

# SENATE BILL 136

N2

9lr0427

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By: **Senator Glassman**

Introduced and read first time: January 19, 2009

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Retention of Deposited Wills by Register of Wills**

3 FOR the purpose of repealing the authorization for a register of wills, during the  
4 lifetime of the testator, to deliver a will that has been deposited with the  
5 register to a testator or a person authorized in writing by the testator to receive  
6 the will; prohibiting a register of wills from delivering a deposited will under  
7 certain circumstances; requiring a register of wills to open the most recently  
8 deposited will of the testator after being informed of the death of the testator  
9 and notify the personal representative named in that will and any other person  
10 the register considers appropriate that the will is on deposit with the register;  
11 clarifying language; making stylistic changes; and generally relating to  
12 registers of wills.

13 BY repealing and reenacting, with amendments,  
14 Article – Estates and Trusts  
15 Section 4–201 and 4–202  
16 Annotated Code of Maryland  
17 (2001 Replacement Volume and 2008 Supplement)

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

20 **Article – Estates and Trusts**

21 4–201.

22 (a) (1) A will may be deposited by the testator, or by [his] **THE** agent **OF**  
23 **THE TESTATOR**, for safekeeping with the register of the county where the testator  
24 resides.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) The register shall give a receipt for [it] **A DEPOSITED WILL**,  
2 [upon] **ON** the payment of the required fee.

3           (b) (1) [The] **TO BE DEPOSITED, A** will shall be enclosed in a sealed  
4 wrapper, which shall have endorsed on it “Will of,” followed by the name of the  
5 testator, [his] **THE** address **OF THE TESTATOR**, and [his] **THE** Social Security  
6 number **OF THE TESTATOR**, if available.

7           (2) The register shall endorse on [it] **A DEPOSITED WILL** the day  
8 when and the person from whom [it] **THE DEPOSITED WILL** was received.

9           (3) [The] **A DEPOSITED** will is not to be delivered or opened except as  
10 provided in this subtitle.

11           (c) During the lifetime of the testator **A REGISTER MAY NOT DELIVER** a  
12 deposited will [may be delivered only to him, or to a person authorized by him in  
13 writing to receive it] **TO ANY PERSON**.

14           (d) (1) The **MOST RECENTLY DEPOSITED** will **OF THE TESTATOR** shall  
15 be opened by the register after being informed of the death of the testator.

16           (2) The register shall notify the personal representative named in the  
17 **MOST RECENTLY DEPOSITED** will, and any other person the register considers  
18 appropriate, that the will is on deposit with the register.

19           (3) [The will shall be retained by the] **A** register [as] **SHALL RETAIN**  
20 **ON FILE** a deposited will until offered for probate.

21           (4) The register shall keep a photographic copy of a will transmitted  
22 elsewhere for probate.

23 4-202.

24           (A) After the death of a testator, a person having custody of [his will] **THE**  
25 **WILL OF THE TESTATOR** shall deliver the instrument to the register for the county in  
26 which administration should be had [pursuant to] **IN ACCORDANCE WITH § 5-103 OF**  
27 **THIS ARTICLE**.

28           (B) The custodian may inform an interested person of the contents of the will.

29           (C) A custodian who willfully fails or refuses to deliver a will to the register  
30 after being informed of the death of the testator is liable to a person aggrieved for the  
31 damages sustained by reason of the failure or refusal.

32           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2009.