

§ 30-48. Right of surviving community-property spouse.

(a) The surviving community-property spouse of a decedent may assert a claim for relief with respect to a right under this Article in accordance with the following:

- (1) With respect to a claim for relief asserting a right in or to property, the surviving community-property spouse must do either of the following:
 - a. Within one year of the decedent's date of death, commence a civil action in superior court against an heir, devisee, or nonprobate transferee that is in possession of the property.
 - b. Within six months after the issuance of letters testamentary or letters of administration in connection with the decedent's testate or intestate proceeding, file a petition with the clerk of superior court or commence a civil action in superior court in the county in which the primary administration of the decedent's estate lies. A petition with the clerk of superior court shall be filed as an estate proceeding, and the proceeding shall be conducted in accordance with the procedures of Article 2 of Chapter 28A of the General Statutes.
- (2) With respect to a claim for relief other than a claim under subdivision (a)(1) of this section, the surviving community-property spouse must do either of the following:
 - a. If a personal representative of the decedent's estate is not appointed, commence a civil action in superior court within one year of the decedent's date of death.
 - b. Satisfy the procedural requirements of sub-subdivision (a)(1)b. of this section.
- (3) The incapacity of the surviving spouse does not toll the time for commencing an action or filing a petition as provided in this section.

(b) Unless a timely demand is made under sub-subdivision (a)(1)b. or (a)(2)b. of this section, the personal representative may distribute the assets of the decedent's estate without personal liability for a community-property spouse's claim under this Article. (2025-25, s. 51.)