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Joint Committee on the Chesapeake and
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The Senate of Maryland ANNAPOLIS, MARYLAND 21401

SB 250 – Maryland Uniform Simultaneous Death Act

I am Senator Bryan Simonaire presenting SB 250 - *Maryland Uniform Simultaneous Death Act*.

I worked with the *Maryland Judiciary*, The *Uniform Law Commission* and our *Maryland representative*, along with the *Maryland Bar Association*.

I served on JPR for 4 years and never heard about this section of code.

This bill deals with when people effectively die simultaneously, whether instantly or within a short period of time, and how that impacts inheritance etc.

Under current law, if a married couple dies within a few hours of one another and doesn't have a will, the second individual that died is legally treated as the survivor of the first. The inheritance will go through the legal process to the second individual.

Then when the second individual dies shortly after, the legal process must go through the same process for their heirs.

Thus, creating double work on the families for a situation where basically the two individuals died simultaneously.

My constituent will share how this recently happened to their family's friends.

So, this bill works to remedy that unnecessary duplicative process.

Fortunately, I didn't have to come up with a new set of procedures on my own.

Back in the 1940s the *Uniform Simultaneous Death Act* was created and nearly every state enacted it.

Since then, there have been a few updates in the 1990s and this bill updates Maryland's laws to reflect those changes.

It primarily deals with people dying within a short period of time and how to handle it efficiently.

It's called the 120-hour rule and treats individuals to have died within 120 hours of each other without a will, as dying simultaneously.

This is widely accepted, and it will be a tremendous improvement to our laws and help our constituents.

Sen. West is an expert in Estates law and may leave any difficult nuanced questions to him or the Uniform Law Commissioners.

For all these reasons, I ask for your favorable consideration.

Simultaneous Death Act Summary



The original Uniform Simultaneous Death Act (**USDA**) was promulgated in 1940 by the Uniform Law Commissioners. The 1991 version comes from work completed on the Uniform Probate Code Article II in 1990 and the Uniform Act on Intestacy, Wills, and Donative Transfers in 1991. The Uniform Simultaneous Death Act is incorporated into both of these Acts. Some technical amendments were made in 1993, but those involved no substantive change. Despite its incorporation into the Uniform Probate Code, the Act can be adopted as a separate, free-standing Act, however, as the **USDA (1993)**.

If persons who are each other's heirs in intestacy, devisees in mutual wills, or another nonprobate transfer arrangement that involves reciprocal interests, die or are killed close together in time, the question is inevitably raised, for the purposes of determining where property goes, as to who died first? The classic case involves the husband and wife who are killed in the same automobile accident. The question is raised because the law generally puts property from the first to die into the estate of the person who dies second. The unpalatable result of that determination is the fact that the property of the first to die passes through two estates (and possibly two probates) - one for the first to die and one for the second to die. Two probates are inevitably worse than one, considering the costs and delays inherent in that process. Better to transfer property directly to those who truly survive a deceased individual.

Since 1940, the **USDA** has been available to the states to provide a rule of law that reaches the desired result. **USDA (1993)** is the up-to-date version.

The fundamental rule is simple. If it cannot be proved that one individual survived another by a time period of 120 hours, by law that individual predeceases the other. The effect of the rule is to make each individual predecease the other. If a husband and wife are killed together, for example, in that automobile accident, each predeceases the other by law. No property passes between them at death. Their other heirs, devisees and/or beneficiaries will take their property, however that transfer is arranged.

USDA (1993) provides rules for passage of joint property, for when death legally occurs, and for exceptions to the 120-hour rule. It is possible in wills and other instruments to waive or vary the rule. **USDA (1993)**, also, provides for a presumption of death after five years if a person is missing or a body cannot be found, as well.