

1 HOUSE BILL NO. 178
2 INTRODUCED BY [Signature]

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM
5 INTERNATIONAL WILL ACT; PROVIDING FOR THE VALIDITY OF
6 INTERNATIONAL WILLS; PROVIDING FOR CERTIFICATION OF
7 INTERNATIONAL WILLS; AND PROVIDING FOR A REGISTRY FOR
8 INTERNATIONAL WILLS."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Definitions. In [sections 1
11 through 10], the following definitions apply:

12 (1) "International will" means a will executed in
13 conformity with [sections 2 through 5].

14 (2) "Authorized person" and "person authorized to act
15 in connection with international wills" means a person who
16 by [section 9] or by the laws of the United States,
17 including members of the diplomatic and consular service of
18 the United States designated by the foreign service
19 regulations, is empowered to supervise the execution of
20 international wills.

21 NEW SECTION. Section 2. International will --
22 validity. (1) The form of a will is valid, regardless of the
23 place where it is made, of the location of the assets, and
24 of the nationality, domicile, or residence of the testator,
25

1 if it is made in the form of an international will complying
2 with the requirements of [sections 1 through 10].

3 (2) The invalidity of the will as an international will
4 does not affect its formal validity as a will of another
5 kind.

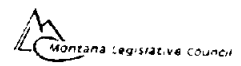
6 (3) [Sections 1 through 10] do not apply to the form of
7 testamentary dispositions made by two or more persons in one
8 instrument.

9 NEW SECTION. Section 3. International will --
10 requirements. (1) An international will must be made in
11 writing. It need not be written by the testator himself. It
12 may be written in any language, by hand, or by any other
13 means.

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

20 (3) In the presence of the witnesses and of the
21 authorized person, the testator shall sign the will or, if
22 he has previously signed it, shall acknowledge his
23 signature.

24 (4) If the testator is unable to sign, the absence of
25 his signature does not affect the validity of the



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1 international will if the testator indicates the reason for
 2 his inability to sign and the authorized person makes note
 3 of the inability on the will. In that case, it is
 4 permissible for any other person present, including the
 5 authorized person or one of the witnesses, at the direction
 6 of the testator, to sign the testator's name for him if the
 7 authorized person makes note of this on the will, but it is
 8 not required that any person sign the testator's name for
 9 him.

10 (5) The witnesses and the authorized person shall there
 11 and then attest the will by signing in the presence of the
 12 testator.

13 NEW SECTION. Section 4. International wills -- other
 14 points of form. (1) The signatures must be placed at the end
 15 of the will. If the will consists of several sheets, each
 16 sheet must be signed by the testator or, if he is unable to
 17 sign, by the person signing on his behalf or, if there is no
 18 such person, by the authorized person. In addition, each
 19 sheet must be numbered.

20 (2) The date of the will must be the date of its
 21 signature by the authorized person.

22 (3) The authorized person shall ask the testator
 23 whether he wished to make a declaration concerning the
 24 safekeeping of his will. If so and at the express request of
 25 the testator, the place where he intends to have his will

1 kept must be mentioned in the certificate provided for in
 2 [section 5].

3 (4) A will executed in compliance with [section 3] is
 4 not invalid merely because it does not comply with this
 5 section.

6 NEW SECTION. Section 5. International will --
 7 certificate. The authorized person shall attach to the will
 8 a certificate to be signed by him establishing that the
 9 requirements of [sections 1 through 10] for valid execution
 10 of an international will have been fulfilled. The authorized
 11 person shall keep a copy of the certificate and deliver
 12 another to the testator. The certificate must be
 13 substantially in the following form:

14 CERTIFICATE

15 (Convention of October 26, 1973)

16 I, _____ (name, address, and capacity), a
 17 person authorized to act in connection with international
 18 wills, certify that on _____ (date) at _____
 19 (place) (testator) _____ (name, address, date,
 20 and place of birth) in my presence and that of the witnesses
 21 (a) _____ (name, address, date, and place of birth)
 22 (b) _____ (name, address, date, and place of birth)
 23 has declared that the attached document is his will and that
 24 he knows the contents thereof.

