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H.285

Introduced by Representatives Rachelson of Burlington and Cina of

Burlington

Referred to Committee on

Date:

Subject: Decedents' estates and fiduciary relations; wills; statutory will

Statement of purpose of bill as introduced: This bill proposes to establish a
statutory will in Vermont.

An act relating to a statutory will

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 14 V.S.A. § 12 is added to read:

§ 12. STATUTORY WILL

(a) A will executed in compliance with and in the form prescribed by
subsection (b) of this section shall be a valid will under this chapter and may
be known as a Vermont statutory will. A Vermont statutory will shall not be
valid unless it is in the precise form prescribed in subsection (b) of this section.

(b) The form of the Vermont statutory will shall be as follows:

VERMONT STATUTORY WILL

NOTICE

1 (1) An individual 18 years of age or older and who has sufficient mental
2 capacity may make a will.

3 (2) There are several kinds of wills. If you choose to complete this form,
4 you will have a Vermont statutory will. If this will does not meet your wishes
5 in any way, you should talk with an attorney before choosing a Vermont
6 statutory will.

7 (3) Warning! It is strongly recommended that you do not add or cross out
8 any words on this form except for filling in the blanks because all or part of
9 this will may not be valid if you do so.

10 (4) This will has no effect on jointly held assets, on retirement plan
11 benefits, or on life insurance on your life if you have named a beneficiary and
12 the beneficiary survives you.

13 (5) This will is not designed to reduce estate taxes.

14 (6) This will treats adopted children and children born outside wedlock
15 who would inherit if their parent died without a will the same way as children
16 born or conceived during marriage.

17 (7) You should keep this will in your safe deposit box or other safe place.
18 By paying a small fee, you may file this will in your county's Probate Court
19 for safekeeping. You should tell your family where the will is kept.

20 (8) You may make and sign a new will at any time. If you marry or
21 divorce after you sign this will, you should make and sign a new will.

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INSTRUCTIONS

(1) To have a Vermont statutory will, you must complete the blanks on the will form. You may do this yourself, or direct someone to do it for you. You must either sign the will or direct someone else to sign it in your name and in your presence.

(2) Read the entire Vermont statutory will carefully before you begin filling in the blanks. If there is anything you do not understand, you should ask an attorney to explain it to you.

Vermont Statutory Will

of

(Print or type your full name)

Article 1. Declarations

This is my Will and I revoke any prior Wills and codicils. I live in

_____ County, Vermont.

My spouse is _____ .

(Insert spouse's name or write "none")

My children now living are:

1 (Insert names or write "none")

2 Article 2. Disposition of My Assets

3 2.1 CASH GIFTS TO PERSONS OR CHARITIES. (Optional)

4 I make the following cash gifts to the persons or charities in the amounts
5 stated here. Any transfer tax due upon my death shall be paid from the balance
6 of my estate and not from these gifts.

7 Full name and address of person or charity to receive cash gift

8 (Name only 1 person or charity here):

9 _____

10 (Insert name of person or charity)

11 _____

12 (Insert address)

13 AMOUNT OF GIFT (In figures): \$ _____

14 AMOUNT OF GIFT (In words): _____ Dollars

15 _____

16 (Your signature)

17 Full name and address of person or charity to receive cash gift

18 (Name only 1 person or charity here):

19 _____

20 (Insert name of person or charity)

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(Insert address)

AMOUNT OF GIFT (In figures): \$ _____

AMOUNT OF GIFT (In words): _____ Dollars

(Your signature)

2.2 PERSONAL AND HOUSEHOLD ITEMS.

I may leave a separate list or statement, either in my handwriting or signed by me at the end, regarding gifts of specific books, jewelry, clothing, automobiles, furniture, and other personal and household items.

I give my spouse all my books, jewelry, clothing, automobiles, furniture, and other personal and household items not included on such a separate list or statement. If I am not married at the time I sign this will or if my spouse dies before me, my Personal Representative shall distribute those items, as equally as possible, among my children who survive me. If no children survive me, these items shall be distributed as set forth in paragraph 2.3.

2.3 ALL OTHER ASSETS.

I give everything else I own to my spouse. If I am not married at the time I sign this will or if my spouse dies before me, I give these assets to my children and the descendants of any deceased child. If no spouse, children, or descendants of children survive me, I choose one of the following distribution

1 clauses by signing my name on the line after that clause. If I sign on both
2 lines, if I fail to sign on either line, or if I am not married, these assets will go
3 under distribution clause (2).

4 Distribution clause. If no spouse, children, or descendants of children
5 survive me, then:

6 (Select only 1)

7 (1) One-half is to be distributed to my heirs as if I did not have a will, and
8 one-half is to be distributed to my deceased spouse's heirs as if my spouse had
9 died just after me without a will.

10 _____
11 (Your signature)

12 (2) All is to be distributed to my heirs as if I did not have a will.

13 _____
14 (Your signature)

15 Article 3. Nominations of Executor and Guardian

16 Executors and guardians have a great deal of responsibility. The role of an
17 executor is to collect and protect your assets, pay debts and taxes from those
18 assets, and distribute the remaining assets as directed in the will. A guardian is
19 a person who will look after the physical well-being of a child. Select them
20 carefully. Also, before you select them, ask them whether they are willing and
21 able to serve.

1 3.1 EXECUTOR. (Name at least 1)

2 I nominate _____

3 (Insert name of person or eligible financial institution)

4 of _____

5 (Insert address)

6 to serve as my executor.

7 If my first choice does not serve, I nominate _____

8 (Insert name of person or eligible financial institution)

9 of

10 _____

11 (Insert address)

12 to serve as my executor.

