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## HOUSE BILL NO. 1919

Offered January 20, 1995

A *BILL* to amend the Code of Virginia by adding in Chapter 3 of Title 64.1 an article numbered 6, consisting of sections numbered 64.1-96.2 through 64.1-96.11, relating to the Uniform International Wills Act.

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Patron—Murphy

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 3 of Title 64.1 an article numbered 6, consisting of sections numbered 64.1-96.2 through 64.1-96.11 as follows:**

*Article 6.**Uniform International Wills Act.**§ 64.1-96.2. Definitions.**In this article:*

(1) "International will" means a will executed in conformity with §§ 64.1-96.3 through 64.1-96.6.

(2) "Authorized person" and "person authorized to act in connection with international wills" means a person who by § 64.1-96.10 or by the laws of the United States including members of the diplomatic and consular service of the United States designated by Foreign Service Regulations, is empowered to supervise the execution of international wills.

*§ 64.1-96.3. International will; validity.*

(a) A will shall be valid as regards form, irrespective particularly of the place where it is made, of the location of the assets and of the nationality, domicile, or residence of the testator, if it is made in the form of an international will complying with the requirements of this article.

(b) The invalidity of the will as an international will shall not affect its formal validity as a will of another kind.

(c) This article shall not apply to the form of testamentary dispositions made by two or more persons in one instrument.

*§ 64.1-96.4. Requirements.*

(a) The will shall be made in writing. It need not be written by the testator himself. It may be written in any language, by hand or by any other means.

(b) The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is his will and that he knows the contents thereof. The testator need not inform the witnesses, or the authorized person, of the contents of the will.

(c) In the presence of the witnesses, and of the authorized person, the testator shall sign the will or, if he has previously signed it, shall acknowledge his signature.

(d) When the testator is unable to sign, the absence of his signature does not affect the validity of the international will if the testator indicates the reason for his inability to sign and the authorized person makes note thereof on the will. In these cases, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator to sign the testator's name for him, if the authorized person makes note of this also on the will, but it is not required that any person sign the testator's name for him.

(e) The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

*§ 64.1-96.5. Other points of form.*

(a) The signatures shall be placed at the end of the will. If the will consists of several sheets, each sheet will be signed by the testator or, if he is unable to sign, by the person signing on his behalf or, if there is no such person, by the authorized person. In addition, each sheet shall be numbered.

(b) The date of the will shall be the date of its signature by the authorized person. That date shall be noted at the end of the will by the authorized person.

(c) The authorized person shall ask the testator whether he wishes to make a declaration concerning the safekeeping of his will. If so and at the express request of the testator the place where he intends to have his will kept shall be mentioned in the certificate provided for in § 64.1-96.6.

(d) A will executed in compliance with § 64.1-96.4 shall not be invalid merely because it does not comply with this section.

*§ 64.1-96.6. Certificate.*

The authorized person shall attach to the will a certificate to be signed by him establishing that the

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requirements of this Act for valid execution of an international will have been complied with. The authorized person shall keep a copy of the certificate and deliver another to the testator. The certificate shall be substantially in the following form:

CERTIFICATE

(Convention of October 26, 1973)

1. I, .....(name, address and capacity), a person authorized to act in connection with international wills
2. Certify that on .....(date).....(place)
3. (testator) .....(name, address, date and place of birth) in my presence and that of the witnesses
4. (a) .....(name, address, date and place of birth)  
(b).....(name, address, date and place of birth) has declared that the attached document is his will and that he knows the contents thereof.
5. I furthermore certify that:
6. (a) in my presence and in that of the witnesses  
(1) the testator has signed the will or has acknowledged his signature previously affixed.  
\*(2) following a declaration of the testator stating that he was unable to sign his will for the following reason  
.....I have mentioned this declaration on the will  
\*and the signature has been affixed by(name and address)
7. (b) the witnesses and I have signed the will;
8. \*(c) each page of the will has been signed by  
..... and numbered;
9. (d) I have satisfied myself as to the identity of the testator and of the witnesses as designated above;
10. (e) the witnesses met the conditions requisite to act as such according to the law under which I am acting;
11. (f) the testator has requested me to include the following statement concerning the safekeeping of his will:
12. PLACE OF EXECUTION
13. DATE
14. SIGNATURE and, if necessary, SEAL.
- \* to be completed if appropriate

§ 64.1-96.7. Effect of certificate.

In the absence of evidence to the contrary, the certificate of the authorized person shall be conclusive of the formal validity of the instrument as a will under this article. The absence or irregularity of a certificate shall not affect the formal validity of a will under this article.

§ 64.1-96.8. Revocation.

The international will shall be subject to the ordinary rules of revocation of wills.

§ 64.1-96.9. Source and construction.

Sections 64.1-96.2 through 64.1-96.8 derive from Annex to Convention of October 26, 1973, Providing a Uniform Law on the Form of an International Will. In interpreting and applying this article, regard shall be had to its international origin and to the need for uniformity in its interpretation.

§ 64.1-96.10. Persons authorized to act in relation to international will; eligibility; recognition by authorizing agency.

Individuals who have been admitted to practice law before the courts of this Commonwealth and who are in good standing as active law practitioners in this Commonwealth, are hereby declared to be authorized persons in relation to international wills.

§ 64.1-96.11. International will information registration.

The Secretary of State shall establish a registry system by which authorized persons may register in a central information center, information regarding the execution of international wills, keeping that

118 *information in strictest confidence until the death of the maker and then making it available to any*  
119 *person desiring information about any will who presents a death certificate or other satisfactory*  
120 *evidence of the testator's death to the center. Information that may be received, preserved in confidence*  
121 *until death, and reported as indicated is limited to the name, social security or any other*  
122 *individual-identifying number established by law, address, and date and place of birth of the testator,*  
123 *and the intended place of deposit or safekeeping of the instrument pending the death of the maker. The*  
124 *Secretary of State, at the request of the authorized person, may cause the information it receives about*  
125 *execution of any international will to be transmitted to the registry system of another jurisdiction as*  
126 *identified by the testator, if that other system adheres to rules protecting the confidentiality of the*  
127 *information similar to those established in this Commonwealth.*