

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0686.01 Conrad Imel x2313

SENATE BILL 22-092

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

(None),

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO THE "COLORADO PROBATE CODE".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Colorado Commission on Uniform State Laws. The bill makes changes to the "Colorado Probate Code" (code). Specifically, the bill describes how property passes when a decedent dies without a will (intestate) and the estate or any part of the estate does not pass to a surviving spouse or designated beneficiary pursuant to existing law. In that situation, the portion of the estate passing through intestate succession is distributed as follows:

- If the decedent is survived by one or more descendants, the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- portion of the estate passes to the decedent's surviving descendants per capita at each generation;
- If the decedent is not survived by a descendant but is survived by one or more parents, the portion of the estate is divided into as many equal shares as there are surviving parents and deceased parents with one or more descendants. One share passes to each surviving parent, and the balance passes per capita at each generation to the surviving descendants of the decedent's deceased parents.
- If the decedent is not survived by a descendant or parent but is survived by one or more descendants of a parent, the portion of the estate passes per capita at each generation to the surviving descendants of the decedent's deceased parents; or
- If a decedent is not survived by a descendant, parent, or descendant of a parent but is survived by one or more grandparents, the portion of the estate is divided into as many equal shares as there are surviving grandparents and deceased grandparents with one or more surviving descendants. One share passes to each surviving grandparent, and the balance passes per capita at each generation to the surviving descendants of the decedent's deceased grandparents.

The bill clarifies how the estate passes to surviving descendants of a deceased parent or grandparent.

The bill replaces outdated terminology in the code with modern language, including replacing gender-specific language.

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

2 **SECTION 1.** In Colorado Revised Statutes, 15-11-101, amend

3 (2) as follows:

4 **15-11-101. Intestate estate.** (2) A decedent by will may
 5 expressly exclude or limit the right of an individual or class to succeed to
 6 property of the decedent passing by intestate succession. If that individual
 7 or a member of that class survives the decedent, the share of the
 8 decedent's intestate estate to which that individual or class would have
 9 succeeded passes as if that individual or each member of that class had
 10 disclaimed ~~his or her~~ THE intestate share.

1 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact**,
2 **with amendments**, 15-11-103 as follows:

3 **15-11-103. Share of heirs other than surviving spouse and**
4 **designated beneficiary - definitions.** (1) **Definitions.** IN THIS SECTION:

5 (a) "DECEASED PARENT", "DECEASED GRANDPARENT", OR
6 "DECEASED SPOUSE" MEANS A PARENT, GRANDPARENT, OR SPOUSE WHO
7 EITHER PREDECEASED THE DECEDENT OR IS DEEMED UNDER THIS ARTICLE
8 11 TO HAVE PREDECEASED THE DECEDENT.

9 (b) "SURVIVING SPOUSE", "SURVIVING DESCENDANT", "SURVIVING
10 PARENT", OR "SURVIVING GRANDPARENT" MEANS A SPOUSE, DESCENDANT,
11 PARENT, OR GRANDPARENT WHO NEITHER PREDECEASED THE DECEDENT
12 NOR IS DEEMED UNDER THIS ARTICLE 11 TO HAVE PREDECEASED THE
13 DECEDENT.

14 (2) **Heirs other than surviving spouse and designated**
15 **beneficiary.** ANY PART OF THE INTESTATE ESTATE NOT PASSING TO THE
16 DECEDENT'S SURVIVING SPOUSE UNDER SECTION 15-11-102, OR TO THE
17 DECEDENT'S SURVIVING DESIGNATED BENEFICIARY UNDER SECTION
18 15-11-102.5, OR THE ENTIRE ESTATE IF THERE IS NO SURVIVING SPOUSE
19 AND NO SURVIVING DESIGNATED BENEFICIARY WITH THE RIGHT TO INHERIT
20 REAL OR PERSONAL PROPERTY FROM THE DECEDENT THROUGH INTESTATE
21 SUCCESSION, PASSES TO THE DECEDENT'S DESCENDANTS, PARENTS, OR
22 OTHER HEIRS AS PROVIDED IN SUBSECTIONS (3) TO (9) OF THIS SECTION.

