

(PRE-FILED)

By: **Senator Giannetti**
Requested: November 15, 2004
Introduced and read first time: January 12, 2005
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Estates - Photographic Copy of Will - Administrative Probate**

3 FOR the purpose of requiring a register of wills to assume due execution of a will for
4 the purpose of admitting the will to administrative probate if a photographic
5 copy of the will is presented under certain circumstances; providing for the
6 application of this Act; and generally relating to admission of a photographic
7 copy of a will to administrative probate under certain circumstances.

8 BY repealing and reenacting, with amendments,
9 Article - Estates and Trusts
10 Section 5-301 and 5-303
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2004 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Estates and Trusts**

16 5-301.

17 (A) Administrative probate is a proceeding instituted by the filing of a petition
18 for probate by an interested person before the register for the probate of a will or a
19 determination of the intestacy of the decedent, and for the appointment of a personal
20 representative.

21 (B) Subject to the provisions of § 5-402 OF THIS TITLE, the proceeding may be
22 conducted without prior notice, and is final, to the extent provided in § 5-304 OF THIS
23 SUBTITLE, subject to the right of an interested person to require judicial probate as
24 provided in Subtitle 4 of this title.

1 5-303.

2 The register shall assume due execution of the will:

3 (1) If the will appears to have been duly executed and contains a recital
4 by attesting witnesses of facts constituting due execution; [or]

5 (2) If it does not so appear, or if the will does not contain that recital,
6 then upon the verified statement of a person with personal knowledge of the
7 circumstances of execution whether or not the person was in fact an attesting witness;
8 OR

9 (3) IF A PHOTOGRAPHIC COPY OF A WILL IS PRESENTED AND:

10 (I) THE PHOTOGRAPHIC COPY OF THE WILL APPEARS TO BEAR THE
11 SIGNATURES OF THE TESTATOR AND ATTESTING WITNESSES AND TO HAVE BEEN
12 DULY EXECUTED AND CONTAINS A RECITAL BY ATTESTING WITNESSES OF FACTS
13 CONSTITUTING DUE EXECUTION; AND

14 (II) EACH HEIR AT LAW AND INTERESTED PERSON NAMED IN THE
15 PHOTOGRAPHIC COPY OF THE WILL ACKNOWLEDGES:

16 1. THE ORIGINAL WILL COULD NOT BE LOCATED AFTER A
17 DILIGENT SEARCH; AND

18 2. CONSENT TO ADMISSION OF THE PHOTOGRAPHIC COPY
19 OF THE WILL TO ADMINISTRATIVE PROBATE AS IF THE PHOTOGRAPHIC COPY OF THE
20 WILL IS THE ORIGINAL WILL.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
22 construed to apply only prospectively and may not be applied or interpreted to have
23 any effect on or application to the estate of a decedent who dies before the effective
24 date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
26 effect October 1, 2005.