

# THE B&B ALERT

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## **THE “NEW” NEW JERSEY PROBATE CODE NEW INTESTACY LAWS BENEFIT SPOUSES AND STEP- CHILDREN**

**By Neil A. Derman, Esquire**

The New Jersey Probate Code has been amended. Beginning February 27, 2005. All changes will take effect. The laws of Intestacy have been amended under the code. Dying intestate means you die without a valid will. Therefore the assets of your estate must be distributed according to the statute. Below is a table reflecting the old Uniform Probate Code’s (UPC) rules of intestacy versus the new Codes rules.

As one can see the new probate code is designed to benefit the surviving spouse as they now receive a larger share of the decedent’s estate. For example, John dies survived by his wife Mary and two children, Jack and Jill. Jack and Jill are both John and Mary’s children. John had no will and owned assets worth \$400,000. Under the old code, Mary received \$225,000 ( $\$50,000 + (\frac{1}{2} * 350,000)$ ) and Jack and Jill split the remaining \$175,000. Under the new code, Mary now receives all \$400,000.

The other parties affected by the new probate code are step children. Step children receive both a benefit and a detriment from the new probate code. They are now entitled to receive a share of the estate but only in limited circumstances. The detriment is that if the parents are divorced or the marriage is annulled, the step children’s ability to inherit is revoked unless provided for in a supplemental document. For Example. John is married to Mary who has a child from her prior marriage, Fred. John takes out a life insurance policy, naming Mary as primary beneficiary and Fred as contingent beneficiary. If John divorces Mary, both Mary and Fred will be revoked as beneficiaries unless there is a legal document stating otherwise.

<b>Survivors (Heirs)</b>	<b>Old UPC</b>	<b>New (2004) UPC</b>
Spouse and parent(s), but no children	<b>Spouse:</b> 1 <sup>st</sup> \$50,000 + ½ Balance <b>Parent(s):</b> all other assets	<b>Spouse:</b> 1 <sup>st</sup> 25% + ¾ Balance <sup>1</sup> <b>Parent(s):</b> all other assets
Spouse and children of decedent, all of whom are also children of spouse (and spouse has no children by	<b>Spouse:</b> 1 <sup>st</sup> \$50,000 + ½ estate assets <b>Children:</b> all other estate	<b>Spouse:</b> 100% of estate <b>Children:</b> nothing

<sup>1</sup> Not less than \$50,000 nor more than \$200,000

any other relationship)	assets	
Spouse and children of decedent, some of whom are not children of surviving spouse	<b>Spouse:</b> ½ estate assets <b>Children:</b> ½ estate assets	<b>Spouse:</b> 1 <sup>st</sup> 25% + ½ Balance <sup>2</sup> <b>Children:</b> all other assets
Spouse and step-children (children of spouse who are not decedents children)	<b>Spouse:</b> 100%	<b>Spouse:</b> 1 <sup>st</sup> 25% + ½ Balance <sup>3</sup> <b>More Remote Heirs of Decedents:</b> all other estate assets <b>Step-Children:</b> nothing
Children of spouse (step-children), but no descendants, parents, descendants of parents or descendants of grandparents	<b>Step-Children:</b> 0 <b>State of NJ:</b> All	<b>Step-Children:</b> 100%



Begley & Bookbinder, P.C. is a law firm that specializes in Elder & Disabilities Law. We are based in Moorestown, NJ, with offices in Stone Harbor & Lawrenceville.

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