25 I furthermore certify that:

- 1 (a) in my presence and in that of the witnesses
- 2 (1) the testator has signed the will or has
- 3 acknowledged his signature previously affixed;
- 4 (2) following a declaration of the testator stating
- 5 that he was unable to sign his will for the following
- 6 reason _____, I have mentioned this
- 7 declaration on the will, and the signature has been
- 8 affixed by _____ (name and address);
- 9 (b) the witnesses and I have signed the will;
- 10 *(c) each page of the will has been signed by _____
- 11 and numbered;
- 12 (d) I have satisfied myself as to the identity of the
- 13 testator and of the witnesses as designated above;
- 14 (e) the witnesses met the conditions requisite to act as
- 15 such according to the law under which I am acting;
- 16 *(f) the testator has requested me to include the following
- 17 statement concerning the safekeeping of his will:

18 PLACE OF EXECUTION

19 DATE

20 SIGNATURE and, if necessary, SEAL

21 * to be completed if appropriate

22 NEW SECTION. Section 6. International will -- effect
 23 of certificate. In the absence of evidence to the contrary,
 24 the certificate of the authorized person is conclusive of
 25 the formal validity of the instrument as a will under

1 [sections 1 through 10]. The absence or irregularity of a
 2 certificate does not affect the formal validity of a will
 3 under [sections 1 through 10].

4 NEW SECTION. Section 7. International will --
 5 revocation. An international will is subject to the ordinary
 6 rules of revocation of wills.

7 NEW SECTION. Section 8. Source and construction.
 8 [Sections 1 through 7] derive from the Annex to Convention
 9 of October 26, 1973, Providing a Uniform Law on the Form of
 10 an International Will. In interpreting and applying
 11 [sections 1 through 10], regard must be given to its
 12 international origin and to the need for uniformity in its
 13 interpretation.

14 NEW SECTION. Section 9. Persons authorized to act in
 15 relation to international will -- eligibility -- recognition
 16 by authorizing agency. Individuals who have been admitted to
 17 practice law before the courts of this state and are
 18 currently licensed are authorized persons in relation to
 19 international wills.

20 NEW SECTION. Section 10. International will
 21 information registration. The secretary of state shall
 22 establish a registry system by which authorized persons may
 23 register in a central information center information
 24 regarding the execution of international wills, keeping that
 25 information in strictest confidence until the death of the

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1 maker and then making it available to any person desiring
2 information about any will who presents a death certificate
3 or other satisfactory evidence of the testator's death to
4 the center. Information that may be received, preserved in
5 confidence until death, and reported as indicated is limited
6 to the name, social security or individual-identifying
7 number established by law, address, and date and place of
8 birth of the testator and the intended place of deposit or
9 safekeeping of the instrument pending the death of the
10 maker. The secretary of state, at the request of the
11 authorized person, may cause the information he receives
12 about the execution of any international will to be
13 transmitted to the registry system of another jurisdiction
14 as identified by the testator if that other registry system
15 adheres to rules protecting the confidentiality of the
16 information similar to those established in this state.

17 NEW SECTION. **Section 11.** Codification instruction.
18 {Sections 1 through 10} are intended to be codified as an
19 integral part of Title 72, chapter 2, and the provisions of
20 Title 72, chapter 2, apply to {sections 1 through 10}.

-End-

1 HOUSE BILL NO. 178
2 INTRODUCED BY Tom Maguire

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM
5 INTERNATIONAL WILL ACT; PROVIDING FOR THE VALIDITY OF
6 INTERNATIONAL WILLS; PROVIDING FOR CERTIFICATION OF
7 INTERNATIONAL WILLS; AND PROVIDING FOR A REGISTRY FOR
8 INTERNATIONAL WILLS."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. Section 1. Definitions. In [sections 1
12 through 10], the following definitions apply:

13 (1) "International will" means a will executed in
14 conformity with [sections 2 through 5].

