

1 H.436

2 Introduced by Representative Hashim of Dummerston

3 Referred to Committee on

4 Date:

5 Subject: Probate; wills; international wills

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

8 An act relating to international wills

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

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

11 CHAPTER 4. INTERNATIONAL WILLS

12 § 131. DEFINITIONS

13 As used in this chapter:

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

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

1 § 132. VALIDITY

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

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

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

10 § 133. REQUIREMENTS

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

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

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

19 (3) The testator shall sign the will in the presence of the witnesses and
20 the authorized person. If the testator has previously signed the will, the testator

1 shall acknowledge his or her signature in the presence of the witnesses and the
2 authorized person.

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

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

12 § 134. OTHER POINTS OF FORM

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

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

20 (c) The authorized person shall ask the testator whether he or she wishes to
21 make a declaration concerning the safekeeping of the testator's will. If the

1 testator makes such a declaration, the place where he or she intends to have his
2 or her will kept shall be stated in the authorized person's certificate required by
3 section 135 of this title.

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

6 § 135. CERTIFICATE

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

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

13 CERTIFICATE OF AUTHORIZED PERSON

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

21 I further certify that:

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

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

4 (B) (If Necessary) following a declaration of the testator stating that
5 he or she was unable to sign his or her will for the following reason _____.
6 I have mentioned this declaration in the will and the signature has been affixed
7 by _____ (name and address).

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

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

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

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

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

16 _____

17 (SIGNATURE, DATE AND PLACE OF EXECUTION)

18 § 136. EFFECT OF CERTIFICATE

19 In the absence of contrary evidence, a certificate by an authorized person
20 that complies with the requirements of section 135 of this title shall be
21 conclusive as to the formal validity of the instrument as a will under this

1 chapter. The absence or irregularity of a certificate by an authorized person
2 shall not affect the validity of a will under this chapter.

3 § 137. REVOCATION

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

6 § 138. SOURCE AND CONSTRUCTION

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

12 § 139. AUTHORIZED PERSONS

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

16 § 140. SELF PROVED

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

19 Sec. 2. EFFECTIVE DATE

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