

House Bill 618

By: Representatives Reeves of the 34<sup>th</sup> and Scoggins of the 14<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 4 of Title 53 of the Official Code of Georgia Annotated,  
2 relating to execution and attestation, so as to provide for elder abuse protections regarding  
3 wills; to provide for a definition; to provide for requesting a judgment of validity; to provide  
4 for the admissibility of facts; to provide for revocation; to provide for related matters; to  
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 3 of Chapter 4 of Title 53 of the Official Code of Georgia Annotated, relating to  
9 execution and attestation, is amended by adding a new Code section to read as follows:

10 "53-4-25.

11 (a) As used in this Code section, the term 'interested party' means:

12 (1) The testator who prepared the will;

13 (2) Any heir at law;

14 (3) Any guardian;

15 (4) Any conservator;

16 (5) Any beneficiary;

- 17 (6) Any creditor of the testator to file this proceeding; or  
18 (7) Any person who would benefit from the will being constructed by undue influence  
19 or lack of capacity.
- 20 (b) Any person who executes a will disposing of such person's estate in accordance with  
21 this article, or any interested party as defined in this Code section, who shows that the  
22 alleged testator may have been the victim of elder abuse or fraud or misrepresentation in  
23 the making of his or her will may petition the court for a judgment declaring the validity  
24 of the will regarding:
- 25 (1) The signature on the will whether in the probate court or superior court;  
26 (2) The required number of witnesses to the signature and their signatures; and  
27 (3) The testamentary capacity and freedom from undue influence of the person executing  
28 the will.
- 29 (c) The facts found in such proceedings regarding the validity of the will brought under  
30 this Code section shall not be admissible in evidence in any proceeding other than one  
31 brought in this state to determine the validity or invalidity of a will, nor shall the  
32 determination in a proceeding under this Code section be binding upon the parties to such  
33 proceeding in any action not brought to determine the validity of a will.
- 34 (d) All beneficiaries named in the will and all the testator's existing intestate successors  
35 shall be named parties to the action, and all beneficiaries and intestate successors and  
36 interested parties shall be deemed possessed of inchoate property rights.
- 37 (e)(1) Any beneficiary named in the will and all the testator's intestate successors as of  
38 the date of the filing of the declaratory judgment action and any court appointed guardian  
39 or conservators and attorneys in fact shall be named parties to the proceeding.
- 40 (2) Any beneficiary named in the will and all the testator's intestate successors as of the  
41 date of the filing of the declaratory judgment action shall be deemed possessed of  
42 inchoate property rights.

43 (f) If the court finds that the will has been properly executed pursuant to Code  
44 Section 53-4-20, and that the testator has the requisite testamentary capacity and freedom  
45 from undue influence, it shall declare the will valid and order it placed on file with the  
46 probate or superior court of the county of residence of the testator.

47 (g)(1) A finding of validity under this chapter shall constitute an adjudication of probate  
48 as of the time of the testator's death unless the will is revoked or amended by codicil as  
49 authorized by law. The will shall be binding unless and until the testator or any interested  
50 party executes a new will or executes a codicil.

51 (2) A finding of validity pursuant to this Code section shall constitute an adjudication of  
52 probate. Such validated wills may be modified or superseded by subsequently executed  
53 valid wills, codicils, and other testamentary instruments, whether or not validated  
54 pursuant to this Code section, provided that such wills are executed pursuant to Code  
55 Section 53-4-43.

56 (h) Service of process upon the parties to the proceeding shall be made in accordance with  
57 Code Section 53-5-46."

58 **SECTION 2.**

59 All laws and parts of laws in conflict with this Act are repealed.