

HOUSE BILL 703

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By: **Delegates Miele, Pena–Melnyk, and Saab**
Introduced and read first time: February 12, 2015
Assigned to: Health and Government Operations

A BILL ENTITLED

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)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Estates and Trusts**

4 14.5–103.

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

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

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

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

10 **(3) HABITUAL DRUNKENNESS;**

11 **(4) DRUG ADDICTION;**

12 **(5) IMPRISONMENT;**

13 **(6) COMPULSORY HOSPITALIZATION;**

14 **(7) CONFINEMENT;**

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

16 **(9) DISAPPEARANCE.**

17 14.5–601.

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

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

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

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