

Missouri Revised Statutes
Chapter 474
Probate Code—Intestate Succession and Wills
Section 474.260

**One year support allowance, property in lieu thereof--
allowance exempt from all claims.**

474.260. 1. In addition to the right to homestead allowance and exempt property, the decedent's surviving spouse and minor children whom the decedent was obligated to support and the children who were in fact being supported by the decedent are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration, which allowance may not continue for longer than one year. The allowance may be paid as a lump sum or in periodic installments. It is payable to the surviving spouse, if living, for the use of the surviving spouse and minor or dependent children; otherwise to the children, or person having their care and custody, but if a minor or dependent child is not living with the surviving spouse, the allowance may be made partially to the child or the child's guardian or other person having the child's care and custody, and partially to the spouse, as their needs may appear. In setting the amount of the support allowance for any persons entitled to such support, the court may consider the previous standard of living of the applicant, the condition of the estate, the income and other assets available to the applicant and the applicant's expenses. The support allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent, unless otherwise provided, by intestate succession or by way of elective share. The death of any person entitled to a family allowance terminates the right to allowances not yet paid.

2. The court may authorize the recipient of the support allowance to receive any property of the estate in lieu of all or part of the

money allowance authorized by this section, and in any case where the court makes an allowance in money, the recipient of the support allowance may select and receive any property of the estate, of a value not exceeding the allowance in money, which shall be in lieu of and which value shall be credited against the allowance. The right of selection provided for in this section is subject to the provisions of section 473.620. The allowance authorized by this section is exempt from all claims.

3. Where real estate is selected pursuant to this section, the provisions of subsections 2, 3, 4, 5 and 6 of section 474.290 shall be followed.

(RSMo 1939 § 106, A.L. 1955 p. 385 § 135, A.L. 1957 p. 829, A.L. 1965 p. 637, A.L. 1967 p. 645, A.L. 1971 S.B. 85, A.L. 1980 S.B. 637, A.L. 1996 S.B. 494)

Prior revisions: 1929 §§ 106, 107; 1919 §§ 105, 106; 1909 §§ 114, 115

Effective 5-23-96

Educational Material provided by

RICHARD J. HERNDON

Attorney at Law

455 Sam Barr Drive, Suite 207

P.O. Box 617

Kearney, Missouri 64060

(816) 628-4900 ♦ (800) 494-2218

Rick@MissouriProbate.info