23 (3) **Surviving descendants.** IF A DECEDENT IS SURVIVED BY ONE
24 OR MORE DESCENDANTS, ANY PART OF THE INTESTATE ESTATE NOT
25 PASSING TO THE SURVIVING SPOUSE OR SURVIVING DESIGNATED
26 BENEFICIARY PASSES PER CAPITA AT EACH GENERATION TO THE
27 DECEDENT'S SURVIVING DESCENDANTS.

7 (I) SURVIVING PARENTS; AND

8 (II) DECEASED PARENTS WITH ONE OR MORE SURVIVING
9 DESCENDANTS, IF ANY, AS DETERMINED UNDER SUBSECTION (5) OF THIS
10 SECTION.

11 (b) ONE SHARE PASSES TO EACH SURVIVING PARENT.

12 (c) THE BALANCE OF THE INTESTATE ESTATE OR PART, IF ANY,
13 PASSES PER CAPITA AT EACH GENERATION TO THE SURVIVING
14 DESCENDANTS OF THE DECEASED PARENTS, AS DETERMINED
15 UNDER SUBSECTION (5) OF THIS SECTION.

21 (a) IF ALL THE SURVIVING DESCENDANTS OF ONE OR MORE
22 DECEASED PARENTS ALSO ARE DESCENDANTS OF ONE OR MORE SURVIVING
23 PARENTS AND NONE OF THOSE SURVIVING PARENTS HAS ANY OTHER
24 SURVIVING DESCENDANT, THOSE DESCENDANTS ARE DEEMED TO HAVE
25 PREDECEASED THE DECEDENT

26 (b) IF TWO OR MORE DECEASED PARENTS HAVE THE SAME
27 SURVIVING DESCENDANTS AND NONE OF THOSE DECEASED PARENTS HAS

1 ANY OTHER SURVIVING DESCENDANT, THOSE DECEASED PARENTS ARE
2 DEEMED TO BE ONE DECEASED PARENT WITH SURVIVING DESCENDANTS.

3 **(6) Surviving descendant of deceased parent.** IF A DECEDED IS
4 NOT SURVIVED BY A DESCENDANT OR PARENT BUT IS SURVIVED BY ONE OR
5 MORE DESCENDANTS OF A PARENT, THE INTESTATE ESTATE PASSES PER
6 CAPITA AT EACH GENERATION TO THE SURVIVING DESCENDANTS OF THE
7 DECEDED'S DECEASED PARENTS.

8 **(7) Surviving grandparent.** IF A DECEDED IS NOT SURVIVED BY
9 A DESCENDANT, PARENT, OR DESCENDANT OF A PARENT BUT IS SURVIVED
10 BY ONE OR MORE GRANDPARENTS, THE INTESTATE ESTATE IS DISTRIBUTED
11 AS FOLLOWS:

12 (a) THE INTESTATE ESTATE IS DIVIDED INTO AS MANY EQUAL
13 SHARES AS THERE ARE:

14 (I) SURVIVING GRANDPARENTS; AND
15 (II) DECEASED GRANDPARENTS WITH ONE OR MORE SURVIVING
16 DESCENDANTS, IF ANY, AS DETERMINED UNDER SUBSECTION (8) OF THIS
17 SECTION.

18 (b) ONE SHARE PASSES TO EACH SURVIVING GRANDPARENT.

19 (c) THE BALANCE OF THE INTESTATE ESTATE, IF ANY, PASSES PER
20 CAPITA AT EACH GENERATION TO THE SURVIVING DESCENDANTS OF THE
21 DECEDED'S DECEASED GRANDPARENTS, AS DETERMINED UNDER
22 SUBSECTION (8) OF THIS SECTION.

