

18103339D

## HOUSE BILL NO. 1565

Offered January 19, 2018

A BILL to amend and reenact § 64.2-2300 of the Code of Virginia, relating to presumption of death; missing person reports.

Patron—Brewer

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That § 64.2-2300 of the Code of Virginia is amended and reenacted as follows:****§ 64.2-2300. Presumption of death from absence or disappearance; when applicable.**

A. 1. Any person who is a resident of the Commonwealth shall be presumed to be dead if such person:

a. Leaves and does not return to the Commonwealth for seven successive years and is not heard from;

b. Disappears for seven successive years and is not heard from; ~~or~~

c. Disappears in a foreign country, his body has not been found, and he is not known to be alive, and a report of presumptive death by the Department of State of the United States has been issued; *or*

*d. Disappears for two successive years, his body has not been found, and he is not known to be alive, and a missing person report has been issued by a local law-enforcement agency pursuant to § 15.2-1718, 15.2-1718.1, or 15.2-1718.2.*

2. Any person who is not a resident of the Commonwealth, but who owns real or personal property located within the Commonwealth, shall be presumed to be dead if such person disappears for seven successive years from the place of his residence outside of the Commonwealth and is not heard from.

3. The presumption created by this subsection shall be applicable in any action where the person's death is in question, unless proof is offered that the person was alive within the time specified or, in the case of a presumed death in a foreign country, at any time following the person's disappearance, whether before or after the report of presumptive death was issued.

B. The fact that any person was exposed to a specific peril of death may be a sufficient basis for determining at any time after the exposure that the person is presumed to have died less than seven years after the person was last heard from.

C. Any person on board any ship or vessel underway on the high seas who disappears from such ship or vessel, or any person on board an aircraft that disappears at sea, who is not known to be alive and whose body has not been found or identified prior to a hearing of a board of inquiry as to such disappearance, shall be presumed to be dead upon the findings of a board of inquiry that the person is presumed dead, or six months after the date of such disappearance, whichever occurs first.

D. Before any final order or decree is entered in a cause under subsection A, B, or C in favor of the alleged heirs, devisees, next of kin, legatees, beneficiaries, survivors, or other successors in interest of the presumed decedent, or persons claiming by, through, or under them, or any of them, proceedings shall be held in conformity with §§ 64.2-2303 through 64.2-2306.

E. The heirs at law, devisees, next of kin, legatees, beneficiaries, survivors, or other successors in interest of the person presumed dead under subsection A, B, or C may be made parties defendant to proceedings in respect to real or personal property in which the presumed decedent may have an undivided interest by order of publication or other process as provided by law. The proceedings shall not be stayed in respect to the division, sale, or other disposition of the entire property. The provisions of subsection D shall be applicable only to the portion of the property set apart or to the share of the proceeds to which such person would be entitled.

INTRODUCED

HB1565