

**633.212 Share of surviving spouse if decedent left issue some of whom are not issue of surviving spouse.**

If the decedent dies intestate leaving a surviving spouse and leaving issue some of whom are not the issue of the surviving spouse, the surviving spouse shall receive the following share:

1. One-half in value of all the legal or equitable estates in real property possessed by the decedent at any time during the marriage, which have not been sold on execution or by other judicial sale, and to which the surviving spouse has made no relinquishment of right.

2. All personal property that, at the time of death, was in the hands of the decedent as the head of a family, exempt from execution.

3. One-half of all other personal property of the decedent which is not necessary for the payment of debts and charges.

4. If the property received by the surviving spouse under [subsections 1, 2 and 3 of this section](#) is not equal in value to the sum of fifty thousand dollars, then so much additional of any remaining homestead interest and of the remaining real and personal property of the decedent that is subject to payment of debts and charges against the decedent's estate, after payment of the debts and charges, even to the extent of the whole of the net estate, as necessary to make the amount of fifty thousand dollars.

[C51, §1410; R60, §2495; C73, §2455; C97, §3379; S13, §3379, 3381-a; C24, 27, 31, 35, 39, §12017; C46, 50, 54, 58, 62, §636.32; C66, 71, 73, 75, 77, 79, 81, §633.212]

[85 Acts, ch 19, §2](#)

Referred to in [§633.210](#), [§633.218](#), [§633.246](#), [§633.267](#), [§633.272](#), [§633.436](#), [§633A.3106](#)