23 **(8) When grandparent survives - computation of shares of**
24 **surviving descendants of deceased grandparent.** THE FOLLOWING
25 RULES APPLY UNDER SUBSECTION (7) OF THIS SECTION TO DETERMINE
26 WHETHER A DECEASED GRANDPARENT OF THE DECEDED IS TREATED AS
27 HAVING A SURVIVING DESCENDANT:

6 (b) IF TWO OR MORE DECEASED GRANDPARENTS HAVE THE SAME
7 SURVIVING DESCENDANTS AND NONE OF THOSE DECEASED GRANDPARENTS
8 HAS ANY OTHER SURVIVING DESCENDANT, THOSE DECEASED
9 GRANDPARENTS ARE DEEMED TO BE ONE DECEASED GRANDPARENT WITH
10 SURVIVING DESCENDANTS.

17 **SECTION 3.** In Colorado Revised Statutes, amend 15-11-106 as
18 follows:

19 **15-11-106. Per capita at each generation. (1) Definitions.** As
20 used in this section: unless the context otherwise requires:

21 (a) "Deceased descendant", "deceased parent", or "deceased
22 grandparent", OR "DECEASED SPOUSE" means a descendant, parent, or
23 grandparent, OR SPOUSE who either predeceased the decedent or is
24 deemed UNDER THIS SUBPART 1 to have predeceased the decedent. under
25 section 15-11-104.

26 (b) "Surviving descendant" means a descendant who neither
27 predeceased the decedent nor is deemed UNDER THIS SUBPART 1 to have

1 predeceased the decedent. ~~under section 15-11-104.~~

2 **(2) Decedent's descendants.** If, under section 15-11-103 (2) (3),
3 ALL OR PART OF a decedent's intestate estate ~~or a part thereof~~ passes "per
4 capita at each generation" to the decedent's SURVIVING descendants, the
5 estate or part ~~thereof~~ is divided into as many equal shares as there are (i)
6 surviving descendants in the generation nearest to the decedent which
7 contains one or more surviving descendants and (ii) deceased descendants
8 in the same generation who left surviving descendants, if any. Each
9 surviving descendant in the nearest generation is allocated one share. The
10 remaining shares, if any, are combined and then divided in the same
11 manner among the surviving descendants of the deceased descendants as
12 if the surviving descendants who ~~are~~ WERE allocated a share and their
13 surviving descendants had predeceased the decedent.

14 **(3) Descendants of parents or grandparents.** If, under section
15 15-11-103 (4) or (6), a decedent's intestate estate ~~or a part thereof~~ passes
16 "per capita at each generation" to the descendants of the decedent's
17 deceased parents or either of them, or to the descendants of the decedent's
18 deceased grandparents or any of them, the estate ~~or part thereof~~ is divided
19 into as many equal shares as there are (i) surviving descendants in the
20 generation nearest to the deceased parents or either of them, or the
21 deceased grandparents or any of them, that contains one or more
22 surviving descendants and (ii) deceased descendants in the same
23 generation who left surviving descendants, if any. Each surviving
24 descendant in the nearest generation is allocated one share. The remaining
25 shares, if any, are combined and then divided in the same manner among
26 the surviving descendants of the deceased descendants as if the surviving
27 descendants who were allocated a share and their surviving descendants

1 had predeceased the decedent **Descendants of parent when parent**
2 **survives.** IF A DECEDENT IS SURVIVED BY ONE OR MORE PARENTS AND,
3 UNDER SECTION 15-11-103 (4) AND (5), THE BALANCE OF THE DECEDENT'S
4 INTESTATE ESTATE OR PART PASSES PER CAPITA AT EACH GENERATION TO
5 THE SURVIVING DESCENDANTS OF ONE OR MORE OF THE DECEDENT'S
6 DECEASED PARENTS, THE BALANCE PASSES TO THOSE DESCENDANTS AS IF
7 THEY WERE THE DECEDENT'S SURVIVING DESCENDANTS UNDER
8 SUBSECTION (2) OF THIS SECTION.

9 **(4) Descendants of parent when no parent survives.** IF A
10 DECEDENT IS NOT SURVIVED BY A PARENT AND, UNDER SECTION 15-11-103
11 (6), THE DECEDENT'S INTESTATE ESTATE PASSES PER CAPITA AT EACH
12 GENERATION TO THE SURVIVING DESCENDANTS OF ONE OR MORE OF THE
13 DECEDENT'S DECEASED PARENTS, THE INTESTATE ESTATE PASSES TO
14 THOSE DESCENDANTS AS IF THEY WERE THE DECEDENT'S SURVIVING
15 DESCENDANTS UNDER SUBSECTION (2) OF THIS SECTION.

