

394.410 Death of part of group of devisees before testator -- Children includes grandchildren.

- (1) When a devise is made to several as a class or as tenants in common, and one (1) or more of the devisees die before the testator, and another or others survive the testator, the share or shares of such as so die shall go to his or their descendants, if any; if none, to the surviving devisees, unless a different disposition is made by the devisor.
- (2) A devise to children embraces grandchildren when there are no children, and no other construction will give effect to the devise.
- (3) If a devise is made to several as joint tenants with right of survivorship and one (1) or more of the devisees dies before the testator and another or others survive the testator, the share or shares of such as so die shall go to such as so survive. Provided, however, in the event of the death of all the joint tenants before the death of the testator, the order of death of the joint tenants shall not affect the devolution of the property and, in this case, devolution shall be governed by subsection (1) hereof, as if the devise had been made to the deceased devisees as tenants in common.

Effective: October 1, 1942

History: Amended 1972 Ky. Acts ch. 168, sec. 14, effective June 16, 1972. --
Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat.
sec. 2064.