

A BILL

FOR AN ACT REGULATING DESCENTS, AND THE DISTRIBUTION OF PERSONAL PROPERTY.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That when any
2 person shall die intestate, having title or right to any real estate of inheritance in this state,
3 which title shall have come to such intestate by descent, devise or deed of gift from any ances-
4 tor, such estate shall descend and pass in parcenary to his or her kindred in the following
5 course:

6 *First*—One-third in value of such estate to the husband or wife of such intestate, during
7 his or her natural life.

8 *Second*—The residue to the children of such intestate, or their legal representatives.

9 *Third*—If there be no children, or their legal representatives, living, the residue shall
10 pass to the brothers and sisters of the intestate who may be of the blood of the ancestor from
11 whom the estate came, or their legal representatives, whether such brothers and sisters be
12 of the whole or half blood of the intestate.

13 *Fourth*—If there be no brothers or sisters of the intestate, of the blood of the ancestor
14 from whom the estate came, or their legal representatives, and if the estate came by deed of
15 gift from an ancestor who may be living, the residue shall ascend to such ancestor.

16 *Fifth*—If the ancestor from whom the estate came be deceased, the residue of the estate
17 shall pass to and vest in the children of the ancestor from whom the estate came, or their
18 legal representatives; if there be no children of such ancestor, or their legal representatives,
19 such estate shall pass to and vest in the brothers and sisters of such ancestor, or their legal
20 representatives, and for want of such brothers or sisters, or their legal representatives, to the
21 brothers and sisters of the intestate of the half blood, or their legal representatives, though
22 such brothers and sisters be not of the blood of the ancestor from whom the estate came.

23 *Sixth*—If there be no brothers or sisters of the intestate, or their legal representatives,
24 such estate shall pass to and vest in the next of kin to the intestate of the blood of the
25 ancestor from whom the estate came.

SEC. 2. That if the estate came not by descent, devise or deed of gift, it shall descend
2 and pass as follows:

3 *First*—One-third in value of such estate to the husband or wife of such intestate in fee
4 simple.

5 *Second*—The residue to the children of the intestate and their legal representatives.

6 *Third*—If there be no children of the intestate, or their legal representatives, the residue
7 shall pass to and be vested in his parents: if one of his parents be dead, that portion which
8 would have gone to such deceased parent shall go to and be vested in the surviving parent.

9 *Fourth*—If the intestate leave no husband or wife, that portion of the estate which would
10 have gone to such husband or wife, had he or she been living, shall go to his parents: and if
11 one of his parents be dead, that portion which would have gone to such deceased parent
12 shall go to and be vested in the surviving parent.

13 *Fifth*—If the intestate leave no husband or wife or children, or their legal representatives,
14 the estate shall pass to the brothers and sisters of the intestate of the whole blood and their
15 legal representatives.

16 *Sixth*—If there be no brothers and sisters of the intestate of the whole blood, or their legal
17 representatives, the estate shall pass to the brothers and sisters of the half blood and their
18 legal representatives.

19 *Seventh*—If there be no brothers and sisters of the half blood of the intestate, the estate
20 shall pass to the next of kin, and of the blood of the intestate.

SEC. 3. When any person shall die intestate having title or right to any real estate, and
2 there is no person living entitled to inherit the same, by the provisions of this act, it shall
3 escheat to, and be vested in, the state of Iowa.

SEC. 4. If any person shall die intestate leaving any goods, chattels, or other personal
2 estate, such goods, chattels, or other personal estate, not necessary for the payment of debts,
3 shall be distributed agreeably to the foregoing course, prescribed in the second section of this
4 act: *provided*, that if there shall be no person living entitled to inherit the same by the pro-
5 visions of this act, such goods, chattels, or other personal estate, shall pass to, and be vested
6 in, the state of Iowa: and it shall be, and is hereby made, the duty of the auditor of the
7 county in which letters of administration were, or may be, granted upon such estate, to col-
8 lect the same and pay it over to the treasurer of such county, to be applied exclusively to the
9 support of common schools of the county in which the estate may be so collected, in such
10 manner as may be prescribed by law.

SEC. 5. When any person shall die intestate leaving children, and none of the children of
2 such intestate shall have died leaving children or their legal representatives, such estate shall

3 descend to the children of such intestate, living at the time of his or her death, in equal pro-
4 portions.

SEC. 6. The provisions of the last preceding section shall apply in every case in which
2 there are several descendants in a direct line of lineal descent, and all of equal degree of con-
3 sanguinity to such intestate, whether children, grandchildren, or great grandchildren, or of
4 a more remote degree of consanguinity to such intestate; so that the estate shall pass to such
5 persons of equal degree of consanguinity to such intestate in equal parts, however remote
6 from the intestate such equal and common degree of consanguinity may be.

