



Ohio Revised Code

Section 2106.08 Election made by one under legal disability.

Effective: January 13, 2012

Legislation: Senate Bill 124 - 129th General Assembly

If, because of a legal disability, a surviving spouse is unable to make an election as provided by section 2106.01 of the Revised Code, as soon as the facts come to the knowledge of the probate court, the probate court shall appoint some suitable person to ascertain the value of the provision made for the surviving spouse by the testator, the value of the rights of the surviving spouse in the estate of the testator under Chapter 2105. of the Revised Code, and the adequate support needs of the surviving spouse after taking into consideration the other available resources and the age, probable life expectancy, physical and mental condition, and present and reasonably anticipated future needs of the surviving spouse. The appointment by the court shall be made at any time within the times described in division (E) of section 2106.01 of the Revised Code for making an election under that section.

When the person so appointed returns the report of the person's investigation, the court may elect for the surviving spouse to take under section 2105.06 of the Revised Code only if it finds, after taking into consideration the other available resources and the age, probable life expectancy, physical and mental condition, and present and reasonably anticipated future needs of the surviving spouse, that the election to take under section 2105.06 of the Revised Code is necessary to provide adequate support for the surviving spouse during the surviving spouse's life expectancy.

After making its determination under this section, the court shall record upon its journal the election made for the surviving spouse. The election, when so entered, shall have the same effect as an election made by one not under legal disability.
