Stricken language would be deleted from and underlined language would be added to present law. Act 924 of the Regular Session

1	State of Arkansas	As Engrossed: H4/14/21	
2	93rd General Assembly	A Bill	
3	Regular Session, 2021		HOUSE BILL 1829
4			
5	By: Representative Clowney	y	
6			
7		For An Act To Be Entitled	
8	AN ACT TO	O AMEND THE LAW CONCERNING POSTHUMOUSL	Υ
9	CONCEIVE	CHILDREN AS IT RELATES TO INTESTATE	
10	SUCCESSIO	ON; AND FOR OTHER PURPOSES.	
11			
12			
13		Subtitle	
14	TO .	AMEND THE LAW CONCERNING POSTHUMOUSLY	
15	CON	CEIVED CHILDREN AS IT RELATES TO	
16	INT	ESTATE SUCCESSION.	
17			
18			
19	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:		
20			
21	SECTION 1. Ark	kansas Code § 28-9-221 is amended to r	ead as follows:
22	28-9-221. Child conceived after death of parent.		
23	(a) Notwithsta	anding the provisions of any law to th	e contrary, a child
24	conceived after the	death of a decedent who specifically a	uthorized the
25	decedent's surviving	spouse, in a writing that is either n	otarized or
26	witnessed by a licens	sed physician or a person acting under	the supervision of
27	a licensed physician	, to use the decedent's gametes after	the decedent's
28	death shall be deemed	d the child of the decedent with the r	ight to inherit
29	from the decedent if	the child is conceived within twelve	(12) months
30	following the death o	of the decedent and born within ninete	en (19) months
31	following the death of the decedent.		
32	(b) This section is retroactive to December 1, 2009, solely for the		
33	purpose of establish	ing a posthumous child's entitlement t	o Social Security
34	benefits under the fo	ederal Social Security Act, 42 U.S.C.	§ 402(d), deriving
35	from the decedent.		

36

04-14-2021 10:53:09 JNL238

As Engrossed: H4/14/21 HB1829

1	(a) A child of a decedent who is conceived and born after the death of		
2	the decedent shall be deemed the legitimate child of the decedent for the		
3	purposes of intestate succession if:		
4	(1) Either of the following apply:		
5	(A) The decedent consented in a record to the use of his		
6	or her genetic material to posthumously conceive a child by assisted		
7	reproduction; or		
8	(B) The intent of the decedent to conceive a child by		
9	assisted reproduction after the death of the decedent is established by clear		
10	and convincing evidence; and		
11	(2) The embryo of the posthumously conceived child is in utero		
12	no later than twenty-four (24) months after the death of the decedent.		
13	(b)(1) Within six (6) months of the death of a decedent, a person		
14	designated by the decedent to control the decedent's genetic material shall		
15	provide written notice advising the personal representative with the		
16	authority to control the distribution of the decedent's estate of the		
17	availability of the decedent's genetic material for possible use.		
18	(2) Failure to provide the notice required under subdivision		
19	(b)(1) of this section in a timely manner shall absolve a personal		
20	representative with the authority to control the distribution of the		
21	decedent's estate from liability for distributing the decedent's estate as		
22	otherwise authorized by law after the six-month period to provide the notice		
23	<u>lapses.</u>		
24	(3) If a personal representative with the authority to control		
25	the distribution of the decedent's estate receives the notice required under		
26	subdivision (b)(1) of this section before the six-month period to provide the		
27	notice lapses, the fiduciary shall retain any remaining assets of the		
28	decedent's estate to which a posthumous child of the decedent may have a		
29	valid claim until three (3) years after the death of the decedent.		
30	(c) Unless otherwise agreed by a decedent and his or her spouse, the		
31	consent of the decedent to posthumous conception with his or her spouse shall		
32	be automatically revoked upon the divorce of the decedent and his or her		
33	spouse.		
34			
35			
36	APPROVED: 4/26/21		