

HOUSE BILL 703

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By: **Delegates Miele, Pena–Melnyk, ~~and Saab~~ Saab, and Hayes**

Introduced and read first time: February 12, 2015

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2015

CHAPTER _____

1 AN ACT concerning

2 **Estates and Trusts – Maryland Trust Act – Incapacity**

3 FOR the purpose of defining certain terms for purposes of the Maryland Trust Act;
4 clarifying that a revocable trust does not become irrevocable if the settlor loses the
5 capacity to create a will; and generally relating to the Maryland Trust Act.

6 BY renumbering

7 Article – Estates and Trusts

8 Section 14.5–103(k) through (z), respectively

9 to be Section 14.5–103(m) through (bb), respectively

10 Annotated Code of Maryland

11 (2011 Replacement Volume and 2014 Supplement)

12 BY adding to

13 Article – Estates and Trusts

14 Section 14.5–103(k) and (l)

15 Annotated Code of Maryland

16 (2011 Replacement Volume and 2014 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Estates and Trusts

19 Section 14.5–601

20 Annotated Code of Maryland

21 (2011 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That Section(s) 14.5–103(k) through (z), respectively, of Article – Estates and Trusts of the
3 Annotated Code of Maryland be renumbered to be Section(s) 14.5–103(m) through (bb),
4 respectively.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
6 as follows:

7 **Article – Estates and Trusts**

8 14.5–103.

9 **(K) “INCAPACITATED” MEANS THE STATE OF HAVING AN INCAPACITY.**

10 **(L) “INCAPACITY” MEANS THE INABILITY OF AN INDIVIDUAL TO MANAGE**
11 **THE INDIVIDUAL’S PROPERTY OR FINANCIAL AFFAIRS EFFECTIVELY DUE TO:**

12 **(1) PHYSICAL OR MENTAL DISABILITY;**

13 **(2) DISEASE OR ILLNESS;**

14 **(3) HABITUAL DRUNKENNESS;**

15 **(4) DRUG ADDICTION;**

16 **(5) IMPRISONMENT;**

17 **(6) COMPULSORY HOSPITALIZATION;**

18 **(7) CONFINEMENT;**

19 **(8) DETENTION BY A FOREIGN POWER; OR**

20 **(9) DISAPPEARANCE.**

21 14.5–601.

22 (a) The capacity required to create, amend, revoke, or add property to a revocable
23 trust, or to direct the actions of the trustee of a revocable trust, is the same as that required
24 to make a will.

25 (b) Nothing in this section shall be construed to prohibit the creation of a
26 revocable trust if that creation is otherwise authorized under State law.

27 (c) The fact that the settlor becomes incapacitated **OR LOSES THE CAPACITY**
28 **REQUIRED TO CREATE A WILL** does not convert a revocable trust into an irrevocable trust.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2015.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.