

SENATE BILL 340

N2

0lr1559
CF HB 448

By: ~~Senator Frosh~~ **Senators Frosh and Forehand**

Introduced and read first time: January 28, 2010

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2010

CHAPTER _____

1 AN ACT concerning

2 **Estates and Trusts – Maryland International Wills Act**

3 FOR the purpose of providing for the execution of an international will; establishing
4 certain requirements for an international will; authorizing certain persons to
5 supervise the execution of international wills; providing for a certain certificate;
6 providing for the revocation of an international will; providing for the
7 construction of this Act; defining certain terms; and generally relating to
8 international wills.

9 BY adding to

10 Article – Estates and Trusts

11 Section 4–601 through 4–609 to be under the new subtitle “Subtitle 6. Maryland
12 International Wills Act”

13 Annotated Code of Maryland

14 (2001 Replacement Volume and 2009 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 6. MARYLAND INTERNATIONAL WILLS ACT.**

19 **4–601.**

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) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(B) “AUTHORIZED PERSON” OR “PERSON AUTHORIZED TO ACT IN**
4 **CONNECTION WITH INTERNATIONAL WILLS” MEANS A PERSON, INCLUDING A**
5 **MEMBER OF THE DIPLOMATIC AND CONSULAR SERVICE OF THE UNITED STATES**
6 **DESIGNATED BY FOREIGN SERVICE REGULATIONS, WHO, UNDER § 4-609 OF**
7 **THIS SUBTITLE OR BY THE LAWS OF THE UNITED STATES, IS EMPOWERED TO**
8 **SUPERVISE THE EXECUTION OF INTERNATIONAL WILLS.**

9 **(C) “INTERNATIONAL WILL” MEANS A WILL EXECUTED IN CONFORMITY**
10 **WITH §§ 4-602 THROUGH 4-605 OF THIS SUBTITLE.**

11 **4-602.**

12 **(A) A WILL IS VALID AS REGARDS FORM, IRRESPECTIVE PARTICULARLY**
13 **OF THE PLACE WHERE THE WILL HAS BEEN MADE, THE LOCATION OF THE**
14 **ASSETS, AND THE NATIONALITY, DOMICILE, OR RESIDENCE OF THE TESTATOR,**
15 **IF THE WILL IS MADE IN THE FORM OF AN INTERNATIONAL WILL COMPLYING**
16 **WITH THE REQUIREMENTS OF THIS SUBTITLE.**

17 **(B) THE INVALIDITY OF A WILL AS AN INTERNATIONAL WILL DOES NOT**
18 **AFFECT ITS FORMAL VALIDITY AS A WILL OF ANOTHER KIND.**

19 **(C) THIS SUBTITLE DOES NOT APPLY TO ANY FORM OF TESTAMENTARY**
20 **DISPOSITION MADE BY TWO OR MORE PERSONS IN ONE INSTRUMENT.**

21 **4-603.**

22 **(A) AN INTERNATIONAL WILL:**

23 **(1) SHALL BE MADE IN WRITING;**

24 **(2) DOES NOT NEED TO BE WRITTEN BY THE TESTATOR;**

25 **(3) MAY BE WRITTEN IN ANY LANGUAGE; AND**

26 **(4) MAY BE WRITTEN BY HAND OR BY ANY OTHER MEANS.**

27 **(B) (1) THE TESTATOR SHALL DECLARE IN THE PRESENCE OF AT**
28 **LEAST TWO WITNESSES AND A PERSON AUTHORIZED TO ACT IN CONNECTION**
29 **WITH INTERNATIONAL WILLS THAT THE DOCUMENT IS THE TESTATOR’S WILL**
30 **AND THAT THE TESTATOR KNOWS THE CONTENTS OF THE DOCUMENT.**

1 **(2) THE TESTATOR NEED NOT INFORM THE WITNESSES OR THE**
2 **AUTHORIZED PERSON OF THE CONTENTS OF THE WILL.**

3 **(C) IN THE PRESENCE OF THE WITNESSES AND OF THE AUTHORIZED**
4 **PERSON, A TESTATOR SHALL:**

5 **(1) SIGN THE WILL; OR**

6 **(2) IF THE TESTATOR HAS PREVIOUSLY SIGNED THE WILL,**
7 **ACKNOWLEDGE THE TESTATOR'S SIGNATURE.**

8 **(D) (1) IF A TESTATOR IS UNABLE TO SIGN, THE ABSENCE OF THE**
9 **TESTATOR'S SIGNATURE DOES NOT AFFECT THE VALIDITY OF THE WILL IF:**

