

HOUSE BILL 2358

By Garrett

AN ACT to amend Tennessee Code Annotated, Title 30;
Title 31; Title 32; Title 34; Title 35 and Title 67,
relative to estates.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 31-4-105, is amended by deleting the section and substituting:

(a)

(1) If the surviving spouse dies before the time for electing the elective share expires, and the surviving spouse has not waived in writing the right to elect against the deceased spouse's estate pursuant to §§ 30-2-101, 30-2-102, and 31-4-101, then the personal representative of the deceased surviving spouse may, in like manner and every respect, elect against the deceased spouse's estate on behalf of the deceased surviving spouse's heirs or the beneficiaries of the will of the deceased surviving spouse.

(2) The personal representative of the deceased surviving spouse may, in like manner and every respect, withdraw an election for an elective share made by the surviving spouse or the personal representative of the deceased surviving spouse's estate at any time before the entry of a final judgment on the surviving spouse's election.

(b) The right of election against the estate of the deceased spouse is not an asset of the estate of the surviving spouse.

(c) The personal representative of the deceased surviving spouse cannot be required to make the election against the estate of the deceased spouse by any person or entity with an interest in the estate of the deceased surviving spouse.

(d) The personal representative of the deceased surviving spouse is not liable to any person or entity with an interest in the estate of the deceased surviving spouse for loss or damages resulting from the personal representative's discretion to exercise or not exercise the deceased surviving spouse's election rights against the deceased spouse's estate.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.