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H.436

Introduced by Representative Hashim of Dummerston

Referred to Committee on

Date:

Subject: Probate; wills; international wills

Statement of purpose of bill as introduced: This bill proposes to establish requirements to permit recognition of international wills in Vermont.

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,

1 including a member of the diplomatic and consular service of the United States  
2 designated by Foreign Service Regulations.

3 § 132. VALIDITY

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

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

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

12 § 133. REQUIREMENTS

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

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

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

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

5           (4) If the testator is unable to sign, the absence of his or her signature  
6           shall not affect the validity of the international will if the testator indicates the  
7           reason for his or her inability to sign and the authorized person notes it in the  
8           will. Although it is not required, in such cases any other person present,  
9           including the authorized person or one of the witnesses, may at the direction of  
10          the testator sign the testator's name for him or her. If another person signs for  
11          the testator, the authorized person shall note it in the will.

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

14          § 134. OTHER POINTS OF FORM

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

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

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

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

8       § 135. CERTIFICATE

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

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

15                               CERTIFICATE OF AUTHORIZED PERSON

16       I, \_\_\_\_\_ (name, address, and capacity), a person authorized to act in  
17       connection with international wills, certify that on \_\_\_\_\_ (date), at  
18       \_\_\_\_\_ (place), testator \_\_\_\_\_ (testator's name, address, and date and  
19       place of birth), in my presence and that of the witnesses \_\_\_\_\_ (name,  
20       address, and place and date of birth of first witness) and \_\_\_\_\_ (name,

1 address, and place and date of birth of second witness) has declared that the  
2 attached document is his or her will and that he or she knows its contents.

3 I further certify that:

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

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

7 (B) (If Necessary) following a declaration of the testator stating that  
8 he or she was unable to sign his or her will for the following reason \_\_\_\_\_,

9 I have mentioned this declaration in the will and the signature has been affixed  
10 by \_\_\_\_\_ (name and address).

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

12 (3) Each page of the will has been signed by \_\_\_\_\_ and numbered.

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

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

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

19 \_\_\_\_\_

20 (SIGNATURE, DATE AND PLACE OF EXECUTION)

21 § 136. EFFECT OF CERTIFICATE

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

6        § 137. REVOCATION

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

9        § 138. SOURCE AND CONSTRUCTION

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

15       § 139. AUTHORIZED PERSONS

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

19       § 140. SELF PROVED

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

1 Sec. 2. EFFECTIVE DATE

2 This act shall take effect on July 1, 2019.