10 **(I) THE TESTATOR INDICATES THE REASON FOR THE**
11 **TESTATOR'S INABILITY TO SIGN; AND**

12 **(II) THE AUTHORIZED PERSON MAKES NOTE ON THE WILL**
13 **OF THE REASON FOR THE TESTATOR'S INABILITY TO SIGN.**

14 **(2) IF A TESTATOR IS UNABLE TO SIGN, ANOTHER PERSON**
15 **PRESENT, INCLUDING THE AUTHORIZED PERSON OR ONE OF THE WITNESSES,**
16 **MAY SIGN THE TESTATOR'S NAME FOR THE TESTATOR IF:**

17 **(I) THE OTHER PERSON SIGNS AT THE DIRECTION OF THE**
18 **TESTATOR; AND**

19 **(II) THE AUTHORIZED PERSON MAKES NOTE ON THE WILL**
20 **OF THE OTHER PERSON SIGNING THE TESTATOR'S NAME AT THE DIRECTION OF**
21 **THE TESTATOR.**

22 **(3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, A**
23 **PERSON IS NOT REQUIRED TO SIGN THE TESTATOR'S NAME AT THE TESTATOR'S**
24 **DIRECTION.**

25 **(E) THE WITNESSES AND THE AUTHORIZED PERSON SHALL THERE AND**
26 **THEN ATTEST THE WILL BY SIGNING THEIR NAMES IN THE PRESENCE OF THE**
27 **TESTATOR.**

28 **4-604.**

29 **(A) (1) THE SIGNATURES REQUIRED UNDER § 4-603 OF THIS**
30 **SUBTITLE SHALL BE PLACED AT THE END OF THE WILL.**

1 **(2) IF THE WILL CONSISTS OF MORE THAN ONE SHEET, EACH**
2 **SHEET SHALL BE NUMBERED.**

3 **(3) IF A WILL CONSISTS OF MORE THAN ONE SHEET, EACH SHEET**
4 **SHALL BE SIGNED BY:**

5 **(I) THE TESTATOR; OR**

6 **(II) 1. IF THE TESTATOR IS UNABLE TO SIGN THE**
7 **TESTATOR'S NAME, A PERSON SIGNING AT THE DIRECTION OF THE TESTATOR;**
8 **OR**

9 **2. IF THERE IS NO PERSON SIGNING AT THE**
10 **DIRECTION OF THE TESTATOR, THE AUTHORIZED PERSON.**

11 **(B) THE DATE OF THE WILL SHALL BE:**

12 **(1) THE DATE OF THE AUTHORIZED PERSON'S SIGNATURE ON THE**
13 **WILL; AND**

14 **(2) NOTED AT THE END OF THE WILL BY THE AUTHORIZED**
15 **PERSON.**

16 **(C) (1) THE AUTHORIZED PERSON SHALL ASK THE TESTATOR**
17 **WHETHER THE TESTATOR WISHES TO MAKE A DECLARATION CONCERNING THE**
18 **SAFEKEEPING OF THE TESTATOR'S WILL.**

19 **(2) IF THE TESTATOR RESPONDS BY AN EXPRESS REQUEST FOR**
20 **THE SAFEKEEPING OF THE WILL, THE PLACE WHERE THE TESTATOR INTENDS**
21 **TO HAVE THE WILL KEPT SHALL BE INCLUDED IN THE CERTIFICATE DESCRIBED**
22 **UNDER § 4-605 OF THIS SUBTITLE.**

23 **(D) A WILL EXECUTED IN COMPLIANCE WITH § 4-603 OF THIS SUBTITLE**
24 **IS NOT INVALID SOLELY BECAUSE THE WILL DOES NOT COMPLY WITH THIS**
25 **SECTION.**

26 **4-605.**

27 **(A) AN AUTHORIZED PERSON SHALL ATTACH TO THE WILL A**
28 **CERTIFICATE TO BE SIGNED BY THE AUTHORIZED PERSON ESTABLISHING THAT**
29 **THE REQUIREMENTS FOR VALID EXECUTION OF AN INTERNATIONAL WILL HAVE**
30 **BEEN MET.**

1 (B) THE AUTHORIZED PERSON SHALL KEEP A COPY OF THE
2 CERTIFICATE AND DELIVER A COPY TO THE TESTATOR.