16 **(5) Descendants of grandparent when grandparent survives.**
17 IF A DECEDENT IS SURVIVED BY ONE OR MORE GRANDPARENTS AND,
18 UNDER SECTION 15-11-103 (7) AND (8), THE BALANCE OF THE DECEDENT'S
19 INTESTATE ESTATE PASSES PER CAPITA AT EACH GENERATION TO THE
20 SURVIVING DESCENDANTS OF ONE OR MORE OF THE DECEDENT'S DECEASED
21 GRANDPARENTS, THE BALANCE PASSES TO THOSE DESCENDANTS AS IF
22 THEY WERE THE DECEDENT'S SURVIVING DESCENDANTS UNDER
23 SUBSECTION (2) OF THIS SECTION.

24 **(6) Descendants of grandparent when no grandparent**
25 **survives.** IF A DECEDENT IS NOT SURVIVED BY A GRANDPARENT AND,
26 UNDER SECTION 15-11-103 (9), THE DECEDENT'S INTESTATE ESTATE
27 PASSES PER CAPITA AT EACH GENERATION TO THE SURVIVING

1 DESCENDANTS OF ONE OR MORE OF THE DECEDEDENT'S DECEASED
2 GRANDPARENTS, THE INTESTATE ESTATE PASSES TO THOSE DESCENDANTS
3 AS IF THEY WERE THE DECEDEDENT'S SURVIVING DESCENDANTS UNDER
4 SUBSECTION (2) OF THIS SECTION.

5 **SECTION 4.** In Colorado Revised Statutes, **repeal and reenact,**
6 **with amendments,** 15-11-107 as follows:

7 **15-11-107. Inheritance without regard to number of common**
8 **ancestors in same generation.** AN HEIR INHERITS WITHOUT REGARD TO
9 HOW MANY COMMON ANCESTORS IN THE SAME GENERATION THE HEIR
10 SHARES WITH THE DECEDEDENT.

11 **SECTION 5.** In Colorado Revised Statutes, 15-11-109, **amend**
12 (1) as follows:

13 **15-11-109. Advancements.** (1) If an individual dies intestate as
14 to all or a portion of ~~his or her~~ THE estate, property the decedent gave
15 during the decedent's lifetime to an individual who, at the decedent's
16 death, is an heir is treated as an advancement against the heir's intestate
17 share only if (i) the decedent declared in a contemporaneous writing or
18 the heir acknowledged in writing that the gift is an advancement, or (ii)
19 the decedent's contemporaneous writing or the heir's written
20 acknowledgment otherwise indicates that the gift is to be taken into
21 account in computing the division and distribution of the decedent's
22 intestate estate.

23 **SECTION 6.** In Colorado Revised Statutes, **amend** 15-11-113 as
24 follows:

25 **15-11-113. Individual related to decedent through more than**
26 **one line of relationship.** An individual who is related to the decedent
27 through ~~two blood lines~~ MORE THAN ONE LINE of relationship is entitled

1 to only a single share based upon the relationship which would entitle the
2 individual to the ~~larger~~ LARGEST share. THE INDIVIDUAL AND THE
3 INDIVIDUAL'S DESCENDANTS ARE DEEMED TO HAVE PREDECEASED THE
4 DECEDENT WITH RESPECT TO A LINE OF RELATIONSHIP RESULTING IN A
5 SMALLER SHARE.

6 **SECTION 7.** In Colorado Revised Statutes, 15-11-114, **amend**
7 (2) as follows:

8 **15-11-114. Parent barred from inheriting in certain**
9 **circumstances.** (2) For the purpose of intestate succession from or
10 through the deceased child, a parent who is barred from inheriting under
11 this section is ~~treated as if the parent~~ DEEMED TO HAVE predeceased the
12 child.

