

HOUSE BILL 1140

N2

9lr2927
CF 9lr2040

By: **Delegates Chisholm, Buckel, Chang, Jalisi, Malone, McComas, ~~and Saab~~ Saab, Johnson, Krebs, Metzgar, and Szeliga**

Introduced and read first time: February 8, 2019

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2019

CHAPTER _____

1 AN ACT concerning

2 **Wills – Execution of Wills – Witnesses and Wills Executed Outside the State**

3 FOR the purpose of prohibiting, for purposes of an attested will, a person from qualifying
4 as a witness in the presence of the testator if the witness is in a different physical
5 location than the testator; clarifying the conditions under which a will executed
6 outside the State is properly executed; making stylistic changes; providing for the
7 application of this Act; and generally relating to the execution of wills.

8 BY repealing and reenacting, with amendments,
9 Article – Estates and Trusts
10 Section 4–102 and 4–104
11 Annotated Code of Maryland
12 (2017 Replacement Volume and 2018 Supplement)

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

15 **Article – Estates and Trusts**

16 4–102.

17 (A) Except as provided in §§ 4–103 and 4–104 of this subtitle, every will shall be:

18 (1) [in] **IN** writing[.];

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 (2) [signed] **SIGNED** by the testator, or by some other person for [him] **THE**
 2 **TESTATOR**, in [his] **THE TESTATOR'S** presence and by [his] **THE TESTATOR'S** express
 3 direction[.]; and

4 (3) [attested] **ATTESTED** and signed by two or more credible witnesses in
 5 the presence of the testator.

6 **(B) FOR PURPOSES OF THIS SECTION, A WITNESS IS NOT IN THE PRESENCE**
 7 **OF THE TESTATOR IF THE WITNESS IS IN A DIFFERENT PHYSICAL LOCATION THAN**
 8 **THE TESTATOR REGARDLESS OF WHETHER THE TESTATOR CAN OBSERVE THE**
 9 **WITNESS THROUGH ELECTRONIC AUDIO-VIDEO OR OTHER TECHNOLOGICAL MEANS.**

10 4-104.

11 A will executed outside this State is properly executed if it is:

12 (1) In writing;

13 (2) Signed by the testator; and

14 (3) Executed in conformity with ~~the~~:

15 **(I) THE** provisions of § 4-102 of this subtitle, ~~or the~~;

16 **(II) THE** law of the domicile of the testator, ~~or the~~; **OR**

17 **(III) THE LAW OF THE** place where the [will is executed] **TESTATOR**
 18 **IS PHYSICALLY LOCATED AT THE TIME THE TESTATOR SIGNS THE WILL.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
 20 apply only prospectively and may not be applied or interpreted to have any effect on or
 21 application to any will executed before the effective date of this Act.

22 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 23 October 1, 2019.