

LD4761254

HOUSE BILL NO.1230

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on December 8, 1994)

(Patron Prior to Substitute—Delegate Griffith)

A BILL to amend the Code of Virginia by adding a section numbered 64.1-45.1, relating to wills; incorporation of separate writings.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 64.1-45.1 as follows:

§ 64.1-45.1. Separate writing identifying recipients of tangible personal property; liability for distribution; action to recover property.

If a will refers to a written statement or list to dispose of items of tangible personal property not otherwise specifically bequeathed, the statement or list shall be given effect to the extent that it describes items of tangible personal property and their intended recipients with reasonable certainty and is signed by the testator although it does not satisfy the requirements for a will. Bequests of a general or residuary nature, whether referring only to personal property or to the entire estate, are not specific bequests for the purpose of this section.

The written statement or list may be referred to as one which is in existence at the time of the testator's death, may be prepared before or after the execution of the will, may be altered by the testator at any time and may be a writing that has no significance apart from its effect on the dispositions made by the will. When distribution is made pursuant to such a written statement or list, a copy thereof shall be furnished to the commissioner of accounts along with the legatee's receipt.

A personal representative shall not be liable for any distribution of tangible personal property to the apparent legatee under the testator's will made without actual knowledge of the existence of a written statement or list, nor shall he have any duty to recover property so distributed. However, a person named to receive certain tangible personal property in a written statement or list which is effective under this section, may recover that property, or its value if the property cannot be recovered, from an apparent legatee to whom it has been distributed in an action brought for that purpose within one year after the probate of the testator's will.

This section shall not apply to a writing admitted to probate as a will and, except as provided herein, shall not otherwise affect the law of incorporation by reference.