13 **SECTION 8.** In Colorado Revised Statutes, 15-11-201, **amend**
14 (7) and (10)(c) as follows:

15 **15-11-201. Definitions.** (7) "Presently exercisable general power
16 of appointment" means a power of appointment under which, at the time
17 in question, the decedent HELD A POWER TO CREATE A PRESENT OR FUTURE
18 INTEREST IN THE DECEDENT, THE DECEDENT'S CREDITORS, THE DECEDENT'S
19 ESTATE, OR CREDITORS OF THE DECEDENT'S ESTATE, whether or not ~~he or~~
20 ~~she~~ THE DECEDENT then had the capacity to exercise the power. ~~held a~~
21 ~~power to create a present or future interest in himself or herself, his or her~~
22 ~~creditors, his or her estate, or the creditors of his or her estate, and~~ THE
23 TERM includes a power to revoke or invade the principal of a trust or other
24 property arrangement.

25 (10) "Transfer", as it relates to a transfer by or on behalf of the
26 decedent, includes:

27 (c) An exercise, release, or lapse of a presently exercisable general

1 power of appointment that the decedent created in himself or herself and
2 RESERVED OR of a power described in section 15-11-205 (2)(b) that the
3 decedent conferred on a nonadverse party.

4 **SECTION 9.** In Colorado Revised Statutes, 15-11-302, **amend**
5 (1), (2) introductory portion, (2)(b), (3), and (4) as follows:

6 **15-11-302. Omitted children.** (1) Except as provided in
7 subsection (2) of this section, if a testator fails to provide in his or her will
8 for any of his or her children born or adopted BECOMES A PARENT TO A
9 CHILD after the execution of the TESTATOR'S will AND FAILS TO PROVIDE
10 IN THE WILL FOR THE CHILD, the omitted after-born or after-adopted child
11 receives a share in the estate as follows:

12 (a) If the testator had no child living when he or she THE
13 TESTATOR executed the will, ~~an~~ THE omitted after-born or after-adopted
14 child receives a share in the estate equal in value to that which the child
15 would have received had the testator died intestate, unless the will
16 devised all or substantially all OF the estate to ~~the other~~ ANOTHER parent
17 of the omitted child and that other parent survives the testator and is
18 entitled to take under the will.

19 (b) If the testator has one or more children living when he or she
20 THE TESTATOR executed the will, and the will devised property or an
21 interest in property to one or more of the then living children, ~~an~~ THE
22 omitted after-born or after-adopted child is entitled to share in the
23 testator's estate as follows:

24 (I) The portion of the testator's estate in which the omitted
25 after-born or after-adopted child is entitled to share is limited to devises
26 made to the testator's then living children under the will.

27 (II) The omitted after-born or after-adopted child is entitled to

1 receive the share of the testator's estate, as limited in ~~subparagraph (I) of~~
2 ~~this paragraph (b)~~ SUBSECTION (1)(b)(I) OF THIS SECTION, that the child
3 would have received had the testator included all omitted ~~after-born~~ and
4 ~~after-adopted~~ children with the children to whom devises were made
5 under the will and had given an equal share of the estate to each child.

6 (III) To the extent feasible, the interest granted ~~an~~ THE omitted
7 ~~after-born or after-adopted~~ child under this section ~~shall~~ MUST be of the
8 same character, whether equitable or legal, present or future, as that
9 devised to the testator's then living children under the will.

10 (IV) In ~~satisfying~~ THE SATISFACTION OF a share provided by this
11 ~~paragraph (b)~~ SUBSECTION (1)(b), devises to the testator's children who
12 were living when the will was executed abate ratably. In abating the
13 devises of the then living children, the court shall preserve to the
14 maximum extent possible the character of the testamentary plan adopted
15 by the testator.

16 (2) Neither ~~paragraph (a) nor (b) of subsection (1) of this section~~
17 ~~SUBSECTION (1)(a) OF THIS SECTION NOR SUBSECTION (1)(b) OF THIS~~
18 ~~SECTION~~ applies if:

19 (b) The testator provided for the omitted ~~after-born or~~
20 ~~after-adopted~~ child by transfer outside the will and the intent that the
21 transfer be in lieu of a testamentary provision is shown by the testator's
22 statements or is reasonably inferred from the amount of the transfer or
23 other evidence.

