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## **§ 64.2-302. (Effective until October 1, 2019) When and how elective share may be claimed by surviving spouse**

A. A surviving spouse may claim an elective share regardless of whether (i) any provision for the surviving spouse is made in the decedent's will or (ii) the decedent dies intestate.

B. The surviving spouse of a decedent who dies domiciled in the Commonwealth may claim an elective share in the decedent's augmented estate within six months from the later of (i) the time of the admission of the decedent's will to probate or (ii) the qualification of an administrator on the decedent's intestate estate. The claim to an elective share shall be made either in person before the court having jurisdiction over administration of the decedent's estate, or by a writing recorded in the court or the clerk's office thereof, upon such acknowledgment or proof as would authorize a writing to be admitted to record under Chapter 6 (§ [55-106](#) et seq.) of Title 55.

C. The right, if any, of the surviving spouse of a decedent who dies domiciled outside of the Commonwealth to take an elective share based upon the value of property in the Commonwealth is governed by the law of the decedent's domicile at death.

Code 1950, § 64-13; 1968, c. 656, § 64.1-13; 1990, c. 831; 1995, c. [211](#); 2012, c. [614](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

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