

§ 30-20. Procedure for assignment; order of clerk.

(a) The clerk of court shall first ascertain if the surviving spouse is entitled to an allowance according to the provisions of this Article, and, if so, enter an order setting forth the personal property of the estate to be awarded to the surviving spouse. Once the spouse's allowance has been awarded, the clerk of court shall next ascertain if any children of the decedent are entitled to an allowance according to the provisions of this Article, and, if so, enter an order setting forth the personal property of the estate to be awarded for the child's allowance. If a personal representative has been appointed for the decedent's estate, the clerk of court shall provide a copy of any order awarding an allowance to the personal representative of the decedent's estate.

(b) If the personal property of the estate is insufficient to satisfy the allowances awarded, the clerk of the superior court shall enter judgment against the decedent's estate for the amount of the deficiency. If a personal representative has been appointed for the decedent's estate, the deficiency shall be satisfied by the personal representative when a sufficiency of such assets shall come into the possession of the personal representative.

(c) The clerk of court may, on the clerk's own motion, determine that a hearing is necessary to determine whether a year's allowance should be awarded pursuant to the provisions of this Article and, if so, what personal property should be awarded. If the clerk of court makes such a determination, the clerk shall direct the petitioner to commence a contested estate proceeding pursuant to G.S. 30-23 in order to determine the year's allowance. (1870-1, c. 263; Code, s. 2122; 1891, c. 13; 1899, c. 531; Rev., s. 3098; C.S., s. 4115; 1961, c. 749, s. 6; 1971, c. 528, s. 23; 1989, c. 11, s. 2; 1997-310, s. 3; 2011-344, s. 7; 2012-71, s. 2(b); 2023-120, s. 1.2.)