24 (3) If at the time of execution of the will the testator fails to
25 provide in ~~his or her~~ THE will for a living child solely because ~~he or she~~
26 THE TESTATOR believes the child to be dead, the child is entitled to share
27 in the estate as if the child were an omitted ~~after-born or after-adopted~~

1 child.

2 (4) In ~~satisfying~~ THE SATISFACTION OF a share provided by
3 paragraph (a) of subsection (1) SUBSECTION (1)(a) of this section, devises
4 made by the will abate under section 15-12-902.

5 **SECTION 10.** In Colorado Revised Statutes, 15-11-802, **amend**
6 (1) as follows:

7 **15-11-802. Effect of divorce, annulment, and decree of**
8 **separation.** (1) An individual who is divorced from the decedent or
9 whose marriage to the decedent has been annulled is not a surviving
10 spouse unless, by virtue of a subsequent marriage, ~~he or she~~ THE
11 INDIVIDUAL is married to the decedent at the time of death. A decree of
12 separation that does not terminate the ~~status of husband and wife~~
13 MARRIAGE is not a divorce for purposes of this section.

14 **SECTION 11.** In Colorado Revised Statutes, 15-11-803, **amend**
15 (1)(e), (2), and (6) as follows:

16 **15-11-803. Effect of homicide on intestate succession, wills,**
17 **trusts, joint assets, life insurance, and beneficiary designations.**
18 (1) **Definitions.** As used in this section, unless the context otherwise
19 requires:

20 (e) "Revocable", with respect to a disposition, appointment,
21 provision, or nomination, means one under which the decedent, at the
22 time of or immediately before death, was alone empowered, by law or
23 under the governing instrument, to cancel the designation in favor of the
24 killer, whether or not the decedent was then empowered to designate
25 ~~himself or herself~~ THE DECEDENT in place of ~~his or her~~ THE killer and
26 WHETHER or NOT the decedent then had capacity to exercise the power.

27 (2) **Forfeiture of statutory benefits.** An individual who

1 feloniously kills the decedent forfeits all benefits with respect to the
2 decedent's estate, including an intestate share, an elective-share, an
3 omitted spouse's or child's share, the decedent's homestead exemption
4 under section 38-41-204, ~~C.R.S.~~, exempt property, and a family
5 allowance. If the decedent died intestate, the decedent's intestate estate
6 passes as if the killer disclaimed ~~his or her~~ THE intestate share.

7 **(6) Wrongful acquisition of property.** A wrongful acquisition
8 of property or interest by a killer not covered by this section ~~shall~~ MUST
9 be treated in accordance with the principle that a killer cannot profit from
10 ~~his or her~~ wrong THE KILLER'S WRONGDOING.

11 **SECTION 12.** In Colorado Revised Statutes, 15-11-804, **amend**
12 (1)(b), (1)(d), (1)(f), and (2)(a) as follows:

13 **15-11-804. Revocation of probate and nonprobate transfers by**
14 **divorce - no revocation by other changes of circumstances.**
15 **(1) Definitions.** As used in this section, unless the context otherwise
16 requires:

17 (b) "Divorce or annulment" means any divorce or annulment, or
18 any dissolution or declaration of invalidity of a marriage, that would
19 exclude the spouse as a surviving spouse within the meaning of section
20 15-11-802. A decree of separation that does not terminate the ~~status of~~
21 ~~husband and wife~~ MARRIAGE is not a divorce for purposes of this section.

22 (d) "Governing instrument" refers to a governing instrument
23 executed by the divorced individual before the divorce or annulment of
24 ~~his or her~~ THE marriage to ~~his or her~~ THE DIVORCED INDIVIDUAL'S former
25 spouse.

