

HOUSE BILL 610

N2

3lr2285

By: **Delegate Cardin**

Introduced and read first time: February 3, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Estates – Execution of a Will – Witness Requirements**

3 FOR the purpose of prohibiting the personal representative of an estate from attesting and
4 signing as a credible witness of a will; and generally relating to the execution of a
5 will.

6 BY repealing and reenacting, without amendments,
7 Article – Estates and Trusts
8 Section 1–101(a) and (q), 4–101(k), and 4–102(a)
9 Annotated Code of Maryland
10 (2022 Replacement Volume and 2022 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Estates and Trusts
13 Section 4–102(b)
14 Annotated Code of Maryland
15 (2022 Replacement Volume and 2022 Supplement)

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

18 **Article – Estates and Trusts**

19 1–101.

20 (a) In the estates of decedents law the following words have the meanings
21 indicated.

22 (q) (1) “Personal representative” includes an executor or administrator.

23 (2) “Personal representative” does not include a special administrator.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 4–101.

2 (k) “Will” means a record that the testator intends to adopt as the testator’s codicil
3 or testamentary instrument and that:

4 (1) (i) Appoints a personal representative;

5 (ii) Revokes or revises another will;

6 (iii) Nominates a guardian;

7 (iv) Directs the disposition of the testator’s property; or

8 (v) Expressly excludes or limits the right of an individual or class to
9 succeed to property of a decedent passing by intestate succession;

10 (2) Is executed in the form prescribed under §§ 4–102 through 4–104 of this
11 subtitle; and

12 (3) Has not been revoked in a manner provided by § 4–105 of this subtitle.

13 4–102.

14 (a) Any person may make a will if the person is 18 years of age or older, and
15 legally competent to make a will.

16 (b) (1) Except as provided in §§ 4–103 and 4–104 of this subtitle and subsection
17 (f) of this section, every will shall be:

18 [(1)] (I) In writing;

19 [(2)] (II) Signed by the testator, or by some other person for the testator,
20 in the testator’s physical presence and by the testator’s express direction; and

21 [(3)] (III) Attested and signed by two or more credible witnesses in:

22 [(i)] 1. The physical presence of the testator; or

23 [(ii)] 2. The electronic presence of the testator, provided that an
24 electronic will or remotely witnessed will satisfies the requirements under subsection (c) or
25 (d) of this section.

26 (2) **THE PERSONAL REPRESENTATIVE OF THE ESTATE OR AN**
27 **INTERESTED PARTY MAY NOT ATTEST AND SIGN THE WILL AS A CREDIBLE WITNESS**
28 **UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION.**

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

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2023.