15 (2) "Authorized person" and "person authorized to act
16 in connection with international wills" means a person who
17 by [section 9] or by the laws of the United States,
18 including members of the diplomatic and consular service of
19 the United States designated by the foreign service
20 regulations, is empowered to supervise the execution of
21 international wills.

22 NEW SECTION. Section 2. International will --
23 validity. (1) The form of a will is valid, regardless of the
24 place where it is made, of the location of the assets, and
25 of the nationality, domicile, or residence of the testator,

1 if it is made in the form of an international will complying
2 with the requirements of [sections 1 through 10].

3 (2) The invalidity of the will as an international will
4 does not affect its formal validity as a will of another
5 kind.

6 (3) [Sections 1 through 10] do not apply to the form of
7 testamentary dispositions made by two or more persons in one
8 instrument.

9 NEW SECTION. Section 3. International will --
10 requirements. (1) An international will must be made in
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12 may be written in any language, by hand, or by any other
13 means.

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

20 (3) In the presence of the witnesses and of the
21 authorized person, the testator shall sign the will or, if
22 he has previously signed it, shall acknowledge his
23 signature.

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25 his signature does not affect the validity of the



THIRD READING
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CONSENT CALENDAR

1 international will if the testator indicates the reason for
 2 his inability to sign and the authorized person makes note
 3 of the inability on the will. In that case, it is
 4 permissible for any other person present, including the
 5 authorized person or one of the witnesses, at the direction
 6 of the testator, to sign the testator's name for him if the
 7 authorized person makes note of this on the will, but it is
 8 not required that any person sign the testator's name for
 9 him.

10 (5) The witnesses and the authorized person shall there
 11 and then attest the will by signing in the presence of the
 12 testator.

13 NEW SECTION. Section 4. International wills -- other
 14 points of form. (1) The signatures must be placed at the end
 15 of the will. If the will consists of several sheets, each
 16 sheet must be signed by the testator or, if he is unable to
 17 sign, by the person signing on his behalf or, if there is no
 18 such person, by the authorized person. In addition, each
 19 sheet must be numbered.

20 (2) The date of the will must be the date of its
 21 signature by the authorized person.

22 (3) The authorized person shall ask the testator
 23 whether he wished to make a declaration concerning the
 24 safekeeping of his will. If so and at the express request of
 25 the testator, the place where he intends to have his will

1 kept must be mentioned in the certificate provided for in
 2 [section 5].

3 (4) A will executed in compliance with [section 3] is
 4 not invalid merely because it does not comply with this
 5 section.

6 NEW SECTION. Section 5. International will --
 7 certificate. The authorized person shall attach to the will
 8 a certificate to be signed by him establishing that the
 9 requirements of [sections 1 through 10] for valid execution
 10 of an international will have been fulfilled. The authorized
 11 person shall keep a copy of the certificate and deliver
 12 another to the testator. The certificate must be
 13 substantially in the following form:

14 CERTIFICATE

15 (Convention of October 26, 1973)

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 17 person authorized to act in connection with international
 18 wills, certify that on _____ (date) at _____
 19 (place) (testator) _____ (name, address, date,
 20 and place of birth) in my presence and that of the witnesses
 21 (a) _____ (name, address, date, and place of birth)
 22 (b) _____ (name, address, date, and place of birth)
 23 has declared that the attached document is his will and that
 24 he knows the contents thereof.
 25 I furthermore certify that:

1 (a) in my presence and in that of the witnesses
 2 (1) the testator has signed the will or has
 3 acknowledged his signature previously affixed;
 4 (2) following a declaration of the testator stating
 5 that he was unable to sign his will for the following
 6 reason _____, I have mentioned this
 7 declaration on the will, and the signature has been
 8 affixed by _____ (name and address);