SEC. 7. If any of the children of such intestate be living, and any be dead, the estate
2 shall descend to the children of such intestate who are living, and to the legal representa-
3 tives of such of his or her children as are dead, so that each child of the intestate who shall
4 be living, shall inherit the share to which he or she would have been entitled if all children
5 of the intestate had been living; so that if more than one of the children of the intestate be
6 dead, the legal representatives of the deceased children of the intestate shall inherit equal
7 parts of that portion of the estate of such deceased children would have been entitled had
8 such deceased children been living.

SEC. 8. The provisions of the last preceding section shall be construed to apply in all
2 cases in which the descendants of the intestate, entitled to share in the estate, are of unequal
3 degree of consanguinity to the intestate, so that those who are of the nearest degree of con-
4 sanguinity shall take the share to which he or she would have been entitled had all the de-
5 scendants in the same degree of consanguinity with him or her, who shall have died leaving
6 issue, been living.

SEC. 9. The provisions of the fifth, sixth, seventh and eighth sections of this act shall
2 apply both to personal and real estate.

SEC. 10. If any estate, real or personal, has been given by any intestate in his or her life-
2 time as an advancement to any child or children of such intestate or their descendants, it
3 shall be considered and held to be a part of the estate of the intestate, so far as
4 it regards the division and distribution thereof among his or her children or their descendants,
5 and shall be taken by such child or children or their descendants towards his or her share of
6 the estate of the intestate.

SEC. 11. If the amount of such advancement shall be equal to or exceed the share of the
2 heir to whom such advancement shall have been made, he or she shall be excluded from any
3 further portion in the division or distribution of the estate; but shall not be required to re-
4 fund any part of such advancement, and if the amount so advanced shall be less than his or

5 her full share, he or she shall be entitled to as much more as will give him or her his or her
6 full share of the estate of the intestate.

SEC. 12. If any such advancement shall be made in real estate, the value thereof shall be
2 considered and taken as a part of the real estate to be divided, and if it be in money or other
3 personal estate, it shall be considered and taken as a part of the personal estate to be distributed,
4 and if in either case it shall exceed the share of the real or personal estate that would have
5 come to the heir to whom such advancement was made, he or she shall not refund any part
6 of it, but shall receive so much less out of the other part of the estate as will make his or her
7 whole share equal, as near as can be estimated, to that of either the other heirs who are in
8 the same degree of consanguinity, to the intestate, with him or her.

SEC. 13. If the value of the estate real or personal, so advanced shall be expressed in the
2 deed of conveyance, or in the charge thereof, made by the intestate, or in the receipt in
3 writing, given by the person receiving such advancement, it shall be considered and taken to
4 be of that value in the division and distribution of the estate, otherwise it shall be estimated
5 at its value when advanced.

SEC. 14. No person who shall be capable of inheriting shall be deprived of the inheritance
2 by reason of any of his or her ancestors having been aliens.

SEC. 15. Illegitimate children shall be capable of inheriting or transmitting inheritance
2 on the part of their mother in like manner as if they had been born in lawful wedlock, and
3 if the mother be dead the estate of such illegitimate shall descend to the relatives on the part
4 of the mother as if the intestate had been legitimate.

SEC. 16. They shall inherit from the father whenever they have been recognized by him in
2 writing, as his children.

SEC. 17. Whenever a man shall have by a woman one or more children, and shall after-
2 ward intermarry with such woman, such child or children, if acknowledged by him as his
3 child or children, shall be deemed legitimate: the issue of parents whose marriage shall be
4 deemed null in law, shall nevertheless be legitimate.

SEC. 18. Whenever in this act any person is described as living, it shall be understood to
2 mean that he or she was living at the time of the death of the intestate from whom the es-
3 tate came: and whenever any person is described as having died, it shall be understood to
4 mean that he or she died before such intestate.

SEC. 19. Descendants of the intestate begotten before his death, but born thereafter,
2 shall in all cases, inherit in the same manner as if they had been born in the lifetime of the
3 intestate, and had survived him.

SEC. 20. Permanent leasehold estates, renewable forever, shall be subject to the same
2 law of descent and distribution as estates in fee simple are subject to by the provisions of
3 this act.

SEC. 21. Sections 2436, 2440, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2465, 2466, 2467
2 and 2468, of the Code of 1873, and all laws and parts of laws inconsistent with the provis-
3 ions of this act, are hereby repealed.