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## DEBORAH J. MANUS

NUTTER, McCLENNEN & FISH

As if her responsibilities as co-managing partner of Boston’s Nutter, McClennen & Fish aren’t enough, Deborah J. Manus also has been leading an ad hoc committee that has studied and proposed a new spousal elective share statute for Massachusetts, which was endorsed in 2013 by the Women’s, Boston and Massachusetts bar associations.

That might sound like a mundane assignment and accomplishment — until you consider the history.

The state’s spousal elective share, which spells out the rules for how a disinherited surviving spouse can elect against a decedent spouse’s will, is widely considered to be too small, too full of loopholes, and otherwise inadequate and unfair. The Supreme Judicial Court has been urging lawmakers to fix the statute for three decades, but consensus on the emotionally charged issue has proved elusive.

When progress was made in the late-1990s but the three bar associations couldn’t agree on specifics, Rep. John Rogers of Norwood,

then-chairman of the Joint Committee on the Judiciary, essentially told lawyers to leave and not come back until they could agree on something.

Manus and her fellow committee members — Colin M. Korzec, Elizabeth Hancock Sillin and Kathleen M. “Kitty” O’Connor — spent *eight years* crafting the proposal that has now been endorsed by the state’s most influential bar associations.

There has been controversy — some lawyers in specialty areas such as elder law, trusts and estates, and real estate have misgivings, and the MBA’s endorsement was subjected to a (failed) vote to rescind support — but the fact remains that Manus has led the bar to as close as it’s been in decades to fixing the flawed statute.

Manus says she feels a “moral obligation” to iron out the kinks and bring the proposal across the finish line in the Legislature.

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**Q.** What drew you to this issue?

**A.** Frankly, the BBA was looking for someone to take it on. But what inspires you to sort of engage in the

challenge is that it actually does matter to clients. It’s important to have clarity in the law, and the existing law — in addition to not making a lot of sense — is ambiguous. ... Massachusetts has long been a leader, frankly, on trust and estate issues, and I think the elective share has fallen through the cracks. This is one area where we can’t claim to be a thought leader. That doesn’t really do the bar or the state court system justice. We tend to be thought leaders on these types of issues.

**Q.** What is it about this issue that makes it so tough that it took eight years to form a consensus?

**A.** It’s a hard issue. People get all wound up about it. Part of it is people assume things about what the law is about. A lot of people think it’s a women’s issue, or some people think it’s about children of a first marriage. It’s not really about any of those things. It’s about what rights does marriage create? And [the proposal is] about making it so [surviving spouses] don’t end up in a worse situation than people who got divorced. From a public policy per-

spective, that seems to make sense. ... In truth, it’s a difficult issue for me personally because it is such a charged issue. My style is consensus-based, so it may take longer to get there.

**Q.** How did you keep your team committed for such an extended period of time?

**A.** We gave ourselves homework, and we met once a month. It really was a very disciplined discussion group.

**Q.** Does the proposal have legs in the Legislature?

**A.** The fact that we’ve got agreement in principle and we’re all committed to working on the details is promising. ... I’m confident that this little bill is going to get there. If you’d asked me eight years ago, I probably would have said there’s no hope. The fact it’s come as far as it’s come, given the background, is a good thing. ... A lot of people have been focused on this for a lot of years, and undoubtedly it’s going to be a team that pushes it over the finish line when we get there.

— BRANDON GEE