

AN ACT

RELATING TO PROBATE; CLARIFYING WHO IS ENTITLED TO A
PERSONAL PROPERTY ALLOWANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 45-2-403 NMSA 1978 (being Laws
1993, Chapter 174, Section 21, as amended) is amended to
read:

"45-2-403. PERSONAL PROPERTY ALLOWANCE.--In addition
to the family allowance, the decedent's surviving spouse is
entitled from the estate to a value, not exceeding fifteen
thousand dollars (\$15,000) in excess of any security
interests therein, in household furniture, automobiles,
furnishings, appliances and personal effects. If there is
no surviving spouse, the decedent's children who are
devisees under the will, who are entitled to a share of the
estate pursuant to Section 45-2-302 NMSA 1978 or, if there
is no will, who are intestate heirs are entitled jointly to
the same value. If encumbered chattels are selected and the
value in excess of security interests plus that of other
exempt property is less than fifteen thousand dollars
(\$15,000) or if there is not fifteen thousand dollars
(\$15,000) worth of exempt property in the estate, the spouse
or children are entitled to other assets of the estate, if
any, to the extent necessary to make up the fifteen thousand
dollar (\$15,000) value. Rights to specific property for the
family allowance and assets needed to make up a deficiency
in the property have priority over all claims against the
estate, but the right to any assets to make up a deficiency
of exempt property abates as necessary to permit earlier

payment of the family allowance. These rights are in addition to any benefit or share passing to the surviving spouse or children by intestate succession or by the decedent's will, unless otherwise provided by the decedent in the will or other governing instrument."