

## Chapter 323

## (Senate Bill 212)

AN ACT concerning

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

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

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

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

**Article – Estates and Trusts**

4–102.

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

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

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

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

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

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

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

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

4-104.

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

- (1) In writing;
- (2) Signed by the testator; and
- (3) Executed in conformity with [the]:
  - (I) THE provisions of § 4-102 of this subtitle[, or the];
  - (II) THE law of the domicile of the testator[.]; or [the]

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

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

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

**Approved by the Governor, April 30, 2019.**