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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1871 Session of  
2019

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INTRODUCED BY LONGIETTI, YOUNGBLOOD, MILLARD, DeLUCA, CIRESI,  
HILL-EVANS, HOWARD AND McCLINTON, SEPTEMBER 25, 2019

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REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 25, 2019

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AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the  
2 Pennsylvania Consolidated Statutes, in elective share of  
3 surviving spouse, further providing for determination of  
4 effect of election and enforcement.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 2211(b) of Title 20 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a paragraph to read:  
9 § 2211. Determination of effect of election; enforcement.

10 \* \* \*

11 (b) Effect of election.--In exercising its powers under  
12 subsection (a), the court shall honor any provision in the  
13 decedent's will or other conveyance concerning interests of  
14 those other than his spouse in the event of an election. Subject  
15 to any such provision, the court shall be guided by the  
16 following rules but shall have the power to supplement or to  
17 depart from them if, in its opinion, a different determination  
18 of the rights of the spouse and others would more nearly carry  
19 out what would have been the particular decedent's intention had

1 he known of the election:

2 \* \* \*

3 (5) Share to surviving spouse.--Notwithstanding any  
4 other provision of this chapter to the contrary, the  
5 following shall apply if a surviving spouse elects to take an  
6 elective share and it is subsequently determined that the  
7 value of the elective share is not equal to or greater than  
8 the value of the share of the estate that the surviving  
9 spouse would receive in the absence of the election:

10 (i) The surviving spouse shall automatically receive  
11 the value of that larger share of the estate.

12 (ii) The court shall, to the extent practicable,  
13 require:

14 (A) any payments or distributions of property  
15 subject to the election to be returned or otherwise  
16 accounted for in the redistribution of the assets of  
17 the estate; and

18 (B) contributions from beneficiaries as a result  
19 of the increased share of the estate to be paid or  
20 distributed to the surviving spouse.

21 (iii) This paragraph shall not apply if the  
22 surviving spouse knowingly opts to retain the elective  
23 share even though the value of the elective share is less  
24 than the value of the share of the estate that the  
25 surviving spouse would receive in the absence of the  
26 election.

27 \* \* \*

28 Section 2. This act shall take effect in 60 days.