
By: Delegate Finifter

Introduced and read first time: February 2, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Elective Shares of Decedent's Estate**

3 FOR the purpose of altering to "elective share" the name of the share of a decedent's net
4 estate that the surviving spouse has the right to elect under certain circumstances;
5 making stylistic changes; and generally relating to elective shares of a decedent's
6 estate.

7 BY repealing and reenacting, with amendments,
8 Article - Estates and Trusts
9 Section 3-203(a), 3-207, and 3-208
10 Annotated Code of Maryland
11 (1991 Replacement Volume and 1995 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Estates and Trusts**

15 3-203.

16 (a) Instead of property left to [him] THE SURVIVING SPOUSE by will, the
17 surviving spouse may elect to take a one-third share of the net estate if there is also a
18 surviving issue, or a one-half share of the net estate if there is no surviving issue.

19 3-207.

20 (a) An election to take an [intestate] ELECTIVE share of an estate of a decedent
21 shall be in writing and signed by the surviving spouse or other person entitled to make the
22 election pursuant to § 3-204, and shall be filed in the court in which the personal
23 representative of the decedent was appointed.

24 (b) The election may be in this form.

25 I, A. B., surviving spouse of C. D., late of the County (City) of, renounce
26 all provisions in the will of C. D. and elect to take my [intestate] ELECTIVE share of
27 [his] C.D.'S estate.

28
29 (Signature)

1 3-208.

2 (a) Upon the election of the surviving spouse to take [his intestate] AN
3 ELECTIVE share of the property of the decedent, all property or other benefits which
4 would have passed to the surviving spouse under the will shall be treated as if the
5 surviving spouse had died before the execution of the will. The surviving spouse and a
6 person claiming through [him] THE SURVIVING SPOUSE may not receive property under
7 the will.

8 (b) If there is an election to take an [intestate] ELECTIVE share, contribution to
9 the payment of it shall be prorated among all legatees. Instead of contributing an interest
10 in specific property to the [intestate] ELECTIVE share, a legatee may pay the surviving
11 spouse in cash, or other property acceptable to the spouse, an amount equal to the fair
12 market value of the interest in specific property on the date the election to take an
13 [intestate] ELECTIVE share was made by the spouse. Unless specifically provided in the
14 will, a legatee is not entitled to sequestration or compensation from another legatee, or
15 from another part of the estate of the decedent, except that an interest renounced by the
16 surviving spouse and not included in the share of the net estate received by the surviving
17 spouse under this section may be subject to sequestration for the benefit of individuals
18 who are the natural objects of the bounty of the decedent, in order to avoid a substantial
19 distortion of the intended dispositions of the testator.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 1996.