

# SENATE BILL 212

N2

(9lr1676)

## ENROLLED BILL

— Judicial Proceedings/Health and Government Operations —

Introduced by **Senator Lee**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Estates and Trusts~~ Wills – Execution of Wills – ~~Presence of Witnesses~~ and Wills  
3 Executed Outside the State

4 FOR the purpose of ~~establishing that~~ prohibiting, for purposes of ~~certain provisions of law~~  
5 ~~governing the execution of a~~ an attested will, a ~~witness does not satisfy a certain~~  
6 ~~requirement to be~~ person from qualifying as a witness in the presence of ~~a~~ the testator  
7 if the witness is in a different physical location ~~from~~ than the testator ~~and the~~  
8 ~~testator can observe the witness only through electronic audio or video or other~~  
9 ~~technological means;~~ clarifying the conditions under which a will executed outside  
10 the State is properly executed; making stylistic changes; providing for the application  
11 of this Act; and generally relating to the execution of ~~testamentary documents~~ wills.

12 BY repealing and reenacting, with amendments,

13 Article – Estates and Trusts

14 Section 4-102 and 4-104

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#### 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.

*Italics indicate opposite chamber/conference committee amendments.*



1 Annotated Code of Maryland  
2 (2017 Replacement Volume and 2018 Supplement)

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

5 **Article – Estates and Trusts**

6 4–102.

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

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

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

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

14 ~~(B) A WITNESS DOES NOT SATISFY THE REQUIREMENT UNDER SUBSECTION~~  
15 ~~(A)(3) OF THIS SECTION TO BE IN THE PRESENCE OF THE TESTATOR IF:~~

16 ~~(1) THE THE WITNESS IS IN A DIFFERENT PHYSICAL LOCATION FROM~~  
17 ~~THE TESTATOR; AND~~

18 ~~(B) FOR PURPOSES OF THIS SECTION, A WITNESS IS NOT IN THE PRESENCE~~  
19 ~~OF THE TESTATOR IF THE WITNESS IS IN A DIFFERENT PHYSICAL LOCATION THAN~~  
20 ~~THE TESTATOR REGARDLESS OF WHETHER THE TESTATOR CAN OBSERVE THE~~  
21 ~~WITNESS THROUGH ELECTRONIC AUDIO-VIDEO OR OTHER TECHNOLOGICAL MEANS.~~

22 ~~(2) THE TESTATOR CAN OBSERVE THE WITNESS ONLY THROUGH~~  
23 ~~ELECTRONIC AUDIO OR VIDEO OR OTHER TECHNOLOGICAL MEANS.~~

24 4–104.

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

26 (1) In writing;

27 (2) Signed by the testator; and

28 (3) Executed in conformity with [the]:

1 (I) THE provisions of § 4-102 of this subtitle[, or the];

2 (II) THE law of the domicile of the testator[.]; or [the]

3 (III) THE LAW OF THE place where the ~~will is executed~~ TESTATOR IS  
4 PHYSICALLY LOCATED AT THE TIME THE TESTATOR SIGNS THE WILL.

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

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2019.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.