



Ohio Revised Code

Section 2107.34 Afterborn or pretermitted heirs.

Effective: March 14, 2017

Legislation: Senate Bill 232 - 131st General Assembly

(A) Subject to division (C) of this section, if, after making a will, a testator has a child born alive, adopts a child, or designates an heir in the manner provided by section 2105.15 of the Revised Code, or if a child or designated heir who is absent and reported to be dead proves to be alive, and no provision has been made in the will or by settlement for the pretermitted child or heir, or for that child's or heir's issue, the will shall not be revoked. Unless it appears by the will that it was the intention of the testator to disinherit the pretermitted child or heir, the devises and legacies granted by the will, except those to a surviving spouse, shall be abated proportionately, or in any other manner that is necessary to give effect to the intention of the testator as shown by the will, so that the pretermitted child or heir will receive a share equal to that which the person would have been entitled to receive out of the estate if the testator had died intestate with no surviving spouse, owning only that portion of the testator's estate not devised or bequeathed to or for the use and benefit of a surviving spouse. If the pretermitted child or heir dies prior to the death of the testator, the issue of the deceased child or heir shall receive the share the parent would have received if living.

(B) If the pretermitted child or heir supposed to be dead at the time of executing the will has lineal descendants, provision for whom is made by the testator, the other legatees and devisees need not contribute, but the pretermitted child or heir shall take the provision made for the pretermitted child's or heir's lineal descendants or that part of it as, in the opinion of the probate judge, may be equitable. In settling the claim of a pretermitted child or heir, any portion of the testator's estate received by a party interested, by way of advancement, is a portion of the estate and shall be charged to the party who has received it.

(C) Notwithstanding any provision in this chapter to the contrary, any person born more than three hundred days after the date of death of a testator shall not inherit under the testator's will as a child or heir of the testator unless the will clearly provides otherwise. If a will clearly provides that such a posthumously born child or heir shall inherit under the will, notwithstanding any provision in the will to the contrary, that child or heir shall inherit only if born within a period of one year and three hundred days from the date of death of the testator. This division does not apply to the terms of a



testamentary trust.

(D) Though measured by Chapter 2105. of the Revised Code, the share taken by a child born after the making of a will or by a pretermitted child or heir pursuant to division (A) of this section shall be considered as a testate succession. This section does not prejudice the right of any fiduciary to act under any power given by the will, nor shall the title of innocent purchasers for value of any of the property of the testator's estate be affected by any right given by this section to a child born after the making of a will or a pretermitted child or heir.