

CHAPTER 30.1-08.2 INTERNATIONAL WILLS

30.1-08.2-01. (2-1001) Definitions.

In this chapter:

1. "Authorized person" and "person authorized to act in connection with international wills" mean a person who by section 30.1-08.2-08, or by the laws of the United States, including members of the diplomatic and consular service of the United States designated by foreign service regulations, is empowered to supervise the execution of international wills.
2. "International will" means a will executed in conformity with sections 30.1-08.2-02 through 30.1-08.2-05.

30.1-08.2-02. (2-1002) International will - Validity.

1. A will is valid in form, irrespective of the place where it is made, of the location of the assets and of the nationality, domicile, or residence of the testator, if it is made in the form of an international will complying with the requirements of this chapter.
2. The invalidity of the will as an international will does not affect its formal validity as a will of another kind.
3. This chapter does not apply to the form of testamentary dispositions made by two or more persons in one instrument.

30.1-08.2-03. (2-1003) International will - Requirements.

1. The will must be made in writing. It need not be written by the testator personally. It may be written in any language, by hand or by any other means.
2. The testator shall declare in the presence of two 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 the contents thereof. The testator need not inform the witnesses, or the authorized person, of the contents of the will.
3. In the presence of the witnesses, and of the authorized person, the testator shall sign the will or, if the testator has previously signed it, shall acknowledge that signature.
4. If the testator is unable to sign, the absence of the testator's signature does not affect the validity of the international will if the testator indicates the reason for the testator's inability to sign and the authorized person makes note thereof on the will. In that case, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator, to sign the testator's name if the authorized person makes note of this on the will, but it is not required that any person sign the testator's name for the testator.
5. The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

30.1-08.2-04. (2-1004) International wills - Other points of form.

1. The signatures must be placed at the end of the will. If the will consists of several sheets, each sheet must be signed by the testator or, if the testator is unable to sign, by the person signing on the testator's behalf or, if there is no such person, by the authorized person. In addition, each sheet must be numbered.
2. The date of the will must be the date of its signature by the authorized person. That date must be noted at the end of the will by the authorized person.
3. The authorized person shall ask whether the testator wishes to make a declaration concerning the safekeeping of the testator's will. If so and at the express request of the testator, the place where the testator intends to have the testator's will kept must be mentioned in the certificate provided for in section 30.1-08.2-05.
4. A will executed in compliance with section 30.1-08.2-03 is not invalid merely because it does not comply with this section.

30.1-08.2-05. (2-1005) International will - Certificate.

The authorized person shall attach to the will a certificate to be signed by the authorized person establishing that the requirements of this chapter for valid execution of an international will have been fulfilled. The authorized person shall keep a copy of the certificate and deliver another to the testator. The certificate must be substantially in the following form:

CERTIFICATE

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

I further certify that in my presence and in that of the witnesses the testator has signed the will or has acknowledged the testator's signature previously affixed or that following a declaration of the testator stating that the testator was unable to sign the will for the following reason _____, I have mentioned this declaration on the will, and the signature has been affixed by _____ (name and address).

I further certify that the witnesses and I have signed the will; each page of the will has been signed by _____ and numbered [to be completed if appropriate]; I have satisfied myself as to the identity of the testator and of the witnesses as designated above; the witnesses met the conditions requisite to act as such according to the law under which I am acting; the testator has requested me to include the following statement concerning the safekeeping of the testator's will [to be completed if appropriate]: _____.

_____ (Place of execution)

_____ (Date)

_____ (Signature)

30.1-08.2-06. (2-1006) International will - Effect of certificate.

In the absence of evidence to the contrary, the certificate of the authorized person is conclusive of the formal validity of the instrument as a will under this chapter. The absence or irregularity of a certificate does not affect the formal validity of a will under this chapter.

30.1-08.2-07. (2-1007) International will - Revocation.

An international will is subject to the ordinary rules of revocation of wills.

30.1-08.2-08. (2-1009) Persons authorized to act in relation to international will - Eligibility - Recognition by authorizing agency.

Individuals who have been admitted to practice law before the courts of this state and are currently licensed so to do are authorized persons in relation to international wills.

30.1-08.2-09. (2-1010) International will information registration.

The secretary of state shall establish a registry system by which authorized persons may register in a central information center, information regarding the execution of international wills, keeping that information in strictest confidence until the death of the maker and then making it available to any person desiring information about any will who presents a death certificate or other satisfactory evidence of the testator's death to the center. Information that may be received, preserved in confidence until death, and reported as indicated is limited to the name, social security or any other individual identifying number established by law, address, and date and place of birth of the testator, and the intended place of deposit or safekeeping of the instrument pending the death of the maker. The secretary of state, at the request of the authorized person, may cause the information it receives about execution of any international will to be transmitted to the registry system of another jurisdiction as identified by the testator, if that other system adheres to rules protecting the confidentiality of the information similar to those established in this state.