



## Ohio Revised Code

### Section 2107.34 Afterborn or pretermitted heirs.

Effective: January 13, 2012

Legislation: Senate Bill 124 - 129th General Assembly

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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.

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.

Though measured by Chapter 2105. of the Revised Code, the share taken by a pretermitted child or heir 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 pretermitted child or heir.