26 (f) "Revocable", with respect to a disposition, appointment,
27 provision, or nomination, means one under which the divorced individual,

1 at the time of the divorce or annulment, was alone empowered, by law or
2 under the governing instrument, to cancel the designation in favor of ~~his~~
3 ~~or her~~ THE DIVORCED INDIVIDUAL'S former spouse or former spouse's
4 relative, whether or not the divorced individual was then empowered to
5 designate ~~himself or herself~~ THE DIVORCED INDIVIDUAL in place of ~~his or~~
6 ~~her~~ THE DIVORCED INDIVIDUAL'S former spouse or in place of ~~his or her~~
7 THE DIVORCED INDIVIDUAL'S former spouse's relative and whether or not
8 the divorced individual then had the capacity to exercise the power.

9 **(2) Revocation upon divorce.** Except as provided by the express
10 terms of a governing instrument, a court order, or a contract relating to
11 the division of the marital estate made between the divorced individuals
12 before or after the marriage, divorce, or annulment, the divorce or
13 annulment of a marriage:

14 (a) Revokes any revocable (i) disposition or appointment of
15 property made by a divorced individual to ~~his or her~~ THE DIVORCED
16 INDIVIDUAL'S former spouse in a governing instrument and any
17 disposition or appointment created by law or in a governing instrument
18 to a relative of the divorced individual's former spouse, (ii) provision in
19 a governing instrument conferring a general or nongeneral power of
20 appointment on the divorced individual's former spouse or on a relative
21 of the divorced individual's former spouse, and (iii) nomination in a
22 governing instrument nominating a divorced individual's former spouse
23 or a relative of the divorced individual's former spouse to serve in any
24 fiduciary or representative capacity, including a personal representative,
25 executor, trustee, conservator, agent, or guardian; and

26 **SECTION 13.** In Colorado Revised Statutes, 15-12-703, **amend**
27 (1), (2), and (4) as follows:

1 **15-12-703. General duties - relation and liability to persons**
2 **interested in estate - duty to search for a designated beneficiary**
3 **agreement - standing to sue.** (1) A personal representative is a fiduciary
4 who shall observe the standards of care applicable to trustees as described
5 by part 8 of article 5 of this title 15. A personal representative ~~has~~ IS
6 UNDER a duty to settle and distribute the estate of the decedent in
7 accordance with the terms of any probated and effective will and this
8 code, and as expeditiously and efficiently as is consistent with the best
9 interests of the estate. ~~A~~ THE personal representative shall use the
10 authority conferred ~~upon him or her~~ by this code, the terms of the will, if
11 any, and any order in proceedings to which ~~he or she~~ THE PERSONAL
12 REPRESENTATIVE is party for the best interests of successors to the estate.

13 (2) A personal representative shall not be surcharged for acts of
14 administration or distribution if the conduct in question was authorized
15 at the time. Subject to other obligations of administration, an informally
16 probated will is authority to administer and distribute the estate according
17 to its terms. An order of appointment of a personal representative,
18 whether issued in informal or formal proceedings, is authority to
19 distribute apparently intestate assets to the heirs of the decedent if, at the
20 time of distribution, the personal representative is not aware of a pending
21 testacy proceeding, a proceeding to vacate an order entered in an earlier
22 testacy proceeding, a formal proceeding questioning ~~his~~ THE PERSONAL
23 REPRESENTATIVE'S appointment or fitness to continue, or a supervised
24 administration proceeding. ~~Nothing in this section affects~~ THIS SECTION
25 DOES NOT AFFECT the duty of the personal representative to administer
26 and distribute the estate in accordance with the rights of claimants WHOSE
27 CLAIMS HAVE BEEN ALLOWED, the surviving spouse, any minor and

1 dependent children, and any ~~pretermitted~~ OMITTED child of the decedent
2 AS DESCRIBED ELSEWHERE IN THIS CODE.

3 (4) Except as to proceedings which do not survive the death of the
4 decedent, a personal representative of a decedent domiciled in this state
5 at ~~his~~ death has the same standing to sue and be sued in the courts of this
6 state and the courts of any other jurisdiction as ~~his~~ THE decedent had
7 immediately prior to death.

8 **SECTION 14. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly; except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part will not take
14 effect unless approved by the people at the general election to be held in
15 November 2022 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.