

H.436

An act relating to international wills

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

Sec. 1. 14 V.S.A. chapter 4 is added to read:

CHAPTER 4. INTERNATIONAL WILLS

§ 131. DEFINITIONS

As used in this chapter:

(1) “International will” means a will executed pursuant to the requirements of this chapter.

(2) “Authorized person” and “person authorized to act in connection with international wills” means a person who is authorized to supervise the execution of international wills pursuant to this chapter or federal law, including a member of the diplomatic and consular service of the United States designated by Foreign Service Regulations.

§ 132. VALIDITY

(a) A will made in the form of an international will in compliance with the requirements of this chapter shall be valid with regard to form, irrespective of the place where it is made, the location of the assets, or the nationality, domicile, or residence of the testator.

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

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

§ 133. REQUIREMENTS

(a) An international will shall comply with the following requirements:

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

(2) The testator shall declare in the presence of two or more witnesses and of a person authorized to act in connection with international wills that the document is the testator's will and that the testator knows its contents. The testator is not required to inform the witnesses or the authorized person of the contents of the will.

(3) The testator shall sign the will in the presence of the witnesses and the authorized person. If the testator has previously signed the will, the testator shall acknowledge his or her signature in the presence of the witnesses and the authorized person.

(4) If the testator is unable to sign, the absence of his or her signature shall not affect the validity of the international will if the testator indicates the reason for his or her inability to sign and the authorized person notes it in the will. Although it is not required, in such cases any other person present, including the authorized person or one of the witnesses, may at the direction of

the testator sign the testator's name for him or her. If another person signs for the testator, the authorized person shall note it in the will.

(5) The witnesses shall attest the will by signing it in the presence of the testator and each other.

§ 134. OTHER POINTS OF FORM

(a) The signatures shall be placed at the end of the will. If the will consists of more than one sheet, each sheet shall be numbered and signed by the testator or, if he or she is unable to sign, by the person signing on the testator's behalf. If no person signs on the testator's behalf, the authorized person shall sign each sheet.

(b) The date of the will shall be the date of its signature by the authorized person, who shall note the date at the end of the will.

(c) The authorized person shall ask the testator whether he or she wishes to make a declaration concerning the safekeeping of the testator's will. If the testator makes such a declaration, the place where he or she intends to have his or her will kept shall be stated in the authorized person's certificate required by section 135 of this title.

(d) A will executed in compliance with section 133 of this title shall not be invalid because it does not comply with this section.

§ 135. CERTIFICATE

(a) The authorized person shall sign and attach to the will a certificate establishing that there has been compliance with the requirements of this chapter for valid execution of an international will. The authorized person shall keep a copy of the certificate and deliver another copy to the testator.

(b) The certificate required by this section shall be in substantially the following form:

CERTIFICATE OF AUTHORIZED PERSON

I, _____ (name, address, and capacity), a person authorized to act in connection with international wills, certify that on _____ (date), at _____ (place), testator _____ (testator's name, address, and date and place of birth), in my presence and that of the witnesses _____ (name, address, and place and date of birth of first witness) and _____ (name, address, and place and date of birth of second witness) has declared that the attached document is his or her will and that he or she knows its contents.

I further certify that:

(1) In my presence and in that of the witnesses:

(A) the testator has signed the will or has acknowledged his or her signature previously affixed; or

(B) (If Necessary) following a declaration of the testator stating that he or she was unable to sign his or her will for the following reason _____.

I have mentioned this declaration in the will and the signature has been affixed
by _____ (name and address).

(2) The witnesses and I have signed the will.

(3) Each page of the will has been signed by _____ and numbered.

(4) I have satisfied myself as to the identity of the testator and of the
witnesses as designated above.

(5) The witnesses met the conditions requisite to act as such according
to the law under which I am acting.

(6) (If Necessary) The testator has requested me to include the following
statement concerning the safekeeping of his or her will: _____.

(SIGNATURE, DATE AND PLACE OF EXECUTION)

§ 136. EFFECT OF CERTIFICATE

In the absence of contrary evidence, a certificate by an authorized person
that complies with the requirements of section 135 of this title shall be
conclusive as to the formal validity of the instrument as a will under this
chapter. The absence or irregularity of a certificate by an authorized person
shall not affect the validity of a will under this chapter.

§ 137. REVOCATION

An international will may be revoked in any manner permitted by
section 11 of this title.

§ 138. SOURCE AND CONSTRUCTION

Sections 131–137 of this chapter are derived from the Annex to the Convention on Providing a Uniform Law on the Form of an International Will, October 26, 1973. When interpreting and applying this chapter, courts shall be guided by its international origin and by the need for uniformity in its interpretation.

§ 139. AUTHORIZED PERSONS

A person who is admitted in good standing and has an active law license to practice law in this State shall be an authorized person in relation to international wills.

§ 140. SELF PROVED

A will that meets the requirements of this chapter is self-proved and shall be allowed by the probate court.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2019.