

SENATE BILL 154

N2

9lr1152

By: **Senator Frosh**

Introduced and read first time: January 19, 2009

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: February 24, 2009

CHAPTER _____

1 AN ACT concerning

2 **Estates and Trusts – Admission of Copy of Executed Will**

3 FOR the purpose of authorizing an interested person to file a petition for admission of
4 a copy of an executed will to probate under certain circumstances; providing
5 that notice to interested persons of the filing of the petition is not required;
6 establishing the form of a certain consent; authorizing an orphans' court to
7 order administrative or judicial probate of a copy of a will; and generally
8 relating to admission of a copy of an executed will to probate.

9 BY adding to

10 Article – Estates and Trusts

11 Section 5–801 through 5–804 to be under the new subtitle “Subtitle 8.
12 Admission of Copy of Executed Will”

13 Annotated Code of Maryland

14 (2001 Replacement Volume and 2008 Supplement)

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

17 **Article – Estates and Trusts**

18 **SUBTITLE 8. ADMISSION OF COPY OF EXECUTED WILL.**

19 **5–801.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (A) AN INTERESTED PERSON MAY FILE A PETITION FOR THE ADMISSION
2 OF A COPY OF AN EXECUTED WILL IN ACCORDANCE WITH THIS SUBTITLE.

3 (B) NOTICE TO INTERESTED PERSONS OF THE FILING OF THE PETITION
4 IS NOT REQUIRED.

5 **5-802.**

6 A PETITION FOR ADMISSION OF A COPY OF A WILL MAY BE FILED WITH
7 THE COURT AT ANY TIME BEFORE ADMINISTRATIVE OR JUDICIAL PROBATE IF:

8 (1) THE ORIGINAL EXECUTED WILL IS ALLEGED TO BE LOST OR
9 DESTROYED;

10 (2) A DUPLICATE REPRODUCTION OF THE ORIGINAL EXECUTED
11 WILL, EVIDENCING A COPY OF THE ORIGINAL SIGNATURES OF THE DECEDENT
12 AND THE WITNESSES, IS OFFERED FOR ADMISSION; AND

13 (3) ALL THE HEIRS AT LAW AND LEGATEES NAMED IN THE
14 OFFERED WILL EXECUTE A CONSENT IN THE MANNER SET FORTH IN § 5-803 OF
15 THIS SUBTITLE.

16 **5-803.**

17 THE CONSENT REQUIRED UNDER § 5-802 OF THIS SUBTITLE SHALL BE IN
18 SUBSTANTIALLY THE FOLLOWING FORM:

19 **CONSENT TO PROBATE OF COPY OF EXECUTED**
20 **LAST WILL AND TESTAMENT**

21 THE UNDERSIGNED _____ AND _____,
22 BEING ALL THE HEIRS AT LAW OF THE DECEDENT AND ALL THE LEGATEES
23 NAMED IN THE WILL EXECUTED BY THE DECEDENT ON _____, HEREBY
24 CONSENT TO THE PROBATE OF A COPY OF THAT EXECUTED WILL, IT HAVING
25 BEEN DETERMINED, AFTER AN EXTENSIVE SEARCH OF THE DECEDENT'S
26 PERSONAL RECORDS, THAT AN ORIGINAL OF THE WILL CANNOT BE LOCATED.
27 BY SIGNING THIS CONSENT EACH OF THE UNDERSIGNED AFFIRMS THAT IT IS
28 HIS OR HER BELIEF THAT THE WILL EXECUTED BY THE DECEDENT ON _____,
29 IS THE LAST VALID WILL EXECUTED BY THE DECEDENT AND WAS NOT REVOKED
30 AND THAT THE COPY OF THE WILL, AS SUBMITTED WITH THE PETITION FOR ITS
31 ADMISSION, REPRESENTS A TRUE AND CORRECT COPY OF THE WILL.

1 **WE AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE FACTS SET FORTH**
2 **IN THIS CONSENT ARE TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE,**
3 **INFORMATION, AND BELIEF.**

4 **DATE SIGNATURE PRINT NAME AND RELATIONSHIP**

5 _____

6 _____

7 _____

8 **ATTORNEY**

9 _____

10 _____

11 **ADDRESS**

12 _____

13 **TELEPHONE NUMBER**

14 **5-804.**

15 **THE COURT MAY:**

16 **(1) WITHOUT A HEARING, ISSUE AN ORDER AUTHORIZING:**

17 **(I) THE PETITIONER TO PROCEED WITH ADMINISTRATIVE**
18 **PROBATE IN ACCORDANCE WITH SUBTITLE 3 OF THIS TITLE; AND**

19 **(II) THE REGISTER TO ACCEPT THE COPY OF THE WILL FOR**
20 **ADMINISTRATIVE PROBATE; OR**

21 **(2) REQUIRE THE FILING OF JUDICIAL PROBATE IN ACCORDANCE**
22 **WITH SUBTITLE 4 OF THIS TITLE.**

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

27 **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act shall take effect
28 October 1, 2009.