

59-2234. Election in case of incapacity. If the surviving spouse shall be an incapacitated person, it shall be the duty of the court to appoint some suitable person as commissioner, who shall ascertain the value of the provision made by will in lieu of the rights in the estate secured by statute and the value of the rights secured by statute. The commissioner shall make his or her verified written report to the court. Notice of the time and place of the hearing of the petition for the appointment of a commissioner and of the hearing on the commissioner's report shall be given to the surviving spouse and his or her conservator, if any, and all other persons interested in such manner and for such length of time as the court shall direct. After the hearing on the report the court shall make such election for such spouse under disability as is more valuable or advantageous to the spouse, which election shall be deemed as effectual as if made by the spouse when fully competent.

History: L. 1939, ch. 180, § 210; L. 1965, ch. 346, § 33; Jan. 1, 1966.