



Ohio Revised Code

Section 2105.10 Parent abandoning minor child barred from intestate succession.

Effective: January 13, 2012

Legislation: Senate Bill 124 - 129th General Assembly

(A) As used in this section:

(1) "Abandoned" means that a parent of a minor failed without justifiable cause to communicate with the minor, care for the minor, and provide for the minor's maintenance or support as required by law or judicial decree for a period of at least one year immediately prior to the date of the death of the minor.

(2) "Minor" means a person who is less than eighteen years of age.

(B) Subject to divisions (C), (D), and (E) of this section, a parent who has abandoned the parent's minor child who subsequently dies intestate as a minor shall not inherit the real or personal property of the deceased child pursuant to section 2105.06 of the Revised Code. If a parent is prohibited by this division from inheriting from the parent's deceased child, the real or personal property of the deceased child shall be distributed, or shall descend and pass in parcenary, pursuant to section 2105.06 of the Revised Code as if the parent had predeceased the deceased child.

(C) Subject to divisions (D) and (E) of this section, a parent who is alleged to have abandoned a child who died as an intestate minor shall be considered as a next of kin or an heir at law of the deceased child only for the following purposes:

(1) To receive any notice required to be given to the heirs at law of a decedent in connection with an application for release of an estate from administration under section 2113.03 of the Revised Code;

(2) To be named as a next of kin in an application for the appointment of a person as the administrator of the estate of the deceased child, if the parent is known to the person filing the application pursuant to section 2113.07 of the Revised Code, and to receive a citation issued by the probate court pursuant to that section.



(D)(1) The prohibition against inheritance set forth in division (B) of this section shall be enforceable only in accordance with a probate court adjudication rendered pursuant to this division.

(2) If the administrator of the estate of an intestate minor has actual knowledge, or reasonable cause to believe, that the minor was abandoned by a parent, the administrator shall file a petition pursuant to section 2123.02 of the Revised Code to obtain an adjudication that the parent abandoned the child and that, because of the prohibition against inheritance set forth in division (B) of this section, the parent shall not be considered to be an heir at law of, and shall not be entitled to inherit the real and personal property of, the deceased child pursuant to section 2105.06 of the Revised Code. That parent shall be named as a defendant in the petition and, whether or not that parent is a resident of this state, shall be served with a summons and a copy of the petition in accordance with the Rules of Civil Procedure. In the heirship determination proceeding, the administrator has the burden of proving, by a preponderance of the evidence, that the parent abandoned the child. If, after the hearing, the probate court finds that the administrator has sustained that burden of proof, the probate court shall include in its adjudication described in section 2123.05 of the Revised Code its findings that the parent abandoned the child and, because of the prohibition against inheritance set forth in division (B) of this section, the parent shall not be considered to be an heir at law of, and shall not be entitled to inherit the real and personal property of, the deceased child pursuant to section 2105.06 of the Revised Code. If the probate court so finds, then, upon the entry of its adjudication on its journal, the administrator may make a final distribution of the estate of the deceased child in accordance with division (B) of this section.

(3) An heirship determination proceeding resulting from the filing of a petition pursuant to this division shall be conducted in accordance with Chapter 2123. of the Revised Code, except to the extent that a provision of this section conflicts with a provision of that chapter, in which case the provision of this section shall control.

(E) If the administrator of the estate of an intestate minor has not commenced an heirship determination proceeding as described in division (D) of this section within four months from the date that the administrator receives the administrator's letters of administration, then that proceeding may not be commenced subsequently, no parent of the deceased child shall be prohibited from inheriting the real or personal property of the deceased child pursuant to division (B) of this section,



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and the probate of the estate of the deceased child in accordance with section 2105.06 and other relevant sections of the Revised Code shall be forever binding.