

## 2023 Kansas Statutes

**59-6a202. Elective share; amount; supplemental amount; effect of election on statutory benefits; nonresident.** (a) (1) The surviving spouse of a decedent who dies a resident of this state has a right of election, under the limitations and conditions stated in this act, to take an elective-share amount equal to the value of the elective-share percentage of the augmented estate, determined by the length of time the spouse and the decedent were married to each other, in accordance with the following schedule: If the decedent and the spouse were married to each other: The elective-share percentage is:

Less than 1 year	Supplemental amount only
1 year but less than 2 years	3% of the augmented estate
2 years but less than 3 years	6% of the augmented estate
3 years but less than 4 years	9% of the augmented estate
4 years but less than 5 years	12% of the augmented estate
5 years but less than 6 years	15% of the augmented estate
6 years but less than 7 years	18% of the augmented estate
7 years but less than 8 years	21% of the augmented estate
8 years but less than 9 years	24% of the augmented estate
9 years but less than 10 years	27% of the augmented estate
10 years but less than 11 years	30% of the augmented estate
11 years but less than 12 years	34% of the augmented estate
12 years but less than 13 years	38% of the augmented estate
13 years but less than 14 years	42% of the augmented estate
14 years but less than 15 years	46% of the augmented estate
15 years or more	50% of the augmented estate

(2) If the decedent and the surviving spouse were married to each other more than once, all periods of marriage to each other are added together for purposes of this subsection. Periods between marriages are not counted.

(b) If the sum of the amounts described in K.S.A. 59-6a207 and 59-6a209(a)(1), and amendments thereto, and that part of the elective-share amount payable from the decedent's probate estate and nonprobate transfers to others under K.S.A. 59-6a209(b) and (c), and amendments thereto, is less than \$100,000, the surviving spouse is entitled to a supplemental elective-share amount equal to \$100,000, minus the sum of the amounts described in those sections. The supplemental elective-share amount is payable from the decedent's probate estate and from recipients of the decedent's nonprobate transfers to others in the order of priority set forth in K.S.A. 59-6a209(b) and (c), and amendments thereto.

(c) If the right of election is exercised by or on behalf of the surviving spouse, the surviving spouse's homestead allowance, and family allowance, if any, are not charged against but are in addition to the elective-share and supplemental elective-share amounts.

(d) The right, if any, of the surviving spouse of a decedent who dies a nonresident of this state to take an elective share in property in this state is governed by article 8 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

**History:** L. 1994, ch. 132, § 2; L. 2023, ch. 77, § 3; July 1.