Vermont Superior Court
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Docket Number:

NOTICE OF RIGHTS OF SURVIVING SPOUSE

This is notice to a surviving spouse of rights that you may have following the death of your spouse. Some of these rights must be exercised within certain time limits.

Four Month Time Window to Elect Against a Decedent's Last Will

If the deceased spouse made a Last Will, unless a surviving spouse has waived the right to elect again the deceased spouse's Last Will during the decedent's lifetime, a surviving spouse may reject the provision made for the surviving spouse in the decedent's Will and take instead a ½ share of the decedent's estate. If a surviving spouse has a legal guardian, agent, or attorney-in-fact, the individual who is performing this role may be able to take this action on behalf of the su1viving spouse pursuant to 14 V.S.A. §319(6) and (c).

Unless otherwise ordered by the court, a surviving spouse shall file with the court a written election to waive the provisions of a decedent's will within **four months** of the later of the following dates:
(A) the date of service of the notice of rights of surviving spouse; or
(B) the date of service of the inventory.

Upon the filing of any subsequent or amended inventory or any accounting that reports previously undisclosed property owned by the decedent as of the date of death, the surviving spouse shall have 30 days from the date of service of the filing to elect against the newly reported property, unless otherwise ordered by the court.

Surviving Spouse's Interest in Homestead

Regardless. of whether the decedent made a Last Will, if a decedent dies leaving a surviving spouse, his or her homestead (up to $125,000) in value shall pass to the surviving spouse pursuant to 27 V.S.A. §105.

Surviving Spouse's Right to Request Support During Estate Administration

The Probate Court may make reasonable allowance for the necessary expenses of support and maintenance of the surviving spouse and minor children or either, constituting the family of a decedent, out of the personal estate or the income of real or personal estate from date of death until settlement of the estate, but for no longer a period than until their shares in the estate are assigned to them or, in case of an insolvent estate, for not more than eight months after administration is granted. This allowance may take priority, in the discretion_ of the court, over debts of the estate. See 14 V.S.A. §316.

This notice does not detail all the conditions under which elections and rights exist. Nor is it intended to encourage you to exercise any elections or rights you may have. You are encouraged to obtain advice from a lawyer regarding any of the elections or rights mentioned above.