3 (C) A CERTIFICATE UNDER THIS SECTION SHALL BE SUBSTANTIALLY IN
4 THE FOLLOWING FORM:

5 "CERTIFICATE
6 (CONVENTION OF OCTOBER 26, 1973)

7 I, _____ (NAME, ADDRESS, AND CAPACITY), A PERSON
8 AUTHORIZED TO ACT IN CONNECTION WITH INTERNATIONAL WILLS, CERTIFY
9 THAT ON _____ (DATE) AT _____
10 _____ (PLACE) _____ (TESTATOR) _____ (NAME,
11 ADDRESS, AND DATE AND PLACE OF BIRTH) IN MY PRESENCE AND THAT OF THE
12 WITNESSES: _____ (NAME, ADDRESS, AND DATE AND PLACE OF
13 BIRTH); AND _____ (NAME, ADDRESS, AND DATE AND PLACE OF
14 BIRTH) HAS DECLARED THAT THE ATTACHED DOCUMENT IS THE TESTATOR'S
15 WILL AND THAT THE TESTATOR KNOWS THE CONTENTS OF THE WILL.

16 I FURTHER CERTIFY THAT IN MY PRESENCE AND IN THE PRESENCE OF
17 THE WITNESSES:

18 (1) THE TESTATOR HAS SIGNED THE WILL OR HAS ACKNOWLEDGED
19 THE TESTATOR'S SIGNATURE PREVIOUSLY AFFIXED;

20 (2) FOLLOWING A DECLARATION OF THE TESTATOR STATING THAT THE
21 TESTATOR WAS UNABLE TO SIGN THE TESTATOR'S WILL FOR THE FOLLOWING
22 REASON _____, I HAVE NOTED THIS DECLARATION ON THE WILL
23 AND THE SIGNATURE HAS BEEN AFFIXED BY _____ (NAME AND
24 ADDRESS);

25 (3) THE WITNESSES AND I HAVE SIGNED THE WILL;

26 (4) EACH PAGE OF THE WILL HAS BEEN SIGNED BY
27 _____ (NAME AND ADDRESS) AND NUMBERED;

28 (5) I HAVE SATISFIED MYSELF AS TO THE IDENTITY OF THE TESTATOR
29 AND OF THE WITNESSES AS DESIGNATED ABOVE;

30 (6) THE WITNESSES MET THE CONDITIONS REQUISITE TO ACT AS SUCH
31 ACCORDING TO THE LAW UNDER WHICH I AM ACTING; AND

1 **(7) THE TESTATOR HAS REQUESTED ME TO INCLUDE THE FOLLOWING**
2 **STATEMENT CONCERNING THE SAFEKEEPING OF THE TESTATOR’S WILL:**
3 _____.

4 **PLACE OF EXECUTION** _____

5 **DATE** _____

6 **SIGNATURE** _____ **AND, IF NECESSARY, SEAL”.**

7 **4-606.**

8 **(A) IN THE ABSENCE OF EVIDENCE TO THE CONTRARY, THE**
9 **CERTIFICATE OF AN AUTHORIZED PERSON UNDER § 4-605 OF THIS SUBTITLE IS**
10 **CONCLUSIVE OF THE FORMAL VALIDITY OF THE INSTRUMENT AS A WILL UNDER**
11 **THIS SUBTITLE.**

12 **(B) THE ABSENCE OR IRREGULARITY OF A CERTIFICATE DOES NOT**
13 **AFFECT THE FORMAL VALIDITY OF A WILL UNDER THIS SUBTITLE.**

14 **4-607.**

15 **AN INTERNATIONAL WILL IS SUBJECT TO THE ORDINARY RULES OF**
16 **REVOCATION OF WILLS.**

17 **4-608.**

18 **(A) SECTIONS 4-601 THROUGH 4-607 OF THIS SUBTITLE DERIVE FROM**
19 **ANNEX TO CONVENTION OF OCTOBER 26, 1973, PROVIDING A UNIFORM LAW**
20 **ON THE FORM OF AN INTERNATIONAL WILL.**

21 **(B) IN INTERPRETING AND APPLYING THIS SUBTITLE, REGARD SHALL**
22 **BE GIVEN TO ITS INTERNATIONAL ORIGIN AND THE NEED FOR UNIFORMITY IN**
23 **ITS INTERPRETATION.**

24 **4-609.**

25 **AN INDIVIDUAL WHO HAS BEEN ADMITTED TO PRACTICE LAW BEFORE**
26 **THE COURTS OF THIS STATE AND WHO IS CURRENTLY LICENSED TO DO SO IS AN**
27 **AUTHORIZED PERSON UNDER THIS SUBTITLE.**

28 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
29 **October 1, 2010.**