

§1-106. Evidence as to death or status

In proceedings under this Code, the rules of evidence in courts of general jurisdiction, including any relating to simultaneous deaths, are applicable unless specifically displaced by the Code or by rules adopted under section 1-304. In addition, notwithstanding Title 22, section 2707, the following provisions relating to determination of death and status are applicable. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Application of Uniform Determination of Death Act. Death occurs when an individual is determined to be dead under the Uniform Determination of Death Act. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Death certificate as prima facie evidence. A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie evidence of the fact, place, date and time of death and the identity of the decedent. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Government record as prima facie evidence. A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, asserting that a person is missing, detained, dead or alive is prima facie evidence of the status and of the dates, circumstances and places disclosed by the record or report. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Absence of record; clear and convincing evidence required. In the absence of prima facie evidence of death under subsection 2 or 3, the fact of death may be established by clear and convincing evidence, including circumstantial evidence. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Presumption of death after 5-year absence. An individual whose death is not established under subsections 1 to 4, who is absent for a continuous period of 5 years, during which the individual has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead. Death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Document as evidence of time of death. In the absence of evidence disputing the time of death stated on a document described in subsection 2 or 3, a document described in subsection 2 or 3 that states a time of death 120 hours or more after the time of death of another individual, however the time of death of the other individual is determined, establishes by clear and convincing evidence that the individual survived the other individual by 120 hours. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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