

# 2001 SESSION

INTRODUCED

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## HOUSE BILL NO. 2128

Offered January 10, 2001

Prefiled January 10, 2001

*A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 64.1 a section numbered 64.1-57.4, relating to incorporation by reference; letter of instruction or memorandum into a will, power of attorney or trust instrument.*

Patron—McClure

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 Article 1 of Chapter 3 of Title 64.1 a section numbered 64.1-57.4 as follows:**

*§ 64.1-57.4. Incorporation by reference; letter of instruction or memorandum into a will, power of attorney or trust instrument.*

*A. The following documents may be incorporated by reference into a will, power of attorney or trust instrument:*

*1. A letter or memorandum to the fiduciary or agent as to the interpretation of discretionary powers of distributions to beneficiaries where the will, power of attorney or trust instrument provides the fiduciary or agent the power to make distributions in the discretion of the fiduciary or agent; and*

*2. A letter or memorandum stating the views or directions of the maker of the will, power of attorney or trust instrument as to the exercise of discretion by the fiduciary or agent in making health care decisions for the maker.*

*B. Any such letter or memorandum shall be construed to be consistent with the directions set forth in the original will, power of attorney or trust instrument in which the letter or memorandum is being incorporated by reference. Any provision that contradicts a direction of the original document shall not be enforced.*

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