9 (b) the witnesses and I have signed the will;
 10 *(c) each page of the will has been signed by _____
 11 and numbered;

12 (d) I have satisfied myself as to the identity of the
 13 testator and of the witnesses as designated above;

14 (e) the witnesses met the conditions requisite to act as
 15 such according to the law under which I am acting;

16 *(f) the testator has requested me to include the following
 17 statement concerning the safekeeping of his will:

18 PLACE OF EXECUTION
 19 DATE
 20 SIGNATURE and, if necessary, SEAL

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22 NEW SECTION. Section 6. International will -- effect
 23 of certificate. In the absence of evidence to the contrary,
 24 the certificate of the authorized person is conclusive of
 25 the formal validity of the instrument as a will under

1 [sections 1 through 10]. The absence or irregularity of a
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14 NEW SECTION. Section 9. Persons authorized to act in
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 17 practice law before the courts of this state and are
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20 NEW SECTION. Section 10. International will
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15 adheres to rules protecting the confidentiality of the
16 information similar to those established in this state.

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18 {Sections 1 through 10} are intended to be codified as an
19 integral part of Title 72, chapter 2, and the provisions of
20 Title 72, chapter 2, apply to {sections 1 through 10}.

-End-

HOUSE BILL NO. 178

INTRODUCED BY TOOLE, MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM INTERNATIONAL WILL ACT; PROVIDING FOR THE VALIDITY OF INTERNATIONAL WILLS; PROVIDING FOR CERTIFICATION OF INTERNATIONAL WILLS; AND PROVIDING FOR A REGISTRY FOR INTERNATIONAL WILLS."

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if it is made in the form of an international will complying with the requirements of [sections 1 through 10].

(2) The invalidity of the will as an international will does not affect its formal validity as a will of another kind.

(3) [Sections 1 through 10] do not apply to the form of testamentary dispositions made by two or more persons in one instrument.

NEW SECTION. Section 3. International will -- requirements. (1) An international will must be made in writing. It need not be written by the testator himself. 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 his will and that he knows the contents of the will. 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 he has previously signed it, shall acknowledge his signature.

(4) If the testator is unable to sign, the absence of his signature does not affect the validity of the



1 international will if the testator indicates the reason for
 2 his inability to sign and the authorized person makes note
 3 of the inability on the will. In that case, it is
 4 permissible for any other person present, including the
 5 authorized person or one of the witnesses, at the direction
 6 of the testator, to sign the testator's name for him if the
 7 authorized person makes note of this on the will, but it is
 8 not required that any person sign the testator's name for
 9 him.

10 (5) The witnesses and the authorized person shall there
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22 (3) The authorized person shall ask the testator
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1 kept must be mentioned in the certificate provided for in
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15 (Convention of October 26, 1973)

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 17 person authorized to act in connection with international
 18 wills, certify that on _____ (date) at _____
 19 (place) (testator) _____ (name, address, date,
 20 and place of birth) in my presence and that of the witnesses
 21 (a) _____ (name, address, date, and place of birth)
 22 (b) _____ (name, address, date, and place of birth)
 23 has declared that the attached document is his will and that
 24 he knows the contents thereof.

25 I furthermore certify that:

1 (a) in my presence and in that of the witnesses
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14 NEW SECTION. Section 9. Persons authorized to act in
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 16 by authorizing agency. Individuals who have been admitted to
 17 practice law before the courts of this state and are
 18 currently licensed are authorized persons in relation to
 19 international wills.

20 NEW SECTION. Section 10. International will
 21 information registration. The secretary of state shall
 22 establish a registry system by which authorized persons may
 23 register in a central information center information
 24 regarding the execution of international wills, keeping that
 25 information in strictest confidence until the death of the

1 maker and then making it available to any person desiring
2 information about any will who presents a death certificate
3 or other satisfactory evidence of the testator's death to
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5 confidence until death, and reported as indicated is limited
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7 number established by law, address, and date and place of
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