



## Ohio Revised Code

### Section 2106.13 Allowance for support.

Effective: October 31, 2001

Legislation: House Bill 85 - 124th General Assembly

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(A) If a person dies leaving a surviving spouse and no minor children, leaving a surviving spouse and minor children, or leaving minor children and no surviving spouse, the surviving spouse, minor children, or both shall be entitled to receive, subject to division (B) of this section, in money or property the sum of forty thousand dollars as an allowance for support. If the surviving spouse selected two automobiles under section 2106.18 of the Revised Code, the allowance for support prescribed by this section shall be reduced by the value of the automobile having the lower value of the two automobiles so selected. The money or property set off as an allowance for support shall be considered estate assets.

(B) The probate court shall order the distribution of the allowance for support described in division (A) of this section as follows:

(1) If the person died leaving a surviving spouse and no minor children, one hundred per cent to the surviving spouse;

(2) If the person died leaving a surviving spouse and minor children, and if all of the minor children are the children of the surviving spouse, one hundred per cent to the surviving spouse;

(3) If the person died leaving a surviving spouse and minor children, and if not all of the minor children are children of the surviving spouse, in equitable shares, as fixed by the probate court in accordance with this division, to the surviving spouse and the minor children who are not the children of the surviving spouse. In determining equitable shares under this division, the probate court shall do all of the following:

(a) Consider the respective needs of the surviving spouse, the minor children who are children of the surviving spouse, and the minor children who are not children of the surviving spouse;

(b) Allocate to the surviving spouse, the share that is equitable in light of the needs of the surviving



spouse and the minor children who are children of the surviving spouse;

(c) Allocate to the minor children who are not children of the surviving spouse, the share that is equitable in light of the needs of those minor children.

(4) If the person died leaving minor children and no surviving spouse, in equitable shares, as fixed by the probate court in accordance with this division, to the minor children. In determining equitable shares under this division, the probate court shall consider the respective needs of the minor children and allocate to each minor child the share that is equitable in light of the child's needs.

(C) If the surviving spouse selected two automobiles under section 2106.18 of the Revised Code, the probate court, in considering the respective needs of the surviving spouse and the minor children when allocating an allowance for support under division (B)(3) of this section, shall consider the benefit derived by the surviving spouse from the transfer of the automobile having the lower value of the two automobiles so selected.

(D) If, pursuant to this section, the probate court must allocate the allowance for support, the administrator or executor, within five months of the initial appointment of an administrator or executor, shall file with the probate court an application to allocate the allowance for support.

(E) The administrator or executor shall pay the allowance for support unless a competent adult or a guardian with the consent of the court having jurisdiction over the guardianship waives the allowance for support to which the adult or the ward represented by the guardian is entitled.

(F) For the purposes of this section, the value of an automobile that a surviving spouse selects pursuant to section 2106.18 of the Revised Code is the value that the surviving spouse specifies for the automobile in the affidavit executed pursuant to division (B) of section 4505.10 of the Revised Code.