



NEW JERSEY STATE BAR ASSOCIATION

The New Jersey State Bar Association Supports S2991 (Singleton)/A2351 (Mukherji)

The New Jersey State Bar Association is thankful to the sponsors of S2991/A2351, which permits a court to effectuate equitable distribution when a complaint for divorce or dissolution of a civil union has been filed and either party has died prior to a final judgement. This is important legislation that resolves the issue when a surviving spouse is excluded from receiving an elective share under estate laws and is also precluded from receiving a share of equitable distribution in a divorce proceeding when a spouse dies prior to a final judgment of divorce.

This bill codifies the holding in In the Matter of the Estate of Arthur Brown, Deceased, 448 N.J. Super. 252 (App. Div. 2017), cert. den. 230 N.J. 393. The Appellate Division held that despite the presence of a cause of action of divorce, the surviving spouse was not allowed to disclaim an elective share. This holding resolves an important issue regarding these matters where a spouse dies prior to a final judgment of a divorce and the surviving spouse is left without any entitlement to the deceased spouse's estate. This legislation will simply provide a remedy for the division of the deceased spouse's property.

The NJSBA worked collaboratively with stakeholders including elder law attorneys, trust and estate attorneys, and the New Jersey Law Revision Commission to address this issue. We are appreciative of the collective efforts to create legislation that will simply provide a remedy for the division of the deceased spouse's property with uniformity.

We urge you to vote yes on this bill.