney of record, if available, OR IF THERE IS NO ATTORNEY OF RECORD, THEN TO THE PERSONAL REPRESENTATIVE, enter an order closing the estate without further accounting. Such closure may likewise be ordered upon the motion of any interested person, as defined in section 15-10-201 (23), or upon motion of the attorney of record. Any order in such case shall provide for the closing of the estate without further accounting, and such order shall not discharge the personal representative or any other person from any liability to the estate, the court, or any other person; except that sureties upon any bond posted in such proceedings shall be released as to any claim arising after closure of the estate under such circumstances.

Section 4. 15-13-204, Colorado Revised Statutes, is amended to read:

**15-13-204. Proof of authority.** If no local administration or application or petition therefor is pending in this state, a domiciliary foreign personal representative may file with a court in this state, in a county in which property belonging to the decedent is located, authenticated copies of his appointment. and of any official bond he has given.

Section 5. **Effective date.** This act shall take effect July 1, 1987.

Section 6. **Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 8, 1987