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SENATE BILL 435

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Cisco McSorley

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 or, if there is no will, who are intestate heirs are
entitled jointly to the same value. If encumbered chattels

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1 are selected and the value in excess of security interests
2 plus that of other exempt property is less than fifteen
3 thousand dollars (\$15,000) or if there is not fifteen thousand
4 dollars (\$15,000) worth of exempt property in the estate, the
5 spouse or children are entitled to other assets of the estate,
6 if any, to the extent necessary to make up the fifteen
7 thousand dollar (\$15,000) value. Rights to specific property
8 for the family allowance and assets needed to make up a
9 deficiency in the property have priority over all claims
10 against the estate, but the right to any assets to make up a
11 deficiency of exempt property abates as necessary to permit
12 earlier payment of the family allowance. These rights are in
13 addition to any benefit or share passing to the surviving
14 spouse or children by intestate succession or by the
15 decedent's will, unless otherwise provided by the decedent in
16 the will or other governing instrument. "

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3 SB 435/a

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6 February 17, 1999

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8 Mr. President:

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10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 SENATE BILL 435

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14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

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18 1. On page 1, line 24, before "or" insert ", who are
19 entitled to a share of the estate pursuant to Section 45-2-302
20 NMSA 1978".

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23 Respectfully submitted,

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FIRST SESSI ON, 1999

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Page 4

Ci sco McSorley, Vi ce Chair man

Adopted _____ Not

Adopted _____

(Chi ef Clerk)

(Chi ef Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: None

Excused: Sanchez, Stockard, Tsosie

Absent: None

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 8, 1999
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8 Mr. Speaker:
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10 Your JUDICIARY COMMITTEE, to whom has been referred
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12 SENATE BILL 435, as amended
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14 has had it under consideration and reports same with
15 recommendation that it DO PASS.

16 Respectfully submitted,
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21 R. David Pederson, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/SB 435 aa

Page 7

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Luna, Thompson, Sanchez

Absent: None

J: \99BillSWP\S0435

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