

**58-504. Same (indefinite failure of issue; definite failure of issue).** In the case of instruments disposing of property, of which the following is a type: "A to B and his or her heirs, but if B dies without issue, then to C and his or her heirs," the common law rule of interpretation that indefinite failure of issue is indicated shall not be applied. Definite failure of issue is indicated, that is, death of B without having issue living at the time of his or her death. B's death without living issue need not occur in the lifetime of the maker of the instrument. The rules here presented apply when the limitation is on death "without heirs," or, "heirs of the body," or, "issue," or, "children," or, "offspring," or, "descendants," or any such relative however described. Enactment of this statute shall not be regarded as legislative recognition that the common law indefinite failure of issue presumption has ever been a part of the law of this state.

**History:** L. 1939, ch. 181, § 4; July 1.