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SENATE BILL NO. 1426

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend and reenact § 64.2-409 of the Code of Virginia, relating to clerks of circuit courts; retention of wills for safekeeping.

Patron—Obenshain

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 64.2-409 of the Code of Virginia is amended and reenacted as follows:

§ 64.2-409. Wills of living persons lodged for safekeeping with clerks of certain courts.

A. A person or his attorney may, during the person's lifetime, lodge for safekeeping with the clerk of the circuit court serving the jurisdiction where the person resides any will executed by such person. The clerk shall receive such will and give the person lodging it a receipt. The clerk shall (i) place the will in an envelope and seal it securely, (ii) number the envelope and endorse upon it the name of the testator and the date on which it was lodged, and (iii) index the same alphabetically in a permanent index that shows the number and date such will was deposited.

B. An attorney-at-law, bank, or trust company that has held a will for safekeeping for a client for at least seven years and that has no knowledge of whether the client is alive or dead after such time may lodge such will with the clerk as provided in subsection A.

C. The clerk shall carefully preserve the envelope containing the will unopened until it is returned to the testator or his nominee in the testator's lifetime upon request of the testator or his nominee in writing or until the death of the testator. If such will is returned during the testator's lifetime and is later returned to the clerk, it shall be considered to be a separate lodging under the provisions of this section.

D. Upon notice of the testator's death, the clerk shall open the will and deliver the same to any person entitled to offer it for probate.

E. The clerk shall charge a fee of \$2 for lodging, indexing, and preserving a will pursuant to this section.

F. The provisions of this section are applicable only to the clerk's office of a court where the judge or judges of such court have entered an order authorizing the use of the clerk's office for such purpose.

G. The clerk may destroy any will that has been lodged in his office for safekeeping under this section for 75 years or more.

INTRODUCED

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