13 3.2 GUARDIAN; FINANCIAL GUARDIAN.

14 Your spouse may die before you. Therefore, if you have a child under age

15 18, you should name an individual as guardian of the child, and an individual

16 or eligible financial institution as financial guardian of the child's assets. The

17 guardian and the financial guardian may, but need not be, the same person.

18 If a guardian or financial guardian is needed for a child of mine, I nominate

19 _____

20 (Insert name of individual)

1 of _____ as guardian

2 *(Insert address)*

3 and _____

4 *(Insert name of individual or eligible financial institution)*

5 of

6 _____

7 *(Insert address)*

8 to serve as financial guardian.

9 If my first choice cannot serve, I nominate _____

10 *(Insert name of individual)*

11 of _____ as guardian

12 *(Insert address)*

13 and _____

14 *(Insert name of individual or eligible financial institution)*

15 of _____ to serve as financial guardian.

16 *(Insert address)*

17 3.3 BOND.

18 A bond is a form of insurance in case your executor or a guardian performs

19 improperly and jeopardizes your assets. A bond is not required, but it is

20 always possible that the court would require one even if you do not. You may

21 choose whether you wish to require your executor and any guardian to serve

1 with or without bond. Bond premiums would be paid out of your assets.

2 (Select only 1)

3 (a) My executor and any guardian I have named shall serve with bond.

4

5

(Your signature)

6 (b) My executor and any guardian I have named shall serve without bond.

7

8

(Your signature)

9 3.4 DEFINITIONS AND ADDITIONAL CLAUSES.

10 Definitions and additional clauses found at the end of this form are part of
11 this will.

12 I sign my name to this Vermont statutory will on _____, 20_____.

13

14

(Your signature)

15 NOTICE REGARDING WITNESSES

16 You must use two adults as witnesses. It is preferable to have three adult
17 witnesses. All the witnesses must observe you sign the will, have you tell
18 them you signed the will, or have you tell them the will was signed at your
19 direction in your presence.

1 STATEMENT OF WITNESSES

2 We sign below as witnesses, declaring that the individual who is making
3 this will appears to have sufficient mental capacity to make this will and
4 appears to be making this will freely, without duress, fraud, or undue
5 influence, and that the individual making this will acknowledges that he or she
6 has read the will, or has had it read to him or her, and understands the contents
7 of this will.

8 _____

9 (Print name)

10 _____

11 (Signature of witness)

12 _____

13 (Address)

14 _____

15 (City) (State) (Zip)

16 _____

17 (Print name)

18 _____

19 (Signature of witness)

20 _____

21 (Address)

1 _____

2 (City) (State) (Zip)

3 _____

4 (Print name)

5 _____

6 (Signature of witness)

7 _____

8 (Address)

9 _____

10 (City) (State) (Zip)

11 Definitions

12 The following definitions and rules of construction apply to this Vermont
13 statutory will:

14 (1) "Assets" means all types of property you can own, such as real estate,
15 stocks and bonds, bank accounts, business interests, furniture, and
16 automobiles.

17 (2) "Descendants" means your children, grandchildren, and their
18 descendants.

19 (3) "Descendants" or "children" includes individuals born or conceived
20 during marriage, individuals legally adopted, and any individual born out of
21 wedlock who would inherit if his or her parent died without a will.

1 (4) “Jointly held assets” means those assets to which ownership is
2 transferred automatically upon the death of one of the owners to the remaining
3 owner or owners.

4 (5) “Spouse” means your husband, wife, or civil union partner at the time
5 you sign this will.

6 (6) Whenever a distribution under a Vermont statutory will is to be made to
7 an individual’s descendants, the assets are to be divided into as many equal
8 shares as there are then living descendants of the nearest degree of living
9 descendants and deceased descendants of that same degree who leave living
10 descendants. Each living descendant of the nearest degree shall receive one
11 share. The remaining shares, if any, are combined and then divided in the
12 same manner among the surviving descendants of the deceased descendants as
13 if the surviving descendants who were allocated a share and their surviving
14 descendants had predeceased the descendant. In this manner, all descendants
15 who are in the same generation will take an equal share.

16 (7) “Heirs” means those persons who would have received your assets if
17 you had died without a will, domiciled in Vermont, under the laws that are
18 then in effect.

19 (8) “Person” means individuals and institutions.

20 (9) Plural and singular words include each other, where appropriate.

1 (10) If a Vermont statutory will states that a person shall perform an act,
2 the person is required to perform that act. If a Vermont statutory will states
3 that a person may do an act, the person's decision to do or not to do the act
4 shall be made in good faith exercise of the person's powers.

5 Additional Clauses

6 Powers of personal representative.

7 (1) An executor has all powers of administration given by Vermont law
8 to executors and, to the extent funds are not needed to meet debts and expenses
9 currently payable and are not immediately distributable, the power to invest
10 and reinvest the estate from time to time in accordance with the Vermont
11 prudent investor rule. In dividing and distributing the estate, the executor may
12 distribute partially or totally in kind, may determine the value of distributions
13 in kind without reference to income tax bases, and may make non-pro rata
14 distributions.

15 (2) The executor may distribute estate assets otherwise distributable to a
16 minor beneficiary to the minor's financial guardian or, in amounts not
17 exceeding \$5,000.00 per year, either to the minor, if married; to a parent or
18 another adult with whom the minor resides and who has the care, custody, or
19 control of the minor; or to the guardian.

1 Powers of guardian.

2 A guardian named in this will has the same authority with respect to the
3 child as a parent having legal custody would have. A guardian named in this
4 will has all of the powers conferred by law.

5 Sec. 2. EFFECTIVE DATE

6 This act shall take effect on July 1, 2017.