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HOUSE BILL NO. 985

Offered January 26, 1998

A *BILL to amend the Code of Virginia by adding a section numbered 64.1-137.1, relating to disbarment of executor who prepared will.*

Patron—McEachin

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 a section numbered 64.1-137.1 as follows:

§ 64.1-137.1. Disbarment of executor who prepared will.

When an attorney who has drawn the will is also an executor of the will and is disbarred subsequent to the execution of the will and prior to the death of the testator, that attorney is disqualified from serving as an executor without a codicil executed by the testator that the testator knows of such disbarment and desires the individual to continue serving as executor. If the testator fails to execute a codicil reaffirming the appointment of the disbarred executor and no other executor is named in the will, a personal representative shall be appointed. Any executor who drafted the will and is disbarred prior to the death of the testator shall notify the testator of his disbarment and of the requirements of this section by certified mail. Such executor shall also furnish proof to the Virginia State Bar within forty-five days of the effective date of the disbarment that such notices have been timely given. A disbarred attorney's license to practice law shall not be reinstated in the absence of such proof.

If the attorney is disbarred subsequent to the testator's death, he shall notify the court before which he qualified or, if he is not yet qualified, the court before which a qualification would be filed, and the court shall remove the disbarred executor and if no other executor is named in the will, appoint a personal representative.

Failure to comply with the provisions of this section shall not affect the validity of any will.

INTRODUCED

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