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By: **Delegate Finifter**

Introduced and read first time: February 20, 1998

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Corrections - Elective Share for Surviving Spouse -**  
3 **Personal Representatives**

4 FOR the purpose of substituting the term "elective share" of a surviving spouse for  
5 the term "intestate share" of a surviving spouse in certain provisions of law;  
6 substituting the term "personal representatives" for the term "executors" in  
7 certain provisions of law; making stylistic changes; providing for the effect of  
8 this Act; and generally relating to making technical corrections concerning  
9 personal representatives and an elective share of a surviving spouse.

10 BY repealing and reenacting, with amendments,  
11 Article - Estates and Trusts  
12 Section 3-207, 3-208, 5-104(1), and 5-106(a)  
13 Annotated Code of Maryland  
14 (1991 Replacement Volume and 1997 Supplement)

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

17 **Article - Estates and Trusts**

18 3-207.

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

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

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

27 .....

(Signature)

2 3-208.

3 (a) (1) Upon the election of the surviving spouse to take [his intestate] THE  
4 ELECTIVE share of the property of the decedent, all property or other benefits which  
5 would have passed to the surviving spouse under the will shall be treated as if the  
6 surviving spouse had died before the execution of the will.

7 (2) The surviving spouse and a person claiming through [him] THE  
8 SURVIVING SPOUSE may not receive property under the will.

9 (b) (1) If there is an election to take an [intestate] ELECTIVE share,  
10 contribution to the payment of it shall be prorated among all legatees.

11 (2) Instead of contributing an interest in specific property to the  
12 [intestate] ELECTIVE share, a legatee may pay the surviving spouse in cash, or other  
13 property acceptable to the spouse, an amount equal to the fair market value of the  
14 interest in specific property on the date the election to take an [intestate] ELECTIVE  
15 share was made by the spouse.

16 (3) Unless specifically provided in the will, a legatee is not entitled to  
17 sequestration or compensation from another legatee, or from another part of the  
18 estate of the decedent, except that an interest renounced by the surviving spouse and  
19 not included in the share of the net estate received by the surviving spouse under this  
20 section may be subject to sequestration for the benefit of individuals who are the  
21 natural objects of the bounty of the decedent, in order to avoid a substantial distortion  
22 of the intended dispositions of the testator.

23 5-104.

24 In granting letters in administrative or judicial probate, or in appointing a  
25 successor personal representative, or a special administrator as provided in Subtitle 4  
26 of Title 6, the court and register shall observe the following order of priority, with any  
27 person in any one of the following paragraphs considered as a class:

28 (1) The [executors] PERSONAL REPRESENTATIVES named in a will  
29 admitted to probate;

30 5-106.

31 (a) When there are several eligible persons in a class entitled to letters, the  
32 court or register may grant letters to one of them, or to more than one of them, as  
33 necessary or convenient for the proper administration of the estate. However, subject  
34 to § 5-105 OF THIS SUBTITLE, all [executors] PERSONAL REPRESENTATIVES named  
35 in the will are entitled to probate.

36 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this Act  
37 are intended solely to correct technical errors in the law and that there is no intent to

1 revive or otherwise affect law that is the subject of other acts, whether those acts were  
2 signed by the Governor prior to or after the signing of this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 1998.